

Tab 1	SB 98 by Albritton; (Compare to CS/CS/CS/1ST ENG/H 01507) Workforce Related Programs and Services						
151258	D	S	RCS	AP, Albritton	Delete everything after	04/16 01:56 PM	
960408	AA	S	RCS	AP, Albritton	Delete L.1391 - 1393:	04/16 01:56 PM	
Tab 2	CS/SB 102 by CA, Burgess; (Compare to CS/H 01053) Matters of Great Governmental Concern						
Tab 3	CS/SB 130 by CF, Rouson (CO-INTRODUCERS) Harrell, Hooper, Book; (Similar to H 00083) Mental Health and Substance Use Disorders						
154204	PCS	S	RCS	AP, AHS		04/16 02:29 PM	
556044	A	S	WD	AP, Rouson	btw L.102 - 103:	04/16 02:29 PM	
Tab 4	CS/SB 168 by BI, Hooper; (Identical to CS/H 00423) Hurricane Loss Mitigation Program						
Tab 5	CS/SB 184 by TR, Berman; (Similar to CS/CS/H 00079) Purple Alert						
954168	A	S	RCS	AP, Berman	Delete L.117 - 252:	04/16 02:42 PM	
Tab 6	SB 260 by Harrell (CO-INTRODUCERS) Wright, Rodriguez, Cruz, Stewart, Burgess, Perry; (Similar to H 00231) Services for Veterans and Their Families						
491526	A	S	RCS	AP, Harrell	Delete L.25 - 118:	04/16 02:43 PM	
Tab 7	CS/SB 366 by ED, Hutson (CO-INTRODUCERS) Brodeur, Diaz; (Compare to CS/H 00791) Educational Opportunities Leading to Employment						
441292	PCS	S	RCS	AP, AED		04/16 03:06 PM	
217338	A	S	L RCS	AP, Hutson	Delete L.55 - 65:	04/16 03:06 PM	
Tab 8	CS/SB 468 by JU, Bracy; (Compare to H 00189) Expunction of Criminal History Records Relating to Certain Cannabis Offenses						
Tab 9	CS/SB 470 by JU, Bracy; (Similar to H 00191) Public Records/Expunged Criminal History Records						
Tab 10	CS/SB 506 by GO, Garcia; (Compare to CS/CS/H 00195) Transparency in Government Spending						
Tab 11	CS/SB 694 by CA, Rodrigues (CO-INTRODUCERS) Perry; (Compare to CS/H 00331) Waste Management						
426204	A	S	RCS	AP, Rodrigues	Delete L.62 - 64:	04/16 03:21 PM	
403980	A	S	RCS	AP, Rodrigues	btw L.64 - 65:	04/16 03:21 PM	
Tab 12	CS/SB 748 by JU, Brandes; (Similar to CS/H 01197) Courts						
236698	PCS	S	RCS	AP, ACJ		04/16 03:24 PM	
Tab 13	CS/CS/SB 750 by FT, CA, Gruters (CO-INTRODUCERS) Perry; (Similar to CS/CS/CS/H 00337) Impact Fees						
783100	A	S	RCS	AP, Gruters	Delete L.19 - 177:	04/16 03:35 PM	
523368	AA	S	L WD	AP, Hutson	Delete L.134:	04/16 03:35 PM	
448154	AA	S	L WD	AP, Hutson	Delete L.135:	04/16 03:35 PM	
593970	AA	S	L RCS	AP, Hutson	Delete L.143:	04/16 03:35 PM	
Tab 14	SB 770 by Burgess; (Similar to CS/H 00873) Military Affairs						

Tab 15 SB 794 by Bean; (Similar to CS/H 00427) Independent Living Services

Tab 16 CS/SB 838 by JU, Boyd (CO-INTRODUCERS) Bracy, Wright, Torres, Hooper; (Similar to CS/H 00903) Clerks of the Circuit Court

412016	PCS	S	RCS	AP, ACJ		04/16 03:40 PM
187280	PCS:D	S	RS	AP, Hooper	Delete everything after	04/16 03:40 PM
212474	PCS:SD	S	RCS	AP, Hooper	Delete everything after	04/16 03:40 PM

Tab 17 CS/SB 1024 by BI, Brodeur (CO-INTRODUCERS) Rouson; (Similar to CS/1ST ENG/H 00701) Increasing Access to Mental Health Care

716122	PCS	S	RCS	AP, AEG		04/16 03:45 PM
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Tab 18 CS/SB 1086 by EN, Hutson; (Similar to CS/CS/H 00639) Operation and Safety of Motor Vehicles and Vessels

518944	PCS	S	RCS	AP, AEG		04/16 03:50 PM
321860	A	S	RCS	AP, Hutson	Delete L.547 - 1205:	04/16 03:50 PM

Tab 19 SB 1126 by Harrell; (Similar to H 01385) Department of Transportation

300690	PCS	S	RCS	AP, ATD		04/16 03:56 PM
199650	A	S	WD	AP, Harrell	btw L.224 - 225:	04/14 04:31 PM
403590	A	S	WD	AP, Brandes	btw L.401 - 402:	04/14 04:33 PM
971056	A	S	WD	AP, Brandes	Delete L.402:	04/14 04:35 PM
330308	A	S	RCS	AP, Harrell	Delete L.402:	04/16 03:56 PM

Tab 20 CS/CS/SB 1146 by AP, CA, Brodeur (CO-INTRODUCERS) Perry; (Compare to CS/CS/H 00401) Florida Building Code

Tab 21 CS/SB 1166 by CJ, Brandes; (Similar to CS/CS/H 00885) Juvenile Justice

891930	PCS	S	RCS	AP, ACJ		04/16 03:59 PM
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Tab 22 CS/CS/SB 1194 by AP, TR, Hooper; (Compare to CS/H 00057) Transportation

Tab 23 SB 1324 by Harrell; (Similar to CS/1ST ENG/H 01313) Digital Driver Licenses and Identification Cards

Tab 24 CS/SB 1326 by TR, Harrell; (Similar to CS/H 01315) Public Records/Department of Highway Safety and Motor Vehicles

Tab 25 SB 1372 by Burgess; (Compare to CS/CS/H 00003) Literacy Improvement

409158	D	S	RS	AP, Burgess	Delete everything after	04/20 04:19 PM
741914	SD	S	RCS	AP, Burgess	Delete everything after	04/20 04:19 PM

Tab 26 CS/CS/SB 1382 by GO, CA, Perry; (Similar to CS/CS/H 00667) Building Inspections

860116	A	S	RCS	AP, Perry	Delete L.119:	04/16 04:15 PM
248302	A	S	L RCS	AP, Perry	Delete L.113:	04/16 04:15 PM

Tab 27 SB 1404 by Hooper; (Similar to CS/H 00909) Cultural and Historical Programs

817458	PCS	S	RCS	AP, ATD		04/16 04:18 PM
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Tab 28 CS/SB 1408 by BI, Burgess; (Compare to CS/CS/H 00415) Department of Financial Services

Tab 29	CS/SB 1448 by GO, Jones ; (Similar to CS/CS/H 01137) Information Technology Procurement					
567488	A	S	RCS	AP, Jones	Delete L.173 - 177:	04/16 04:23 PM
Tab 30	SB 1450 by Rodriguez ; (Identical to H 00005) Civic Education Curriculum					
Tab 31	SB 1470 by Boyd ; (Similar to H 00797) Florida Life and Health Insurance Guaranty Association					
Tab 32	CS/SB 1526 by CF, Garcia ; (Identical to CS/H 01071) Medicaid Coverage for Former Foster Youth					
Tab 33	CS/SB 1540 by HP, Gibson ; (Identical to CS/H 01381) Maternal Health Outcomes					
Tab 34	CS/SB 1568 by HP, Rodriguez ; (Compare to CS/CS/H 01565) Department of Health					
165628	A	S	WD	AP, Rodriguez	btw L.131 - 132:	04/17 03:28 PM
715880	A	S	RCS	AP, Rodriguez	btw L.232 - 233:	04/17 03:28 PM
328528	A	S	RCS	AP, Rodriguez	btw L.232 - 233:	04/17 03:28 PM
649510	A	S	RCS	AP, Rodriguez	btw L.311 - 312:	04/17 03:28 PM
625826	A	S	RCS	AP, Rodriguez	btw L.323 - 324:	04/17 03:28 PM
847040	A	S	L RCS	AP, Rodriguez	btw L.232 - 233:	04/17 03:28 PM
Tab 35	CS/SB 1570 by GO, Rodriguez ; (Similar to CS/CS/H 01083) Quasi-public Entities					
229772	A	S	RS	AP, Rodriguez	Delete L.50 - 165:	04/17 03:55 PM
874262	SA	S	RCS	AP, Rodriguez	Delete L.50 - 165:	04/17 03:55 PM
891770	ASA	S	L RCS	AP, Broxson	Delete L.20 - 23:	04/17 03:55 PM
Tab 36	CS/SB 1598 by BI, Gruters ; (Similar to CS/H 00717) Consumer Protection					
146092	PCS	S	RCS	AP, AEG		04/17 03:58 PM
205350	A	S	RCS	AP, Gruters	Delete L.303 - 691:	04/17 03:58 PM
Tab 37	CS/SB 1728 by ED, Baxley (CO-INTRODUCERS) Garcia ; (Compare to CS/CS/H 01273) Out-of-state Fee Waiver for Nonresident Students					
Tab 38	SB 1864 by Perry (CO-INTRODUCERS) Diaz ; (Compare to CS/CS/H 00131) Education					
919762	D	S	RCS	AP, Perry	Delete everything after	04/17 04:01 PM
Tab 39	SB 1898 by Rodriguez (CO-INTRODUCERS) Harrell ; (Similar to CS/1ST ENG/H 07011) Student Literacy					
Tab 40	CS/SB 1906 by CM, Brodeur (CO-INTRODUCERS) Taddeo, Stewart, Garcia, Gruters ; (Compare to H 00207) Reemployment Assistance					
636278	A	S	RCS	AP, Farmer	Delete L.17 - 172:	04/17 04:05 PM
196634	A	S	RS	AP, Brodeur	Delete L.130 - 172:	04/17 04:05 PM
267314	AA	S	WD	AP, Brodeur	btw L.11 - 12:	04/14 08:07 PM
973418	SA	S	L RCS	AP, Brodeur, Pizzo, Pow	Delete L.130 - 172:	04/17 04:05 PM
609816	A	S	UNFAV	AP, Farmer	Delete L.137 - 152:	04/17 04:05 PM
Tab 41	CS/CS/SB 1948 by AP, CM, Bean (CO-INTRODUCERS) Bradley, Pizzo, Bracy ; (Similar to CS/CS/1ST ENG/H 01463) Department of Economic Opportunity					

Tab 42 **CS/CS/SB 1966** by **AP, RI, Diaz (CO-INTRODUCERS) Garcia;** (Similar to CS/CS/CS/H 01517) Department of Business and Professional Regulation

Tab 43 **CS/SB 2004** by **CM, Burgess;** Broadband Internet

547780 D S AP, Burgess Delete everything after 04/13 04:40 PM

Tab 44 **CS/SB 2010** by **ED, Diaz;** (Similar to CS/1ST ENG/H 07017) Foreign Influence

269026 D S RCS AP, Diaz Delete everything after 04/17 04:10 PM

Tab 45 **SB 7060** by **EN;** (Similar to H 01309) Biosolids

574708 PCS S RCS AP, AEG 04/16 09:04 PM

Tab 46 **SB 7062** by **EN;** Central Florida Water Initiative

828060 A S RCS AP, Brodeur Delete L.43 - 133: 04/17 04:12 PM

Tab 47 **SB 7076** by **RI;** (Similar to H 07053) Gaming Enforcement

309496 D S RCS AP, Hutson Delete everything after 04/17 04:14 PM
 949352 AA S RCS AP, Hutson Delete L.203 - 224: 04/17 04:14 PM

Tab 48 **SB 7078** by **RI;** (Similar to H 07057) Public Records and Public Meetings Exemptions/Florida Gaming Control Commission

679930 D S RCS AP, Hutson Delete everything after 04/17 04:15 PM

Tab 49 **SB 7080** by **RI;** (Similar to H 07055) Requirements for Pari-mutuel Permitholders to Conduct Live Racing or Games

527596 D S RCS AP, Hutson Delete everything after 04/17 04:21 PM
 601528 AA S RCS AP, Hutson Delete L.189 - 295: 04/17 04:21 PM
 480942 AA S RCS AP, Hutson btw L.836 - 837: 04/17 04:21 PM
 455452 AA S RCS AP, Hutson Delete L.1021: 04/17 04:21 PM
 208346 AA S L RCS AP, Hutson Delete L.905 - 913: 04/17 04:21 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Stargel, Chair
Senator Bean, Vice Chair

MEETING DATE: Thursday, April 15, 2021
TIME: 9:00 a.m.—4:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Book, Bracy, Brandes, Broxson, Diaz, Farmer, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

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			
1	SB 98 Albritton (Compare CS/CS/CS/H 1507, CS/S 366, S 1042)	Workforce Related Programs and Services; Renaming the Workforce Estimating Conference as the Labor Market Estimating Conference; removing authority for a local board to review a decision by the department to deny a contract; requiring certain standards and policies established by the Department of Education to include a specified requirement for training providers; requiring that middle grades career and professional academies and career-themed courses lead to careers in occupations aligned with the CAPE Industry Certification Funding List, etc. CM 03/09/2021 Favorable ED 03/23/2021 Favorable AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
2	CS/SB 102 Community Affairs / Burgess (Compare CS/H 1053, S 1874)	Matters of Great Governmental Concern; Authorizing the Legislature to declare, by concurrent resolution, that a circumstance or conduct that has caused substantial economic loss or other similar harm to governmental entities in at least a specified number of counties is a matter of great governmental concern; providing that the Attorney General has the sole authority to file certain civil proceedings; authorizing the Attorney General to take certain actions in certain civil proceedings; providing that any award, excluding attorney fees, are subject to full appropriation by the Legislature, etc. CA 03/30/2021 Fav/CS AP 04/15/2021 Temporarily Postponed RC	Temporarily Postponed

A proposed committee substitute for the following bill (CS/SB 130) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 130 Children, Families, and Elder Affairs / Rouson (Similar H 83)	Mental Health and Substance Use Disorders; Providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; requiring the department to certify peer specialists, either directly or by approving a third-party credentialing entity; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certified peer specialist; requiring peer specialists and certain persons to meet the requirements of a background screening as a condition of employment and continued employment, etc. CF 03/02/2021 Fav/CS AHS 03/17/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation – Health and Human Services			
4	CS/SB 168 Banking and Insurance / Hooper (Identical CS/H 423)	Hurricane Loss Mitigation Program; Deleting construction relating to Citizens Property Insurance Corporation coverage rates; delaying the future repeal of the Hurricane Loss Mitigation Program, etc. BI 02/02/2021 Fav/CS CA 03/10/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0
5	CS/SB 184 Transportation / Berman (Similar CS/CS/H 79)	Purple Alert; Requiring the Department of Law Enforcement, in cooperation with the Department of Transportation, the Department of Highway Safety and Motor Vehicles, the Department of the Lottery, and local law enforcement agencies, to establish and implement the Purple Alert; requiring the local law enforcement agency having jurisdiction to notify media and alert subscribers if a Purple Alert is determined to be necessary and appropriate; providing that the Department of Law Enforcement, as the Purple Alert coordinator, and certain agencies, employees, individuals, and entities are immune from civil liability for damages when performing certain actions in good faith, etc. TR 02/02/2021 Fav/CS CF 02/16/2021 Favorable AP 04/15/2021 Fav/CS	Fav/CS Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 260 Harrell (Similar H 231)	Services for Veterans and Their Families; Requiring the Department of Veterans' Affairs to establish the Florida Veterans' Care Coordination Program to provide behavioral health care referral and care coordination services for veterans and their families; requiring the department to contract with a certain nonprofit entity to enter into agreements with Florida 211 Network participants to provide such services; requiring Florida 211 Network participants to collect program implementation data and to submit such data to the department; requiring the department to submit a report to the Governor and the Legislature by a specified date, etc. MS 02/02/2021 Favorable CF 03/02/2021 Favorable AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
A proposed committee substitute for the following bill (CS/SB 366) is available:			
7	CS/SB 366 Education / Hutson (Similar S 1042, Compare CS/H 791, CS/H 1505, CS/CS/CS/H 1507, S 98)	Educational Opportunities Leading to Employment; Revising the general duties of the Department of Education with regard to apprenticeship and preapprenticeship programs; revising the membership of the State Apprenticeship Advisory Council; providing that apprenticeship or preapprenticeship program sponsors are responsible for the selection and training of certain personnel, as approved by the department; encouraging specified entities to cooperate in developing and establishing apprenticeship and preapprenticeship programs that include career instruction, etc. ED 03/02/2021 Fav/CS AED 04/08/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation - Education			
8	CS/SB 468 Judiciary / Bracy (Compare H 189, H 191, H 343, H 1597, S 710, S 1916, Linked CS/S 470)	Expunction of Criminal History Records Relating to Certain Cannabis Offenses; Requiring a petitioner to obtain a certificate of eligibility from the Department of Law Enforcement; providing application requirements and contents of a certificate of eligibility for expunction; requiring the department to issue a certificate of eligibility for expunction if a person meets specified criteria; providing court procedures for expungement, etc. JU 03/15/2021 Fav/CS CJ 03/30/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 470 Judiciary / Bracy (Similar H 191, Compare H 189, Linked CS/S 468)	Public Records/Expunged Criminal History Records; Providing an exemption from public records requirements for specified expunged criminal history records; providing exceptions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. JU 03/15/2021 Fav/CS CJ 03/30/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0
10	CS/SB 506 Governmental Oversight and Accountability / Garcia (Compare CS/CS/H 195)	Transparency in Government Spending; Requiring nongovernmental entities that have received a specified amount of state funds to submit an annual report detailing certain compensation data to the Department of Management Services; requiring such reports to be verified under penalty of perjury; requiring the department to post the information received through such reports on a specified website; requiring a nongovernmental entity to post the reported compensation information on its website; prohibiting a governmental entity from expending, transferring, or distributing funds to a nongovernmental entity if compliance with reporting requirements is not met, etc. GO 03/17/2021 Fav/CS AP 04/15/2021 Favorable RC	Favorable Yeas 20 Nays 0
11	CS/SB 694 Community Affairs / Rodrigues (Compare CS/H 331)	Waste Management; Requiring the Department of Environmental Protection to review and update its report on retail bags and submit the updated report to the Legislature by a specified date; requiring a local government to pay a specified amount of compensation to a displaced private waste company at the end of a specified notice period; removing a provision authorizing a local government to pay a specified amount of compensation to a private waste company as an alternative to delaying displacement for a specified period; removing a provision authorizing a local government and private waste company to negotiate such compensation and notice, etc. EN 02/15/2021 Favorable CA 03/30/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 17 Nays 3

A proposed committee substitute for the following bill (CS/SB 748) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	CS/SB 748 Judiciary / Brandes (Similar CS/H 1197)	Courts; Deleting the requirement that the Clerk of the Supreme Court physically keep books, records, and other materials in the clerk's office; requiring the clerks of the circuit courts, with specified entities, to prepare a plan to procure or develop a statewide electronic solution to accurately identify all assessments mandated by statute; providing for the periodic inflationary adjustment of the monetary jurisdictional limit applicable to all actions at law in county courts filed on or after a specified date, beginning in 2030; requiring the clerk of a district court of appeal to have an office at the headquarters of the court, etc. JU 03/02/2021 Fav/CS ACJ 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation – Criminal and Civil Justice			
13	CS/CS/SB 750 Finance and Tax / Community Affairs / Gruters (Similar CS/CS/H 337)	Impact Fees; Requiring local governments and special districts to credit against the collection of impact fees any contribution that relates to the improvement of public facilities or infrastructure; providing limitations on impact fee increases; providing for retroactive operation; requiring specified entities to submit an affidavit attesting that impact fees were appropriately collected and expended; requiring school districts to report specified information regarding impact fees, etc. CA 03/24/2021 Fav/CS FT 03/31/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 18 Nays 2
14	SB 770 Burgess (Similar CS/H 873)	Military Affairs; Deleting a provision requiring that certain military personnel have the same salary and benefits as career service employees; modifying minimum qualifications and duties of the Adjutant General; specifying that a court-martial is an administrative procedure under the executive branch of state government; authorizing the Adjutant General, the Adjutant General's designee, or a military judge to issue and execute search authorizations under specified circumstances, etc. MS 03/09/2021 Favorable GO 03/24/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 794 Bean (Similar CS/H 427)	Independent Living Services; Removing a provision requiring the Florida Independent Living Council to assist the Division of Blind Services of the Department of Education; requiring the council to coordinate with centers for independent living; prohibiting the council from engaging in certain activities; requiring the council to comply with state and federal laws and regulations relating to lobbying; increasing the percentage of certain revenues used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program, etc. CF 03/16/2021 Favorable ED 03/30/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0

A proposed committee substitute for the following bill (CS/SB 838) is available:

16	CS/SB 838 Judiciary / Boyd (Similar CS/H 903, Compare CS/H 557, S 356)	Clerks of the Circuit Court; Clarifying the responsibility of an individual released from incarceration regarding enrolling in a payment plan for any outstanding court obligations; modifying duties of the Florida Clerks of Court Operations Corporation with respect to the funding of clerks' offices; requiring the corporation to establish and manage a contingency reserve within the Clerks of the Court Trust Fund for specified purposes; requiring orders and notifications for certain traffic citations and suspensions to include information regarding payment plans, etc. JU 03/09/2021 Fav/CS ACJ 03/17/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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With subcommittee recommendation – Criminal and Civil Justice

A proposed committee substitute for the following bill (CS/SB 1024) is available:

17	CS/SB 1024 Banking and Insurance / Brodeur (Similar CS/H 701)	Increasing Access to Mental Health Care; Requiring the Department of Financial Services to submit a specified report to the Governor and Legislature by a specified date; specifying the minimum information the report must contain; requiring the department to make certain information available on its website; requiring insurers and health maintenance organizations, respectively, to disclose specified information on their websites; requiring insurers and health maintenance organizations, respectively, to annually provide certain written notices to insureds or subscribers, etc. BI 03/10/2021 Fav/CS AEG 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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With subcommittee recommendation - Agriculture, Environment, and General Government

A proposed committee substitute for the following bill (CS/SB 1086) is available:

18	CS/SB 1086 Environment and Natural Resources / Hutson (Similar CS/CS/H 639, Compare CS/CS/H 1515, CS/CS/S 1946)	Operation and Safety of Motor Vehicles and Vessels; Revising conditions under which a person's driving privilege is suspended and under which the person commits a misdemeanor relating to tests for alcohol, chemical substances, or controlled substances; providing circumstances under which a person may operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway; designating Monroe County as an anchoring limitation area subject to certain requirements; authorizing a county or municipality to establish a boating-restricted area within and around a public mooring field and within certain portions of the Florida Intracoastal Waterway, etc. EN 03/15/2021 Fav/CS AEG 04/08/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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With subcommittee recommendation - Agriculture, Environment, and General Government

A proposed committee substitute for the following bill (SB 1126) is available:

19	SB 1126 Harrell (Similar H 1385)	Department of Transportation; Clarifying that the Department of Revenue is responsible for a certain transfer from the State Treasury to the General Revenue Fund of a portion of documentary stamp tax distributions credited to the State Transportation Trust Fund; deleting a requirement that the department provide space and video conference capability at each of the department's district offices as an alternative to physical appearance by a person requesting a hearing before the Commercial Motor Vehicle Review Board within the department; requiring the department, when proposing any project on the State Highway System which will close or modify an existing access to an abutting property owner, to provide notice to affected property owners, municipalities, and counties at least 180 days before the design phase of the project is completed, etc. TR 03/10/2021 Favorable ATD 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 19 Nays 0
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With subcommittee recommendation – Transportation, Tourism, and Economic Development

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
20	CS/SB 1146 Community Affairs / Brodeur (Compare CS/CS/H 401)	Florida Building Code; Authorizing fee owners or fee owners' contractors to select private providers to provide inspection services for onsite sewage treatment and disposal systems if certain requirements are met; prohibiting the Department of Health from requiring that pools serving assisted living facilities be compliant with rules relating to swimming pool lifeguards; prohibiting a local government from requiring certain contracts for the application for or issuance of a building permit; authorizing a county, a municipality, a school district, or an independent special district to use a private provider to provide building code inspection services for certain purposes, etc. CA 03/30/2021 Fav/CS AP 04/15/2021 Fav/CS RC	Fav/CS Yeas 20 Nays 0

A proposed committee substitute for the following bill (CS/SB 1166) is available:

21	CS/SB 1166 Criminal Justice / Brandes (Similar CS/CS/H 885, Compare S 164)	Juvenile Justice; Creating the Accountability and Program Support Program within the Department of Juvenile Justice and revising the name of an existing program; authorizing a court to order that a child be taken into custody for failure to appear; repealing a provision relating to the shared county and state financial support responsibility for juvenile detention; requiring the Department of Juvenile Justice to calculate annually by a certain date and provide to each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles its annual percentage share of detention costs, etc. CJ 03/09/2021 Fav/CS ACJ 03/17/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
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With subcommittee recommendation – Criminal and Civil Justice

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
22	CS/SB 1194 Transportation / Hooper (Similar CS/H 57, Compare CS/S 1500)	Transportation; Providing that certain governmental entities may not prohibit certain vendors from responding to competitive solicitations of certain contractual services; prohibiting the Department of Transportation and contractors and subcontractors of the department from purchasing specified substances from a borrow pit unless specified conditions are satisfied; requiring contractors wishing to bid on certain contracts to first be certified by the Department of Transportation as qualified; exempting airports from certain restrictions regarding entities performing engineering and inspection services, etc. TR 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS RC	Fav/CS Yeas 20 Nays 0
23	SB 1324 Harrell (Similar CS/H 1313, Compare CS/H 1315, Linked CS/S 1326)	Digital Driver Licenses and Identification Cards; Requiring the Department of Highway Safety and Motor Vehicles to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards; authorizing the department to contract with one or more private entities to develop an electronic credentialing system; authorizing the department to enter into contracts with private entities for a specified purpose; prohibiting such private entities from storing, selling, or sharing personal information collected from scanning the digital proofs of driver licenses and identification cards, etc. TR 03/10/2021 Favorable AP 04/15/2021 Favorable RC	Favorable Yeas 20 Nays 0
24	CS/SB 1326 Transportation / Harrell (Similar CS/H 1315, Compare CS/H 1313, Linked S 1324)	Public Records/Department of Highway Safety and Motor Vehicles; Providing exemptions from public records requirements for secure login credentials, Internet protocol addresses, and geolocation data held by the Department of Highway Safety and Motor Vehicles; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. TR 03/10/2021 Fav/CS AP 04/15/2021 Favorable RC	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
25	SB 1372 Burgess (Compare CS/CS/H 3)	Literacy Improvement; Establishing the New Worlds Reading Initiative under the Department of Education; requiring the administrator, in consultation with a specified entity, to develop a selection of books; requiring the administrator to coordinate monthly book distribution to certain students; requiring the administrator to assist with local implementation of the initiative; requiring that a certain notification include information about the initiative, etc. ED 03/16/2021 Favorable AED 03/23/2021 Temporarily Postponed AED 03/24/2021 Favorable AP 04/15/2021 Temporarily Postponed	Temporarily Postponed
With subcommittee recommendation - Education			
26	CS/CS/SB 1382 Governmental Oversight and Accountability / Community Affairs / Perry (Similar CS/CS/H 667)	Building Inspections; Requiring that certain counties allow requests for inspections to be submitted electronically; requiring that local enforcement agencies allow requests for inspections to be submitted electronically; authorizing enforcement agencies to perform virtual inspections, etc. CA 03/10/2021 Fav/CS GO 03/31/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
A proposed committee substitute for the following bill (SB 1404) is available:			
27	SB 1404 Hooper (Similar CS/H 909)	Cultural and Historical Programs; Designating the Museum of Florida History as the official state history museum; providing that the Secretary of State shall be known as "Florida's Chief Arts and Culture Officer"; transferring certain responsibilities from the Division of Cultural Affairs to the Division of Historical Resources; revising provisions relating to the Museum of Florida History museum store, the establishment and operation of a certain nonprofit organization or association, and the deposit of certain funds; removing the requirement that a museum inform a lender of certain provisions in certain circumstances, etc. GO 03/10/2021 Favorable ATD 03/23/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation – Transportation, Tourism, and Economic Development			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
28	CS/SB 1408 Banking and Insurance / Burgess (Compare CS/CS/H 415, H 587, CS/H 717, CS/H 815, CS/H 823, CS/CS/CS/H 1209, CS/S 360, CS/S 742, S 998, S 1902)	Department of Financial Services; Specifying powers and duties of the Division of Public Assistance Fraud; specifying a condition that must be met before certain firefighter cancer-related benefits may be paid from the State Risk Management Trust Fund; specifying a criminal penalty for the willful and knowing dissemination of a sexual harassment victim's personal identifying information, except under certain circumstances; prohibiting persons from acting as or advertising themselves as being funeral directors, embalmers, direct disposers, or preneed sales agents unless they are so licensed; prohibiting a firesafety inspector from knowingly and intentionally requesting, soliciting, accepting, or agreeing to accept certain compensation, etc. BI 03/10/2021 Fav/CS AP 04/15/2021 Favorable RC	Favorable Yeas 19 Nays 1
29	CS/SB 1448 Governmental Oversight and Accountability / Jones (Similar CS/CS/H 1137)	Information Technology Procurement; Requiring the Department of Management Services, through the Florida Digital Service, to establish certain project management and oversight standards for state agency compliance; requiring the department to perform project oversight on information technology projects that have total project costs of a certain amount or more; authorizing the department to execute certain contracts if the Secretary of Management Services and the state chief information officer certify certain information in writing, etc. GO 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
30	SB 1450 Rodriguez (Identical H 5, Compare CS/H 1553, CS/S 1606)	Civic Education Curriculum; Revising the social studies high school graduation credit requirement; requiring the Department of Education to develop or approve an integrated civic education curriculum that meets certain requirements; requiring the department to curate oral history resources to be used along with such curriculum; designating the "Portraits in Patriotism Act", etc. ED 03/09/2021 Favorable AED 03/17/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0
With subcommittee recommendation - Education			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
31	SB 1470 Boyd (Similar H 797)	Florida Life and Health Insurance Guaranty Association; Defining the term “Moody’s Corporate Bond Yield Average”; authorizing the association to assume or reissue covered policies of impaired insurers; granting the association the right to appear or intervene before a court or an agency in certain proceedings; revising the calculation of Class A assessments; specifying requirements for repayment of deferred assessments upon removal or rectification of the conditions causing a deferral, etc. BI 03/16/2021 Favorable AEG 03/24/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			
32	CS/SB 1526 Children, Families, and Elder Affairs / Garcia (Identical CS/H 1071)	Medicaid Coverage for Former Foster Youth; Requiring the Department of Children and Families to develop a program to facilitate enrollment of certain young adults in Medicaid; authorizing the department to coordinate with a community-based care lead agency in implementing the program; revising eligibility for Medicaid coverage for certain young adults formerly eligible for foster care, etc. CF 03/09/2021 Fav/CS AHS 03/24/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 19 Nays 0
With subcommittee recommendation – Health and Human Services			
33	CS/SB 1540 Health Policy / Gibson (Identical CS/H 1381, Compare H 1383, S 1556)	Maternal Health Outcomes; Revising the Department of Health’s duties under the Closing the Gap grant program; requiring the department to establish telehealth minority maternity care pilot programs in Duval County and Orange County by a specified date; requiring the pilot programs to provide specified telehealth services, or coordinate with prenatal home visiting programs to provide specified services, to eligible pregnant women for a specified period; requiring the department’s Division of Community Health Promotion and Office of Minority Health and Health Equity to apply for certain federal funding, etc. HP 03/31/2021 Fav/CS AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
34	CS/SB 1568 Health Policy / Rodriguez (Compare CS/CS/H 1565, CS/S 818)	Department of Health; Revising the purpose of the department's targeted outreach program for certain pregnant women; requiring the department to provide, for a specified purpose, continued oversight of newborns exposed to HIV; revising provisions related to administrative fines for violations relating to onsite sewage treatment and disposal systems and septic tank contracting; exempting certain specialty hospitals from prohibitions relating to the employment of dentists and dental hygienists and the control of dental equipment and materials by nondentists; revising provisions relating to licensure by endorsement of midwives, etc. HP 03/31/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 19 Nays 0
35	CS/SB 1570 Governmental Oversight and Accountability / Rodriguez (Similar CS/H 1083)	Quasi-public Entities; Requiring the Governor to specify affiliated departments for certain quasi-public entities by a certain date; providing requirements for the affiliated departments; requiring a quasi-public entity to maintain a website that includes certain information; prohibiting a quasi-public entity from using public funds to retain a lobbyist; requiring a quasi-public entity to post and update certain information on the secure contract tracking system established and maintained by the Chief Financial Officer, etc. GO 03/17/2021 Temporarily Postponed GO 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0

A proposed committee substitute for the following bill (CS/SB 1598) is available:

36	CS/SB 1598 Banking and Insurance / Gruters (Similar CS/H 717, Compare H 471, CS/S 344)	Consumer Protection; Prohibiting consumer reporting agencies from charging to reissue or provide a new unique personal identifier to a consumer for the removal of a security freeze; authorizing the department to disapprove the use of insurance agency names containing the words "Medicare" or "Medicaid"; revising the timeframes in which an insured or a claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; prohibiting life insurers from writing new policies of industrial life insurance beginning on a certain date; providing that a communication made to or by an insurer's representative, rather than to or by an insurer's agent, constitutes communication to or by the insurer; revising information contained in the Homeowner Claims Bill of Rights, etc. BI 03/16/2021 Fav/CS AEG 03/24/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 11 Nays 9
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COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation - Agriculture, Environment, and General Government			
37	CS/SB 1728 Education / Baxley (Compare CS/H 1273)	Out-of-state Fee Waiver for Nonresident Students; Requiring a state university to waive the out-of-state fee for a nonresident student who meets certain requirements; requiring each state university to report specified information regarding such out-of-state fee waivers to the Board of Governors annually; enacting the Grandchild Out-of-State Fees Waiver Compact; requiring postsecondary educational institutions located within member states to waive out-of-state fees for students who meet specified criteria, etc. ED 03/23/2021 Fav/CS AP 04/15/2021 Favorable	Favorable Yeas 14 Nays 6
38	SB 1864 Perry (Compare CS/CS/H 131)	Education; Requiring the Department of Education to maintain a disqualification list that includes the identities of certain persons; requiring district school boards to investigate certain complaints and report certain results of such investigations to the department; prohibiting an individual who is on the disqualification list from being employed by a charter school or serving as a member of a charter school governing board; requiring certain private schools to adopt policies establishing standards of ethical conduct for certain employees; expanding the list of entities that law enforcement agencies must notify of certain charges, etc. ED 03/30/2021 Favorable AED 04/08/2021 Favorable AP 04/15/2021 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Education			
39	SB 1898 Rodriguez (Similar CS/H 7011, Compare CS/CS/H 419, H 1159, CS/S 934, S 1282)	Student Literacy; Revising and providing duties for the Just Read, Florida! Office within the Department of Education; requiring the Department of Education, in consultation with the Office of Early Learning, to implement a coordinated screening and progress monitoring system for students in the Voluntary Prekindergarten Education Program through grade 8; requiring certain students to participate in a certain coordinated screening and progress monitoring system; creating the "Reading Achievement Initiative for Scholastic Excellence Act", etc. ED 03/16/2021 Favorable AED 03/23/2021 Temporarily Postponed AED 03/24/2021 Favorable AP 04/15/2021 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
With subcommittee recommendation - Education			
40	CS/SB 1906 Commerce and Tourism / Brodeur (Compare H 207, CS/CS/H 1463, H 1617, S 466, S 592, S 644, S 910, CS/S 1948, S 1996)	Reemployment Assistance; Revising requirements for reemployment assistance benefits eligibility; increasing the weekly benefit amounts an individual may receive; increasing the cap on the total benefit amount an individual is entitled to receive during a benefit year, etc. CM 03/29/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
41	CS/SB 1948 Commerce and Tourism / Bean (Similar CS/CS/H 1463, Compare H 1291, S 1640, CS/S 1906)	Department of Economic Opportunity; Renaming the executive director of the Department of Economic Opportunity as the Secretary of Economic Opportunity; revising the application process and funding for development grants awarded by the department to local governments; requiring the department to maintain an effective and efficient system relating to the reemployment assistance program; revising the timeline for employers' responses to notices of benefits claims sent by the department, etc. CM 03/15/2021 Fav/CS AP 04/15/2021 Fav/CS RC	Fav/CS Yeas 19 Nays 0
42	CS/SB 1966 Regulated Industries / Diaz (Similar CS/CS/CS/H 1517, Compare CS/CS/H 867, CS/CS/S 630)	Department of Business and Professional Regulation; Requiring that certain reports relating to the transportation or possession of cigarettes be filed with the Division of Alcoholic Beverages and Tobacco through the division's electronic data submission system; requiring that certain entities file reports, rather than returns, relating to tobacco products with the division; providing that specified records relating to tobacco products may be kept in an electronic or paper format; removing provisions relating to an additional fee for application and renewal, transfer of funds, recommendations by the Construction Industry Licensing Board for use of such funds, distribution of such funds by the department, and required reports of the department; deleting requirements relating to certain fees collected by the department for electrical and alarm system contracting, etc. RI 03/30/2021 Fav/CS AP 04/15/2021 Fav/CS RC	Fav/CS Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
43	CS/SB 2004 Commerce and Tourism / Burgess	Broadband Internet; Requiring the Florida Office of Broadband's strategic plan to include short-term and long-term goals for increasing the availability of and access to broadband Internet service in this state; requiring the updated plan to be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislature by a specified date; requiring the office to provide technical and planning assistance related to broadband infrastructure to rural communities, etc. CM 03/15/2021 Fav/CS ATD 04/08/2021 Favorable AP 04/15/2021 Temporarily Postponed	Temporarily Postponed
With subcommittee recommendation – Transportation, Tourism, and Economic Development			
44	CS/SB 2010 Education / Diaz (Similar CS/H 7017)	Foreign Influence; Requiring any state agency or political subdivision to disclose certain gifts or grants received from any foreign source to the Department of Financial Services within a specified timeframe; requiring any entity that applies for a certain grant or proposes a certain contract to disclose to a state agency or political subdivision any current or prior interest of, contract with, or grant or gift received from a foreign country of concern under certain circumstances; requiring the Department of Management Services to screen certain vendors periodically; requiring the Department of Financial Services to establish and maintain an Internet website to publish the disclosures, etc. ED 03/23/2021 Temporarily Postponed ED 03/30/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 19 Nays 0
A proposed committee substitute for the following bill (SB 7060) is available:			
45	SB 7060 Environment and Natural Resources (Similar H 1309)	Biosolids; Ratifying specified rules relating to biosolids management for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding any specified thresholds for likely adverse impact or increase in regulatory costs; exempting the rules from certain review and approval by the Environmental Regulation Commission, etc. AEG 04/08/2021 Fav/CS AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
With subcommittee recommendation - Agriculture, Environment, and General Government			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
46	SB 7062 Environment and Natural Resources	Central Florida Water Initiative; Ratifying specified rules relating to the Central Florida Water Initiative, for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding any specified thresholds for likely adverse impact or increase in regulatory costs; requiring the Department of Environmental Protection to provide reports relating to implementation of the requirements of the Central Florida Water Initiative rules to the Legislature by specified dates; requiring the department, in consultation with specified water management districts, to adopt rules that include an annual supplemental irrigation requirement allocation for agricultural uses and a process for examining an agriculture user's average annual supplemental irrigation needs, etc. AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
47	SB 7076 Regulated Industries (Linked S 7078)	Gaming Enforcement; Creating the Florida Gaming Control Commission within the Office of the Attorney General; providing for membership of the commission; requiring the Commission on Ethics to accept and investigate any alleged violations of the standards of conduct for commissioners; designating the Florida Gaming Control Commission as the state compliance agency having authority to carry out certain responsibilities; transferring all powers, duties, functions, records, offices, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, trust funds, and unexpended balances of appropriations, allocations, and other funds of the Department of Business and Professional Regulation to the commission by a type two transfer, etc. AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0
48	SB 7078 Regulated Industries (Linked S 7076)	Public Records and Public Meetings Exemptions/Florida Gaming Control Commission; Specifying that any exempt or confidential and exempt information obtained by the Florida Gaming Control Commission retains its exempt or confidential and exempt status; providing an exemption from public meetings requirements for portions of meetings of the commission wherein confidential or exempt information is discussed; providing for future review and repeal; providing a statement of public necessity, etc. AP 04/15/2021 Fav/CS	Fav/CS Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, April 15, 2021, 9:00 a.m.—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
49	SB 7080 Regulated Industries	Requirements for Pari-mutuel Permitholders to Conduct Live Racing or Games; Revising the application requirements for an operating license to conduct pari-mutuel wagering for a pari-mutuel facility; prohibiting greyhound permitholders from conducting live racing; authorizing jai alai permitholders, harness horse racing permitholders, and quarter horse racing permitholders to elect not to conduct live racing or games; specifying that certain permitholders that do not conduct live racing or games retain their permit and remain pari-mutuel facilities, etc.	Fav/CS Yeas 20 Nays 0
		AP 04/15/2021 Fav/CS	

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 Appropriations

BILL: CS/SB 98

INTRODUCER: Appropriations Committee; and Senator Albritton

SUBJECT: Workforce Related Programs and Services

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
3.	<u>Hrdlicka/Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 98 modifies provisions related to Florida workforce development and education. Specifically, the bill:

- Authorizes the Governor to seek federal waivers to create greater flexibility and strategic investment in Florida’s implementation of the Workforce Innovation and Opportunity Act (WIOA).
- Creates the Office of Reimagining Education and Career Help (Office) in the Executive Office of the Governor to provide coordination and alignment in Florida’s workforce development system.
- Requires the Office to create a “no-wrong-door” entry strategy whereby Floridians may access services from any workforce partner with a common intake form and case management system.
- Creates a publicly available online opportunity portal to provide Floridians with access to identify in-demand jobs, the skills needed, where to obtain those skills, available services, and program performance employability and economic mobility.
- Requires the DEO and the DCF to evaluate the impact of workforce services on participants receiving benefits and welfare transition programs, to include performance reports on participant earnings.
- Requires local workforce development boards (LWDB) to be assigned a letter grade, which must be made public, based on improvement of participant long-term self-sufficiency and return on investment.

- Charges the Labor Market Estimating Conference as the entity responsible for determining Florida's real-time supply and demand in the labor market.
- Requires the Talent Development Council to coordinate Florida's efforts to meet state healthcare workforce needs, by conducting a gap analysis and provide trend information on nursing programs.
- Requires the DEO to establish WIOA eligible training provider criteria focused on participant outcomes.
- Requires the CareerSource state board to appoint a Credentials Review Committee to identify degree and non-degree credentials of value, develop a Master Credentials List for performance funding, and establish policy direction for funding which prioritizes outcomes and leverages resources to support vulnerable populations.
- Creates the Open Door Workforce Grant Program to provide grants to school districts and Florida College System (FCS) institutions to cover up to two-thirds of the cost of short-term, high-demand programs.
- Creates the Money-Back Guarantee Program, requiring each school district and FCS institution to refund the cost of tuition to students who are not able to find a job within 6 months of completing select programs.
- Creates a new workforce performance funding model for school district and FCS institution workforce programs, requiring one-third of performance funding to be based on rewarding student job placement and the remaining two-thirds be based on student earnings, with a focus on increasing the economic mobility of underserved populations.
- Requires that students entering a public postsecondary institution in 2022-2023, and thereafter, must be able to earn nationally recognized digital credentials for competencies within the general education core courses which demonstrate career readiness.

The bill has a significant, negative impact on state expenditures. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

The Workforce Estimating Conference

Current law directs the Workforce Estimating Conference to develop forecasts of employment demand for jobs by occupation and industry. The conference must also review local and regional occupational data generated through the Internet-based job-matching and labor-market information system and consider such data in developing its forecasts for statewide employment demand. Additionally, the data is used to make recommendations to CareerSource on any changes to local target occupation lists. The Workforce Estimating Conference is expected to meet at least twice a year;¹ however, the conference has not met since September 6, 2013.²

¹ See s. 216.136(7), F.S.

² Office of Economic & Demographic Research, Workforce Estimating Conference, <http://edr.state.fl.us/content/conferences/workforce/index.cfm> (last visited April 9, 2021).

Florida's Workforce Development System

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.³ The WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.⁴ The WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.⁵ Some key principles of the WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.⁶

In response to the WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.⁷ The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.⁸

Federal Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.⁹ The WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.¹⁰ In general, the WIOA maintains the one-stop framework of the WIA and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.¹¹ The WIOA officially became effective on July 1, 2015, the first full program year after enactment.

Core Programs

The WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.¹² The core programs are:

- Adult, Dislocated Worker, and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

³ Workforce Investment Act of 1998, 29 U.S.C. 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128 (113th Cong.) (July 22, 2014)(codified at 29 U.S.C. 3101, et seq.).

⁴ *See* 29 U.S.C. 2821 and 2832 (1998).

⁵ *See* 29 U.S.C. 2841 (1998).

⁶ *See* 29 U.S.C. 2811 (1998).

⁷ Chapter 2000-165, Laws of Fla.

⁸ *See* s. 445.003, F.S.

⁹ Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq. (2014).

¹⁰ *See* 29 U.S.C. 3112(a) (2014).

¹¹ *See* 29 U.S.C. 3111.

¹² *See* 29 U.S.C. 3102(13).

Performance Measures

In an effort to promote transparency and accountability, the WIOA created a single set of common measures for the evaluation of core programs.¹³ The WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:

- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;
- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.¹⁴

State Workforce Development Plan

Using the common performance measures for core programs, the WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.¹⁵ The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.¹⁶ The WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.¹⁷

The WIOA requires the Governor to establish a State Workforce Development Board¹⁸ to assist the Governor in carrying out the duties and responsibilities required by the WIOA.¹⁹ The membership of the state board must represent diverse geographic regions of the state, and the membership must include the Governor, members of the state legislature, representatives of business, representatives of workforce within the state, and membership from state officials with primary responsibility for the core programs.²⁰ Among other duties, the state board is required to assist in the development, implementation and modification of a 4-year state plan, review statewide policies, programs, and recommendations on actions to align workforce development programs, and identification and dissemination on best practices.²¹

¹³ See 29 U.S.C. 3141.

¹⁴ *Id.*

¹⁵ See 29 U.S.C. 3112(a).

¹⁶ See 29 U.S.C. 3112(b).

¹⁷ See 29 U.S.C. 3113.

¹⁸ See 20 C.F.R. 679.110.

¹⁹ See 20 C.F.R. 679.130.

²⁰ See 20 C.F.R. 679.110. See also U.S. Department of Labor, Employment and Training Administration Advisory System, Training and Employment Guidance Letter WIOA No. 27-14 (April 15, 2015), available at https://wdr.doleta.gov/directives/attach/TEGL/TEGL_27-14.pdf (last visited March 8, 2021).

²¹ See 20 C.F.R. 679.130.

Regional Planning and Local Workforce Development Boards

The WIOA requires states to identify regional planning areas for workforce development strategies.²² Within each area, a local workforce development board must be established.²³ Each local workforce development board is required to coordinate planning and service delivery strategies within their area.²⁴ Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.²⁵

The WIOA requires each Governor to designate local workforce development areas in consultation with the state workforce development board, chief elected officials²⁶ and local workforce development boards, and after consideration of public comment.²⁷ In making such designations, the WIOA requires each Governor to consider, with limited exception,²⁸ the extent to which the areas: (1) are consistent with the labor market areas in the state; (2) are consistent with regional economic development areas in the state; and (3) have the federal and non-federal resources necessary to effectively administer workforce investment activities, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education (CTE) schools.²⁹

The Governor's Authority

The WIOA grants the Governor broad oversight authority of both the state and local level workforce development programs. The Governor is responsible for designating the local workforce areas,³⁰ certifying the local workforce development boards,³¹ and negotiating the performance measures required by the WIOA.³² The Governor also has the authority to decertify a local workforce development board, and require its reorganization, for fraud, abuse, or failure to carry out its statutory duties.³³ If a local workforce development board fails to meet its agreed upon performance measures in two consecutive program years, the Governor must decertify it and implement a reorganization plan.³⁴

²² See 29 U.S.C. 3121.

²³ *Id.*

²⁴ See 29 U.S.C. 3122.

²⁵ See 29 U.S.C. 3123.

²⁶ See Pub. L. 113-128, s. 3(9) (codified at 29 U.S.C. 3102). The term chief elected official means “(a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units.”

²⁷ See Pub. L. 113-128, s. 106(a) and (b) (codified at 29 U.S.C. 3121).

²⁸ *Id.* WIOA lists two exceptions: (1) during the first two years after WIOA’s enactment, the Governor of each state was required to approve a request to designate a local workforce development area from any areas designated as such under the Workforce Innovation Act of 1998 for the two-year period immediately preceding WIOA’s enactment that performed successfully and sustained fiscal integrity; and (2) after the initial designation of such areas, the Governor of each state was further required to approve a subsequent request to designate such areas if, over the two most recent program years, they performed successfully, sustained fiscal integrity, and in the case of a local area planning region met additional requirements, including, but not limited to, the preparation of a regional plan.

²⁹ *Id.*

³⁰ See 29 U.S.C. 3121(b).

³¹ See 29 U.S.C. 3122(a).

³² See 29 U.S.C. 3121(c).

³³ See 29 U.S.C. 3122(c).

³⁴ See 29 U.S.C. 3141(g).

One-Stop Delivery System

The WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.³⁵ A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.³⁶ The WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.³⁷

Florida's Implementation of The WIOA

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by the WIOA.³⁸ Under the current workforce development system, the DEO, CareerSource, the state board, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs. Florida submitted its first Unified State Plan in 2016, a Two-Year Modification in 2018, and most recently a plan for the period July 1, 2020 to June 30, 2024.³⁹ Florida's plan includes the following required programs:

- Adult Program;
- Dislocated Worker Program;
- Youth Program;
- Adult Education and Family Literacy Act;
- Wagner-Peyser Act; and
- Vocational Rehabilitation Program, including Blind Services Program.⁴⁰

The Unified State Plan includes the required core partners of: CareerSource, the DEO, and the Department of Education's (DOE) Divisions of Career and Adult Education, Vocational Rehabilitation and Blind Services.⁴¹

The Department of Economic Opportunity

The DEO serves as Florida's lead workforce agency.⁴² The DEO is responsible for the fiscal and administrative affairs of the workforce development system.⁴³ The DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.⁴⁴ Additionally, the DEO must annually meet with each local workforce development board to

³⁵ See 29 U.S.C. 3151.

³⁶ Other mandatory partners may include programs under the Older Americans Act, Adult Education and Literacy, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, and the Community Service Block Grant Act. 29 U.S.C. 3151(b).

³⁷ See 29 U.S.C. 3151(2).

³⁸ Chapter 2016-216, Laws of Fla.

³⁹ Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 1, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021).

⁴⁰ *Id.* at 2.

⁴¹ *Id.* at 1.

⁴² Primarily through the Division of Workforce Services. See s. 20.60, F.S.

⁴³ Section 445.009(3)(c), F.S.

⁴⁴ See s. 445.003, F.S.

review the board's performance and to certify that the board is in compliance with applicable state and federal law.⁴⁵

CareerSource Florida, Inc., and the State Board

CareerSource Florida, Inc., a nonprofit corporation, provides administrative support to Florida's state-level workforce development board.⁴⁶ CareerSource collaborates with the DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.⁴⁷ CareerSource also implements policy directives of the state board.⁴⁸

The state board is the board of directors of CareerSource.⁴⁹ The board of directors includes the Governor, 16 business representatives, six workforce representatives, and eight government officials.⁵⁰ The state board conducts its work through its board of directors, two councils, and an executive committee.⁵¹

Additionally, the state board is responsible for the design and implementation of Florida's workforce development system and provides policy direction to ensure that the DEO is properly administering workforce development activities and programs.⁵² The state board is also responsible for developing a 4-year plan that is consistent with the requirements of the WIOA.⁵³ In partnership with state and local workforce partners, the state board develops strategic planning elements for the state plan to address strategies to fulfill workforce system goals; aggregate, integrate, and leverage resources; coordinate the activities of federal, state, and local workforce system partners; address the needs of small businesses; and foster the participation of rural and distressed communities.⁵⁴ The state board submits an annual report by December 1 of each year to the Governor and the Legislature on the operations and accomplishments of the board, as well as all audits.⁵⁵

Local Workforce Development Boards

Twenty-four local workforce development boards deliver Florida's workforce development services through over 100 one-stop service providers.⁵⁶ The one-stop service providers give Floridians access to available workforce services; including job placement, career

⁴⁵ See s. 445.007(3), F.S.

⁴⁶ Section 445.004(2), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

⁴⁷ See s. 445.004, F.S.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See s. 445.004(3)(a)-(d), F.S. See also Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 89. The membership roster is as of July 1, 2020.

⁵¹ *Id.* at 59

⁵² See s. 445.004, F.S.

⁵³ Section 445.003(2), F.S.

⁵⁴ See s. 445.006(2)(a), F.S.

⁵⁵ Section 445.004(7)(a)-(b), F.S.

⁵⁶ Department of Economic Opportunity, *CareerSource Florida Network Directory*, available at <http://lcd.floridajobs.org/> (last visited March 8, 2021).

counseling, and skills training.⁵⁷ Each local board formulates a local budget and oversees the one-stop delivery system within its local area.⁵⁸

Collectively, the local boards operate under a charter approved by CareerSource.⁵⁹ The local boards must submit a request for continued designation every two years, beginning July 1, 2017, to CareerSource and the DEO.⁶⁰ Continued designation is granted if the local board performed successfully and sustained fiscal integrity.⁶¹ Each local board must develop their own local plans which are aligned with the vision and goals of the state plan.⁶²

Accountability

For the period February 10, 2020, through August 7, 2020, the U.S. Department of Labor (USDOL) Employment Training Administration (ETA) conducted a compliance review of the DEO to determine its level of compliance with programmatic, fiscal, and administrative requirements.⁶³ The review identified 50 compliance findings, which must be addressed, with several findings having regulatory, statutory, and policy violations.⁶⁴

The DEO has since provided corrective action responses to 46 of the 50 findings.⁶⁵ The DEO's response concluded that the state board has not delegated its policy making authority and provided the agreement⁶⁶ between the DEO and CareerSource.⁶⁷ Additionally, the DEO will incorporate an annual review of local board websites to ensure local plans and modifications are made publicly available. To address conducting business in an open manner, the DEO has

⁵⁷ See s. 445.009, F.S.

⁵⁸ Section 445.007(12), F.S.

⁵⁹ CareerSource Florida, Strategic Policy 2000.08.15.8D, *Chartering of Local Workforce Development Boards* (Aug. 15, 2020), available at <https://careersourceflorida.com/wp-content/uploads/2017/05/2000.08.15.I.8D-Chartering-of-LWDB.pdf> (last visited March 8, 2021).

⁶⁰ CareerSource Florida, Administrative Policy Number 94, *Local Workforce Development Area Designation* (Mar. 20, 2017), at 3, available at https://floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/guidance-papers/2017-guidance-papers/localareadesignatn-ap94.pdf?sfvrsn=2e3770b0_4 (last visited March 8, 2021).

⁶¹ *Id.*

⁶² Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 111; See also Department of Economic Opportunity, *Local Workforce Development Area WIOA Plans*, available at <https://floridajobs.org/local-workforce-development-board-resources/programs-and-resources/local-workforce-development-area-wioa-plans> (last visited March 8, 2021).

⁶³ U.S. Department of Labor, Employment and Training Administration, *Compliance Review Florida Department of Economic Opportunity* (2020), available at <http://www.floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2020-usdol-eta-compliance-review.pdf> (last visited March 8, 2021).

⁶⁴ *Id.* at 1-2.

⁶⁵ Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons - Regional Administrator Employment and Training Administration* (Feb. 18, 2021), available at https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0_6 (last visited March 8, 2021).

⁶⁶ Agreement Between the Department of Economic Opportunity and CareerSource Florida, Inc., *Agreement No: BCS02* (July 1, 2019-June 20, 2021), available at <https://careersourceflorida.com/wp-content/uploads/2020/01/DEO-CSF-Agreement.pdf> (last visited March 8, 2021).

⁶⁷ Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons - Regional Administrator Employment and Training Administration* (Feb. 18, 2021), at 5.

updated the grantee-sub grantee agreement as well as a policy for local area governance and transparency.⁶⁸

Workforce Education Programs

Workforce education programs include:

- Adult general education programs.
- Career certificate programs.
- Applied technology diploma programs.
- Continuing workforce education courses.
- Degree career education programs.
- Apprenticeship and preapprenticeship programs.⁶⁹

FCS institutions and school districts may conduct workforce education programs; however, only an FCS institution may award college credit for an associate in applied science (AAS) or an associate in science (AS) degree.⁷⁰ If an AAS or an AS degree program includes an occupational completion point⁷¹ that confers a certificate or an applied technology diploma (ATD), a school district career center can operate that portion of the program.

Approval Process

The DOE develops and maintains CTE programs which align with 17 career clusters.⁷² Each CTE program has a corresponding curriculum framework which outlines the program structure, total hours, and student performance standards.⁷³ Once a program is approved by the SBE, the program may be offered by any institution in Florida.⁷⁴

The SBE is authorized to review and approve baccalaureate programs offered by FCS institutions.⁷⁵ The approval process requires an FCS institution to submit a notice of intent that must include evidence that the FCS institution engaged in need, demand, and impact discussions with the state university and other regionally accredited postsecondary education providers in its service district. A proposal by an FCS institution to offer a baccalaureate program, among other criteria, must include an analysis of workforce demand and unmet need for graduates of the program, cost, and admission requirements.⁷⁶

⁶⁸ *Id.* at 7-9.

⁶⁹ Section 1011.80(1)(a)-(f), F.S.

⁷⁰ Section 1011.80(2), F.S.

⁷¹ *See* s. 1004.02(21), F.S. An occupational completion point means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program.

⁷² Florida Department of Education, 2020-21 Career and Technical Education Frameworks, <http://www.fldoe.org/academics/career-adult-edu/career-tech-edu/curriculum-frameworks/2020-21-frameworks/> (last visited April 15, 2021).

⁷³ *Id.* *See also* s. 1004.92(2)(b), F.S. and Health Sciences Career Cluster, Curriculum Framework, Program Surgical Technology (2020-2021), available at <http://www.fldoe.org/core/fileparse.php/19869/urlt/H170211-2021.rtf>.

⁷⁴ Florida Department of Education, Presentation to Senate Committee on Education (Feb. 16, 2021), at 105, available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/5054/9043_MeetingPacket_5054_2.pdf.

⁷⁵ Section 1001.03(15), F.S.

⁷⁶ Section 1007.33(5)(a) and (d), F.S.

Continuing Workforce Education (CWE)

CWE is defined as instruction that does not result in a technical certificate, diploma, associate in applied science degree, or associate in science degree.⁷⁷ CWE is for:

- Individuals who are required to have training for licensure renewal or certification renewal by a regulatory agency or credentialing body.
- New or expanding businesses.
- Business, industry, and government agencies whose products or services are changing so retraining of employees is necessary or whose employees need training in specific skills to increase efficiency and productivity.
- Individuals who are enhancing occupational skills necessary to maintain current employment, to cross train, or to upgrade employment.⁷⁸

Expenditures for CWE programs provided by an FCS institution or school district must be fully supported by fees. Enrollments in CWE courses may not be counted for purposes of funding FTE enrollment.⁷⁹

Apprenticeships and Preapprenticeships

The Florida Legislature has established educational opportunities for young people in the state to be trained for trades, occupations, and professions suited to their abilities.⁸⁰

The federal government works in cooperation with states to oversee the nation's apprenticeship programs. States have the authority to register apprenticeship programs through federally-recognized State Apprenticeship Agencies.⁸¹ In Florida, the Department of Education (DOE) serves as the registering entity to ensure compliance with federal and state apprenticeship standards, provide technical assistance, and conduct quality assurance assessments.

An apprenticeable occupation is a skilled trade that possesses all of the following characteristics:

- It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training;
- It is commonly recognized throughout the industry;
- It involves manual, mechanical, or technical skills and knowledge requiring a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction; and
- It requires related instruction to supplement on-the-job training. Such instruction may be given in a classroom or through correspondence courses.⁸²

⁷⁷ Section 1004.02(12), F.S.

⁷⁸ Id. at (a)-(d).

⁷⁹ Section 1011.80(6)(a), F.S.

⁸⁰ Chapter 446, F.S.

⁸¹ 29 C.F.R. 29.1 and 29.13.

⁸² Section 446.092, F.S.

Registered Apprenticeship

Registered apprenticeship is an employer-driven, on-the-job workforce educational training program that connects job seekers looking to learn new skills and career opportunities with employers looking to create a pipeline of highly skilled individuals for their workforce.⁸³

The key components of a Florida registered apprenticeship program are business involvement, structured on-the-job training, related technical instruction, rewards for skill gains, and a nationally recognized credential.⁸⁴

Apprenticeship Programs

An “apprentice” is a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which should be combined with properly coordinated studies of technical and supplementary subjects. An apprentice must enter into an apprentice agreement with a sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.⁸⁵

Potential candidates for apprenticeships may apply with a registered sponsor, who determines whether the candidate meets the required qualifications.⁸⁶ Sponsors may provide private classroom instruction or coordinate with a local educational agency⁸⁷ to provide related supplemental classroom instruction.⁸⁸ The apprentices are exempt from paying tuition and fees at a school district technical center, Florida College System (FCS) institution, or state university.⁸⁹

The sponsor operates and registers an agreed-upon apprenticeship program.⁹⁰ An apprenticeship program is an organized course of instruction, registered and approved by the DOE that contains all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices.⁹¹

The administration and supervision of related and supplemental instruction for apprentices, coordination of such instruction with job experiences, and selection and training of teachers and coordinators for such instruction is the responsibility of the appropriate career education institution. The career education institution is encouraged to provide facilities, equipment and

⁸³ Florida Department of Education, *Florida’s Annual Apprenticeship and Preapprenticeship Report (2019-2020)*, available at <http://www.fldoe.org/core/fileparse.php/5398/urlt/2020appr-rpt.pdf>, at 2 (last visited April 15, 2021).

⁸⁴ *Id.*

⁸⁵ Section 446.021(2), F.S.

⁸⁶ Florida Department of Education, *What is Registered Apprenticeship?*, <http://www.fldoe.org/academics/career-adult-edu/apprenticeship-programs/what-is-apprenticeship.stml>, (last visited April 15, 2021).

⁸⁷ Though not defined in the federal regulations governing the U.S. Department of Labor, the U.S. Department of Education regulations define a local educational agency as a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. 34 C.F.R. s. 400.4.

⁸⁸ Section 446.051(2), F.S.

⁸⁹ Section 1009.25(1)(b), F.S.

⁹⁰ Rule 65A-23.002(21), F.A.C.

⁹¹ Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees that establishes higher apprenticeship standards. Section 446.081(1), F.S.

supplies, and instructors' salaries for the performance of related and supplemental instruction associated with the registered program.⁹²

Preapprenticeship Programs

A preapprentice is any person 16 years of age or over engaged in any course of instruction in the public school system or elsewhere, which course is registered as a preapprenticeship program with the DOE. The program's purpose is to provide training that will enable students, upon completion, to obtain entrance into a registered apprenticeship program. The program must be registered with the DOE and sponsored by a registered apprenticeship program.⁹³

The DOE is authorized to administer the law⁹⁴ relating to preapprenticeship programs in cooperation with district school boards and FCS institution boards of trustees (BOT). District school boards, FCS institution BOT, and sponsors must cooperate in developing and establishing preapprenticeship programs that include career instruction and general education courses required to obtain a high school diploma.⁹⁵

Department of Education Responsibilities

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs, including, but not limited to:

- Developing and encouraging apprenticeship programs;
- Registering any apprenticeship or preapprenticeship program, regardless of affiliation,⁹⁶ which meets standards established by the DOE;
- Cooperating with and assisting sponsors to develop apprenticeship standards and training requirements;
- Monitoring registered apprenticeship programs;
- Leading and coordinating outreach efforts to educate veterans about apprenticeship and career opportunities;
- Investigating complaints regarding failure to meet the standards established by the DOE; and
- Canceling registration of programs that fail to comply with DOE standards and policies.⁹⁷

The DOE establishes uniform minimum standards and policies governing registered apprenticeship programs and agreements. The standards and policies must govern the terms and conditions of the apprentice's employment and training, including the quality training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeymen, safety, related instruction, and on-the-job training. The DOE is also required to publish an annual report on apprenticeship and preapprenticeship programs, which must include:

- A list of registered apprenticeship and preapprenticeship programs;
- A summary of each local educational agency's expenditure of funds for apprenticeship and preapprenticeship programs, per trade or occupation;

⁹² Section 446.051(1), F.S.

⁹³ Section 446.021(1) and (5), F.S., and Rule 6A-23.010(1), F.A.C.

⁹⁴ Sections 446.011 to 446.092, F.S.

⁹⁵ Section 446.052(2), F.S.

⁹⁶ Apprenticeship programs may be in both non-union and union workplaces; sponsors may include employers, labor organizations, and joint labor-management organizations.

⁹⁷ Section 446.041, F.S.

- The number of apprentices and preapprentices per trade and occupation;
- The percentage of apprentices and preapprentices who complete their respective programs in the appropriate timeframe;
- Information and resources related to applications for new apprenticeship programs and technical assistance and requirements for potential applicants; and
- Documentation of activities conducted by the DOE to promote apprenticeship and preapprenticeship programs through public engagement, community-based partnerships, and other initiatives.⁹⁸

State Apprenticeship Advisory Council

The State Apprenticeship Advisory Council (council) advises the DOE on matters related to apprenticeship. The council may not establish policy, adopt rules, or consider whether particular apprenticeship programs should be approved by DOE. The Commissioner of Education (commissioner) or the commissioner's designee must serve ex officio as chair of the council, but may not vote. The state director of the USDOL also serves ex officio as a nonvoting member of the council. The council is comprised of 10 voting members appointed by the Governor. The council must meet at the call of the chair or at the request of a majority of its membership, but at least twice a year.⁹⁹

Florida Pathways to Career Opportunities Grant Program

In 2019, the Governor issued an executive order directing the DOE to seek funding to seed high quality workforce apprenticeships and other industry specific learning opportunities for students.¹⁰⁰

The Florida Pathways to Career Opportunities Grant Program (grant program) was established in 2019¹⁰¹ in the DOE to provide grants on a competitive basis to high schools, career centers, charter technical career centers, FCS institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program to establish new apprenticeship or preapprenticeship programs, and expand existing apprenticeship or preapprenticeship programs. Grant funds may be used for instructional equipment, supplies, personnel, student services, and other expenses associated with the creation or expansion of an apprenticeship program. Grant funds may not be used for recurring instructional costs or for indirect costs.¹⁰²

Credentials of Value

Industry certification is a voluntary process through which individuals are assessed by an independent third-party using predetermined standards for knowledge, skills, and competencies, resulting in the award of a credential that is nationally recognized and must be at least one of the following:

- Within an industry that addresses a critical local or statewide economic need.
- Linked to an occupation that is included in the workforce system's targeted occupation list.

⁹⁸ Section 446.032(1) and (2), F.S.

⁹⁹ Section 446.045(2)(a)-(c), F.S.

¹⁰⁰ Florida Office of the Governor, Executive Order 19-31, at 3.

¹⁰¹ Section 33, ch. 2019-119, Laws of Fla.

¹⁰² Section 1011.802, F.S.

- Linked to an occupation that is identified as emerging.¹⁰³

Industry certifications for nonfarm occupations must be based on the highest national standards available for the specific industry certification. Industry certifications for farm occupations must demonstrate student skill proficiency and be based upon the best available data to address critical local or statewide economic needs.¹⁰⁴

Florida produces several lists by various entities to identify industry certifications which may be offered by secondary and postsecondary institutions:

List	Designating Entity	Use
Comprehensive Industry Certifications List	CareerSource	<ul style="list-style-type: none"> • The DOE adopts fundable industry certifications from this list¹⁰⁵
Career and Professional Education (CAPE) Industry Certification Funding List (K-12)	Developed jointly by CareerSource and the DEO Adopted annually by the SBE	<ul style="list-style-type: none"> • Florida Education Finance Program (FEFP) supplemental FTE for industry certification attainment • Acceleration component in the school grades calculation¹⁰⁶
CAPE Postsecondary Industry Certification Funding List	Adopted annually in rule by the SBE	<ul style="list-style-type: none"> • Performance funding for school districts and FCS institutions for occupational areas identified in the General Appropriations Act¹⁰⁷
CTE Audit List	Developed jointly by CareerSource, the DEO, and other stakeholders	<ul style="list-style-type: none"> • Provides authority to the Commissioner of Education (commissioner) to audit all workforce programs to ensure alignment to market demand¹⁰⁸ • Annually reviewed and synced with curriculum framework process/cycle to ensure quality¹⁰⁹
Rapid Credentialing Grant Lists	DOE	<ul style="list-style-type: none"> • Increase capacity around short-term, in-demand middle to high wage occupation, workforce programs¹¹⁰

¹⁰³ Section 1003.492(2), F.S.

¹⁰⁴ Section 1003.492(3(a) and (b), F.S.

¹⁰⁵ Florida Department of Education, Division of Career and Adult Education, *2020-21 Career Source Florida Recommendations*, available at <http://www.fldoe.org/core/fileparse.php/8904/urlt/2021-csfl-rec-all.pdf>.

¹⁰⁶ Sections 1003.492 and 1008.44(1), F.S.

¹⁰⁷ Sections 1008.44(1), 1011.80, and 1011.81, F.S.

¹⁰⁸ Section 1003.491(5), F.S.

¹⁰⁹ Florida Department of Education, Presentation to the Senate Education Committee on January 26, 2021, *Career and Technical Education Programs and Labor Market Needs*, at 91, available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4987/8983_MeetingPacket_4987_2.pdf.

¹¹⁰ Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity (June 16, 2020)*, at 11, 14, and 18, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

		<ul style="list-style-type: none"> • Two lists (one non-degree list and one for credit list) of short term CTE programs that meet statewide benchmarks, aligned to a mid-to-high wage occupation and cross walked to Enterprise Florida’s targeted industry sectors¹¹¹
Programs of Strategic Emphasis List	State University System (SUS) BOG	<ul style="list-style-type: none"> • Aligns SUS degrees with Florida’s economic and workforce needs • Performance funding component for the SUS¹¹²

The Florida Career and Professional Education (CAPE) Act

The CAPE Act was created to provide a statewide planning partnership between the business and education communities to attract, expand and retain targeted, high-value industry to sustain a strong, knowledge-based economy. The primary purpose of the CAPE Act is to:

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses that articulate to postsecondary-level coursework and lead to industry certification;
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.¹¹³

In order to fulfill the requirements of the CAPE Act the DOE incentivizes school districts and FCS institutions¹¹⁴ through two statewide lists.¹¹⁵

The CAPE Industry Certification Funding List includes CAPE industry certifications, CAPE acceleration industry certifications, and CAPE digital tool certificates. Industry certifications on the final approved CAPE Industry Certification Funding list are eligible for additional weighted funding through the Florida Education Finance Program (FEFP). The value is added to the total FTE in secondary career education programs for grades 9 through 12. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification to the program that generated the funds.¹¹⁶

¹¹¹ Florida Department of Education, Presentation to the Senate Education Committee on January 26,2021, *Career and Technical Education Programs and Labor Market Needs*, at 91, available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4987/8983_MeetingPacket_4987_2.pdf.

¹¹² State University System, Programs of Strategic Emphasis, *Methodology for Updating Programs of Strategic Emphasis In the State University System of Florida, Board of Governors CIP 2020 Update* (Sept. 2020), https://www.flbog.edu/wp-content/uploads/CIP_2020_PSE_Methodology_CE_FINAL.pdf (last visited April 15, 2021).

¹¹³ Section 1003.491, F.S.

¹¹⁴ Sections 1011.62(1)(o), 1008.44, 1011.80, and 1011.81(2), F.S.

¹¹⁵ Sections 1011.62(1)(o), 1011.80(7)(b), and 1011.81(2)(c), F.S.

¹¹⁶ Section 1011.62(1)(o), F.S.; Rule 6A-6.0573(12), F.A.C.

CAPE Industry Certification Funding List (K-12)

Florida's current process for submitting, reviewing, and approving certifications starts with the submission of a certification application to CareerSource by local boards or public school principals. All submissions are then researched by CareerSource staff, the DOE, and the DEO to determine eligibility and to develop a list of recommended certifications for approval. The CareerSource Board of Directors is responsible for the final approval of certifications that the DOE may consider for funding eligibility and addition to the CAPE Industry Certification Funding List.¹¹⁷

Approved industry certifications are published by the DOE, CareerSource, and the Department of Agriculture and Consumer Services (DACCS). The selection of industry certifications occurs in two phases. First, CareerSource must identify industry certifications and compile them into a Comprehensive Industry Certification List.¹¹⁸ Second, the DOE must:

- Review CareerSource's Comprehensive Industry Certification List that includes 236 certifications;¹¹⁹
- Identify industry certifications that qualify for additional weighted funding;¹²⁰
- Consider district requests that industry certifications be added to the approved list;¹²¹ and
- Annually publish a final list.¹²²

In order for an industry certification to be included on the CAPE Industry Certification Funding List, a certification must require a minimum of 150 hours of instruction and be achievable by secondary students.¹²³

CAPE acceleration industry certifications, which are annually approved by the commissioner, must articulate for 15 or more college credit hours and, if successfully completed, must be eligible for additional FTE funding.¹²⁴ In order for a CAPE acceleration industry certification to be included on the CAPE Industry Certification Funding List, it must meet the same requirements as an industry certification and also have a statewide articulation agreement that enables students to earn 15 hours or more of college credit.¹²⁵

CAPE digital tool certificates recognize a student's attainment of digital skills. The DOE is required to identify, by June 15 of each year, digital tool certificates that indicate a student's digital skills. The DOE must notify each school district when a digital tool certificate is available. Digital tool certificates must be made available to all public elementary and middle

¹¹⁷ CareerSource Florida, *2021-2022 Submission Process and Guidelines for Career and Professional Education Act*, available at: https://careersourceflorida.com/wp-content/uploads/2018/08/CAPE_Process_and_Guidelines.pdf (last visited April 15, 2021).

¹¹⁸ Section 1003.492(3) and (4), F.S.; rule 6A-6.0573(2)(d), F.A.C.

¹¹⁹ Rule 6A-6.0573(3), F.A.C. *See also*, Florida Department of Education, Division of Career and Adult Education, *2020-21 Career Source Florida Recommendations*, available at <http://www.fldoe.org/core/fileparse.php/8904/urlt/2021-csfl-rec-all.pdf> (last visited April 15, 2021).

¹²⁰ Rule 6A-6.0573(4), F.A.C.

¹²¹ Rule 6A-6.0573(9), F.A.C.

¹²² Section 1003.492(4), F.S.; rule 6A-6.0573(8), F.A.C.

¹²³ Rule 6A-6.0573(7)(a), F.A.C.

¹²⁴ Section 1003.4203(5)(b), F.S.

¹²⁵ Rule 6A-6.0573(7)(c), F.A.C.

grades students. By July 1, 2018, and on an annual basis thereafter, at least 75 percent of public middle grades students are expected to earn at least one digital tool certificate.¹²⁶ In order for a CAPE digital tool certificate to be included on the CAPE Industry Certification Funding List a certificate must:

- Be achievable by elementary school and middle grades students;
- Assess at least one of the following digital skills: word processing; development of spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations; and
- Be part of a career pathway leading to the attainment of a career and professional education industry certification on the career and professional education funding list.¹²⁷

The commissioner may at any time recommend adding to the CAPE Industry Certification Funding List no more than 30 career and professional education digital tool certificates limited to the areas of word processing; development of spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations that do not articulate for college credit.¹²⁸

The Chancellor of Career and Adult Education may identify certificates and certifications for students with disabilities, which must be included on the CAPE Industry Certification Funding List, i.e., digital tool certifications, workplace industry certification, and occupation safety and health administration industry certifications.¹²⁹

CAPE Postsecondary Industry Certification Funding List

The CAPE Postsecondary Industry Certification Funding List is developed by the Chancellor of the FCS and the Chancellor of Career and Adult Education and approved by the SBE. These industry certifications are linked to occupational areas identified in the General Appropriations Act.¹³⁰

State University System-Programs of Strategic Emphasis

As part of its duties to operate the SUS, the BOG¹³¹ develops a strategic plan which specifies the goals and objectives for each university and the SUS.¹³² Part of the strategic plan includes criteria for designating baccalaureate degree and master's degree high-demand programs of

¹²⁶ Section 1003.4203(3), F.S.

¹²⁷ Rule 6A-6.0573(7)(d), F.A.C.

¹²⁸ Section 1008.44(1)(b), F.S.

¹²⁹ Section 1008.44(1)(c), F.S.

¹³⁰ Sections 1011.80(7)(b) and 1011.81(2)(b), F.S.; ss. 124 and 130, ch. 2020-111, Laws of Fla.

¹³¹ Art. IX., s. 7, Fla. Const.

¹³² Section 1001.706(5)(b), F.S.

emphasis.¹³³ The criteria for designating high-demand programs of emphasis is explained in the following table:

BOG High-Demand Programs of Emphasis Criteria	
Criteria Percentage	Criteria Metrics
50%	Achievement of performance outcome thresholds determined by the BOG. ¹³⁴
50%	Achievement of performance outcomes linked to: <ol style="list-style-type: none"> 1. Job placement in employment of 36 hours or more per week and average full-time wages of graduates of the degree program 1 year and 5 years after graduation. 2. BOG data-driven gap analysis of the state’s job market demands and the outlook for jobs that require a baccalaureate degree or higher, with a growth rate of at least 10.1 percent, and a median Florida wage of at least \$45,000 per year.¹³⁵

The BOG periodically updates the list of identified programs of strategic emphasis (PSE), and most recently updated the list in September 2020¹³⁶ identifying 868 PSE.¹³⁷ The BOG categorizes PSEs into five areas:

- *Critical Workforce - Education*: comprised of the SBE critical teacher shortage areas.
- *Critical Workforce - Health*: comprised of workforce projections by the DEO.
- *Critical Workforce - Gap Analysis*: programs leading to occupations projected to be critically under-supplied in the BOG analysis of labor market projections and related degree production.
- *Economic Development - Global Competitiveness*: programs that assist in making the SUS globally competitive.
- *Economic Development - Science Technology Engineering and Math (STEM)*: programs identified with national usage.¹³⁸

The PSE are used by the BOG to develop annual accountability plans, coordinate academic programs, and approve new academic programs.¹³⁹ PSEs are also a component of SUS performance based funding.¹⁴⁰ For the 2019-2020 academic year, 54 percent of bachelor’s

¹³³ Section 1001.706(5)(b)4., F.S.

¹³⁴ *Id.*

¹³⁵ Section 1001.706(5)(b)4.a.-b., F.S. *See also* Florida Board of Governors, Presentation to Post-Secondary Education & Lifelong Learning Subcommittee (February 10, 2021), at 6, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3109&Session=2021&DocumentType=Meeting%20Packets&FileName=pe1%202-10-21.pdf>.

¹³⁶ Florida Board of Governors, *Programs of Strategic Emphasis*, <https://www.flbog.edu/resources/academic/programs-of-strategic-emphasis/> (last visited April 15, 2021).

¹³⁷ Florida Board of Governors, *Approved PSE List 2020-2021* (September 2020), available at <https://www.flbog.edu/wp-content/uploads/Current-PSE-list-approved-by-the-BOG-at-its-September-2020-meeting-XLSX.xlsx>.

¹³⁸ Florida Board of Governors, *Current CIP 2020 Programs of Strategic Emphasis methodology* (September 2020), at 3, available at https://www.flbog.edu/wp-content/uploads/CIP_2020_PSE_Methodology_CE_FINAL.pdf. at 4-6, and 10.

¹³⁹ Florida Board of Governors, *Programs of Strategic Emphasis*, <https://www.flbog.edu/resources/academic/programs-of-strategic-emphasis/> (last visited April 15, 2021).

¹⁴⁰ Florida Board of Governors, *Performance Funding Model Overview* (Nov. 2019), at 1, available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version->

degrees awarded by the SUS and 63 percent of graduate degrees awarded by the SUS were in PSE.¹⁴¹

Performance Funding

Incentives are provided for valuable credentials. A value of 0.025 FTE is calculated for CAPE digital tool certificates earned by students in elementary and middle school. Weights of 0.1, 0.2, 0.3, 0.5, or 1.0 FTE are added for courses that lead to the attainment of a CAPE industry certification, as reflected in the following table:¹⁴²

Weight	Course Type
0.1 FTE	CAPE Industry Certification does not articulate to college credit
0.2 FTE	CAPE Industry Certification articulates to college credit
0.3 FTE	CAPE Innovation Course
0.5 FTE	CAPE Acceleration Industry Certification articulates to 15-29 college credit hours
1.0 FTE	CAPE Acceleration Industry Certification articulates to 30+ college credit hours

Bonuses are available for teachers of courses in which students earn industry certifications, as follows:

- A bonus amount of \$25 is awarded for a course with a weight of 0.1.
- A bonus amount of \$50 is awarded for a course with a weight of 0.2.
- A bonus amount of \$75 is awarded for a course with a weight of 0.3.
- A bonus amount of \$100 is awarded for a course with a weight of 0.5 or 1.0.¹⁴³

In addition, performance incentive funds are provided for attainment of industry certifications identified on the CAPE Postsecondary Industry Certification Funding List.¹⁴⁴ For FY 2020-21, \$6.5 million in performance-based incentives were allocated for school districts and \$14 million for state colleges.¹⁴⁵ Each eligible postsecondary-level certification earned by a student at a postsecondary institution generates \$1,000 in state performance funding for the institution.¹⁴⁶

[1.pdf](#). Metric 6 includes bachelor’s degrees award in areas of strategic emphasis and Metric 8a. includes graduates degrees awarded in areas of strategic emphasis. *See also* s. 1001.92, F.S.

¹⁴¹ Florida Board of Governors, Presentation to Post-Secondary Education & Lifelong Learning Subcommittee (February 10, 2021), at 11, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3109&Session=2021&DocumentType=Meeting%20Packets&FileName=pe1%202-10-21.pdf>.

¹⁴² Section 1011.62(1)(o), F.S.

¹⁴³ Section 1011.62(1)(o)3., F.S.

¹⁴⁴ Section 1011.81(2)(b), F.S.

¹⁴⁵ Sections 124 and 130, ch. 2020-111, L.O.F.

¹⁴⁶ Section 1011.80(7)(b)3., F.S.; s. 1011.81(2)(c), F.S.

Rapid Credentialing Grant

In FY 2020-2021, \$35 million was allocated for the Rapid Credentials Grant from the Governor’s Emergency Education Fund (GEER),¹⁴⁷ one of the four grant programs created through the Coronavirus Aid Relief and Economic Security (CARES) Act.¹⁴⁸ Grant funds are directed to connecting unemployed, underemployed, or furloughed individuals with training in an in-demand area of the regional workforce board.¹⁴⁹

Rapid credentialing programs are designed to increase all of Florida's 28 state and 48 technical colleges’ capacity to enroll and graduate students in short term, in-demand, middle to high wage occupation, workforce programs that can be completed in 18 weeks or less, aiding in accelerated recovery for residents and the economy after the COVID-19 pandemic.¹⁵⁰ Many of these programs are not eligible for federal financial aid as they do not meet the minimum instructional time requirements.¹⁵¹

Rapid credential programs include the following:

- Technical certificate programs (i.e., short, credit options offered by FCS institutions).
- Market-driven and in-demand clock hour career certificate programs (i.e., short, vocational training programs offered by technical colleges).
- Engaging, transformative, in-demand industry certification preparation courses (i.e., courses that culminate in an industry-recognized certification that can articulate into college credit).¹⁵²

The DOE identified over 100 rapid credential programs statewide and cross-walked them to CareerSource’s in-demand sector strategies. These workforce education-related options are accessible, affordable, and articulate into “higher-level” credentials (i.e., associate of science degrees or bachelors of applied science degrees).¹⁵³

¹⁴⁷ Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity* (June 16, 2020), at 14, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

¹⁴⁸ On Friday, March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act was signed into law. Four grant programs were created through the CARES Act: Education Stabilization Fund Discretionary Grants; Governor’s Emergency Education Relief Fund; Elementary and Secondary School Emergency Relief Fund; and Higher Education Emergency Relief Fund. United States Department of Education, Office of Elementary & Secondary Education, *Education Stabilization Fund*, <https://oese.ed.gov/offices/education-stabilization-fund/> (last visited April 15, 2021).

¹⁴⁹ Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity* (June 16, 2020), at 16, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

¹⁵⁰ *Id.* at 11, 14, and 18.

¹⁵¹ United States Department of Education, Federal Student Aid, *FASFAA Clock Hour Workshop* (Oct. 30 – Nov. 1, 2018), at 2, available at <https://fasfaa.memberclicks.net/assets/ClockHour/1819/Presentations/FASFAA%20CI%20Hr%20wksHp%20-%20clock%20hour%20basics%20-%20Oct%202018.pdf>.

¹⁵² Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity* (June 16, 2020), at 14, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

¹⁵³ *Id.*

Funds were allocated to 73 local education agencies, including charter districts and laboratory schools.¹⁵⁴ The grant requires 25 percent matching by the institution and allocates a minimum of \$150,000 per agency plus a pro-rated share of additional funds based on unduplicated headcount in postsecondary CTE programs.¹⁵⁵ Of the \$35 million award, \$7,130,453 was allocated to technical colleges, and the remaining \$27,869,547 was allocated to FCS institutions.¹⁵⁶ Funds may be used to purchase necessary equipment and underwrite costs associated with administering these short term courses/programs.¹⁵⁷

Measuring Outcomes for Florida's Workforce Programs

Florida Talent Development Council

The Florida Talent Development Council is responsible for the development and monitoring of a strategic plan for talent development to accomplish the attainment goal of 60 percent of working age adults with a high-value postsecondary credential by 2030.¹⁵⁸

Florida Education & Training Placement Information Program (FETPIP)

The FETPIP is a data collection and consumer reporting system established to provide follow-up data on former students and program participants who have graduated, exited, or completed a public education or training program within the state of Florida. The law requires all elements of Florida's WDS to use information provided through FETPIP for any project they conduct that requires automated matching of administrative records for follow-up purposes.¹⁵⁹

FETPIP data does not capture certain data elements necessary for WIOA federal reporting criteria. The system is unable to report data on non-WIOA participant performance.¹⁶⁰

Workforce Development Information System (WDIS)

The DOE is responsible for designing specifications for the collection and reporting of data and performance specifications for the WDIS. The design must allow parallel reporting and state-level access of workforce data necessary to use the data reports as a basis for calculating funding allocations. In addition, the design must be capable of providing reports necessary to comply with other program performance documentation required by state or federal law, without requiring additional data collection or reporting from local educational agencies.¹⁶¹

¹⁵⁴ Florida Department of Education, Division of Career and Adult Education, *Rapid Credentialing*, at 10, available at <http://www.fldoe.org/core/fileparse.php/19916/urlt/RapidCredentials3.pdf>.

¹⁵⁵ Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity* (June 16, 2020), at 18-19, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

¹⁵⁶ Florida Department of Education, Division of Career and Adult Education, *Rapid Credentialing*, at 4, available at <http://www.fldoe.org/core/fileparse.php/19916/urlt/RapidCredentials3.pdf>.

¹⁵⁷ Florida Department of Education, Division of Career and Adult Education, Division of Florida Colleges, *CARES Act, Rapid Credentialing Grant Opportunity* (June 16, 2020), at 16, available at <http://www.fldoe.org/core/fileparse.php/7515/urlt/RFA-RapidCredentialing.pdf>.

¹⁵⁸ *Id.* at (4).

¹⁵⁹ Section 1008.39, F.S.

¹⁶⁰ Email, Florida Department of Economic Opportunity, Director of External Affairs (Nov. 10, 2020).

¹⁶¹ Section 1008.40(1), F.S.

Career and Technical Education Program Audit

On January 2019, the Governor issued Executive Order 19-31¹⁶² which established a goal for Florida to become number one in the nation for workforce education by 2030. The executive order directed the commissioner to complete an audit of CTE offerings in Florida and develop a methodology to audit and review offerings annually.

The commissioner is required to annually review K-12 and postsecondary CTE programs in consultation with the DEO, CareerSource, leaders of business and industry, the BOG, the FCS, school districts, and other education stakeholders. The review must assess alignment of existing offerings with employer demand, postsecondary credentials, and professional industry certifications. This includes identifying offerings that are linked to occupations that are in high demand by employers, require high-level skills, and provide middle-level to high-level wages.¹⁶³

Under the audit's labor market alignment requirements, current secondary career preparation and postsecondary CTE programs are required to be linked to an occupation on the Statewide or Regional Demand Occupation List, linked to a program that is expected to grow over the next eight years, or train for an occupation with middle to high wages. For programs not meeting any of these criteria, local agencies may document demand using the criteria specified in the Strengthening Career and Technical Education for the 21st Century Act (Perkins V) CLNA.¹⁶⁴

The commissioner is required to phase out CTE programs which are not aligned with the needs of employers or do not provide program completers with a middle-wage or high-wage occupation and encourage districts and postsecondary institutions to offer new programs.¹⁶⁵

Nursing

According to the Bureau of Labor Statistics, Florida ranks third among states to employ nurses. While Florida ranks as one of the top states for employment of nurses, a report in June 2020, showed 35,000 or 16.3 percent of registered nurses (RN) and 3,700 or 13.4 percent of advanced practice registered nurses (APRN) are over the age of 60 in Florida and may begin phasing into retirement during the next 5 to 10 years.¹⁶⁶

According to a 2019-2020 American Association of Critical-Care Nurses report, United States nursing schools turned away 80,407 qualified applicants from baccalaureate and graduate nursing programs in 2019 due to an insufficient number of faculty, clinical sites, classroom space, and clinical preceptors, as well as budget constraints.¹⁶⁷

¹⁶² State of Florida, Office of the Governor, *Executive Order Number 19-31* (Jan. 30, 2019), <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-31.pdf> (last visited April 15, 2021).

¹⁶³ Section 1003.491(5)(a), F.S.

¹⁶⁴ Florida Department of Education, *Florida's CTE Audit: Statewide Review of Programs*, at 18, available at <http://www.fldoe.org/core/fileparse.php/18788/urlt/2020CTEAuditPreliminaryFindings.pdf>.

¹⁶⁵ Section 1003.491(5)(b), F.S.

¹⁶⁶ Email, Florida College Access Network (March 1, 2021) (on file with Senate Appropriations Committee).

¹⁶⁷ American Association of Colleges of Nursing, Fact Sheets, *Nursing Faculty Shortage*, <https://www.aacnnursing.org/news-information/fact-sheets/nursing-faculty-shortage> (last visited April 15, 2021).

Career Planning for Florida's Students

Middle Grades

Before a middle grades student can successfully be promoted to high school, one of the required courses a student must complete is a career and education planning course during grades 6, 7, or 8. The required course must be internet-based and result in a personalized academic and career plan for the student that may be revised as the student progresses; must emphasize the importance of entrepreneurship and employability skills; and must include information from the DEO's economic security report.¹⁶⁸ The required personalized academic and career plan must inform students of high school graduation requirements, the requirements for each scholarship in the Florida Bright Futures Scholarship Program; SUS and FCS institution admission requirements; and available opportunities to earn college credit in high school.¹⁶⁹ The course may be implemented as a stand-alone course or integrated into another course or courses.¹⁷⁰

The career and education planning course must prepare students to:

- Describe the influences that societal, economic, and technological changes have on employment trends and future training.
- Develop skills to locate, evaluate, and interpret career information.
- Identify and demonstrate processes for making short and long term goals.
- Demonstrate employability skills such as working in a group, problem-solving and organizational skills, and the importance of entrepreneurship.
- Understand the relationship between educational achievement and career choices/postsecondary options.
- Identify a career cluster and related pathways through an interest assessment that match career and education goals.
- Develop a career and education plan that includes short and long-term goals, high school program of study, and postsecondary/career goals.
- Demonstrate knowledge of technology and its application in career fields/clusters.¹⁷¹

For the 2020-2021 school year, the DOE identified 79 approved middle grades courses for career and education planning.¹⁷² In addition, the DOE publishes an educator's toolkit, providing resources such as classroom activities, lesson plans, and additional resources to assist teachers in career and education course planning.¹⁷³

¹⁶⁸ Section 1003.4156(1)(e), F.S.

¹⁶⁹ To include Advanced Placement courses, the International Baccalaureate Program, the Advanced International Certificate of Education Program, dual enrollment, including career dual enrollment and career education courses, including career-themed courses, preapprenticeship and apprenticeship programs, and course sequences that lead to industry certifications. Section 1003.4156(1)(e), F.S.

¹⁷⁰ Section 1003.4156(1)(e), F.S.

¹⁷¹ Florida Department of Education, *Career & Education Planning Course Standards*, available at <http://www.fldoe.org/core/fileparse.php/3/urlt/ceplanningcoursecompetencies.pdf>.

¹⁷² Florida Department of Education, *Approved Middle School Courses for Career & Education Planning 2020-2021 School Year* (Jan. 31, 2020), available at <http://www.fldoe.org/core/fileparse.php/7531/urlt/approved-courses.pdf>.

¹⁷³ Florida Department of Education, *Educator's Toolkit*, <http://www.fldoe.org/academics/college-career-planning/educators-toolkit/> (last visited April 15, 2021).

High School

Each district school board must provide appropriate instruction to ensure that students meet SBE-adopted standards¹⁷⁴ in specified subject areas.¹⁷⁵ Each school district must submit a report to the commissioner that describes how instruction was provided during the previous school year.¹⁷⁶ One of the required instructional topics is a character development program required in kindergarten through grade 12.¹⁷⁷

In grades 9 through 12, the character development curriculum, at a minimum, must include instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills.
- Creating a resume.
- Developing and practicing the skills necessary for employment interviews.
- Conflict resolution, workplace ethics, and workplace law.
- Managing stress and expectations.
- Skills that enable students to become more resilient and self-motivated.¹⁷⁸

Postsecondary

Florida's postsecondary institutions provide students with opportunities to explore and prepare for their future careers through services available at their career centers and courses on life skills and career planning. The career centers provide students with opportunities to create a resume, prepare for job interviews, and search for jobs among other services.¹⁷⁹

State Career Planning Resources

The MyCareerShines website is a career planning system available to Florida's middle and high school students to assist in exploring career options and developing an academic and career plan.¹⁸⁰ Some school districts use the system to help satisfy the middle grades course requirements. Effective September 1, 2020, school districts became responsible for their own

¹⁷⁴ In 2020, the State Board of Education adopted new standards for English language arts and mathematics, called the Benchmarks for Excellent Student Thinking (BEST) standards. The English language arts standards implementation begins with the 2021-2022 school year and implementation of the math standards begin in the 2022-2023 school year.

¹⁷⁵ Section 1003.42(1), F.S.; The required subject areas include: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.

¹⁷⁶ Section 1003.42(2), F.S.; Rule 6A-1.094124(1), F.A.C.

¹⁷⁷ Section 1003.42(2)(s), F.S.

¹⁷⁸ *Id.*

¹⁷⁹ See Florida State University, Division of Student Affairs, The Career Center, Presentation to Post-Secondary Education & Lifelong Learning Subcommittee (Jan. 27, 2021), at 31, *available at*

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3109&Session=2021&DocumentType=Meeting%20Packets&FileName=pe1%201-27-21.pdf>; Atlantic Technical College, Career Center, <https://www.atlantitechnicalcollege.edu/atccareercenter/> (last visited April 15, 2021); Tallahassee Community College, Career Center, <https://www.tcc.fl.edu/student-life/career-services/> (last visited April 15, 2021); DOE Statewide Course Numbering System, Find a Statewide Course, *Browse Statewide Course-Prefix- SLS Student Life Skills*, <https://flscns.fldoe.org/> (last visited April 15, 2021).

¹⁸⁰ Florida Department of Education, Educator's Toolkit, *MyCareerShines powered by Kuder*, <http://www.fldoe.org/academics/college-career-planning/educators-toolkit/> (last visited April 15, 2021).

career planning and advisement platform, allowing districts to continue to utilize MyCareerShines via contract or to explore alternative options.¹⁸¹

The DEO, in consultation with the DOE, prepares an annual economic security report of employment and earning outcomes for degrees or certificates earned at public postsecondary educational institutions. The report must be easy to read and accessible by the public and must be made available online.¹⁸² Additionally, each middle school and high school student or the student's, parent prior to registration, must be provided a 2-page summary of the report.¹⁸³ At the postsecondary level, each SUS and FCS institution must provide students, prior to registration, electronic access to the report.¹⁸⁴

The report, by education sector, must provide data for graduates of degree or certificate programs of public postsecondary institutions in the year after the certificate is earned and 5 years after graduation. The data must include:

- The number and percentage of graduates employed full-time.
- The number and percentage of graduates earning:
 - Quarterly wages of \$6,250 and annualized wages of \$25,000 and below.
 - Quarterly wages between \$6,251 and \$11,250 and annualized wages between \$25,001 and \$45,000.
 - Quarterly wages of \$11,251 and annualized wages of \$45,001 and above.¹⁸⁵

Launch My Career Florida serves as an on-line tool which provides students, parents, and the public with a preliminary view of the type of information that is available within the annual Economic Security Report. The tool allows users to explore wage information, current and projected job growth, and search for public postsecondary schools that offer a degree in a selected career path.¹⁸⁶

Employ Florida serves as Florida's online labor exchange system and case management system.¹⁸⁷ The site serves job seekers looking to find a job or receive additional training, employers seeking to post job openings and find qualified candidates, and individuals looking to explore career fields, build a resume, or access labor market information.¹⁸⁸

¹⁸¹ Florida Department of Education, Memo, *Update on Career Planning and Advisement Platform* (Aug. 12, 2020), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8937/dps-2020-94.pdf>.

¹⁸² Section 445.07(1) and (2), F.S.; *See also* Outcomes for Graduates of Florida's Public Postsecondary Educational Institutions, *Economic Security Report 2020* (March 2021), available at <http://lmsresources.labormarketinfo.com/special/ESR.pdf>.

¹⁸³ Section 1002.20(24), F.S.; *See also* Measuring the Economic Success of Florida's Graduates, *2020 Economic Security Report- Executive Summary* (March 2021), available at http://lmsresources.labormarketinfo.com/special/ESR_Summary.pdf.

¹⁸⁴ Section 1001.02(2)(w), F.S. and s. 1001.706(5)(d), F. S.

¹⁸⁵ Section 445.07(2)(c) and (d), F.S.

¹⁸⁶ Launch My Career Florida, *About the Program*, <http://launchmycareerfl.org/pages/florida/about.html> (last visited April 15, 2021).

¹⁸⁷ Florida Department of Economic Opportunity, Presentation to Post-Secondary Education & Lifelong Learning Subcommittee (Jan. 27, 2021), at 5, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3109&Session=2021&DocumentType=Meeting%20Packets&FileName=pe1%201-27-21.pdf>.

¹⁸⁸ *Id.* at 9-10; *See also* Employ Florida, <https://www.employflorida.com/vosnet/Default.aspx> (last visited April 15, 2021).

Additional state career planning tools include Get There, Florida's Workforce Education Initiative to raise awareness and rebrand career and technical education. The site highlights the 17 career pathways offered at Florida's 28 state colleges and 48 technical colleges, providing alternatives to the traditional university pathway.¹⁸⁹ Apprenticeship Florida is another initiative to expand apprenticeship opportunities in several targeted sectors in Florida as well as expanding apprenticeship and pre-apprenticeship opportunities to underrepresented populations.¹⁹⁰

General Education Program

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), the regional accrediting body for Florida's public post-secondary institutions, describes general education as an integral component of an undergraduate degree program and the component of a degree program where students encounter the basic content and methodology of the principal areas of knowledge: humanities and fine arts, social and behavioral sciences, natural sciences and mathematics.¹⁹¹

Current law requires an associate in arts degree at an FCS or SUS institution to be no more than 60 semester hours of college credit and include 36 semester hours of general education course work. For the baccalaureate degree, it must be no more than 120 semester hours of college credit, unless prior approval has been granted by the BOG or the SBE, as applicable, and include 36 semester hours of general education coursework.¹⁹²

Since academic year 2015-2016, students entering an FCS or SUS institution are required to complete at least one identified core course in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. All public postsecondary educational institutions are required to accept these courses as meeting general education core course requirements.¹⁹³ After completing the general education core course requirement, the remaining courses and credits that fulfill the total 36-hour general education requirement for an associate in arts or baccalaureate degree are at the discretion of the FCS or SUS institution.¹⁹⁴

¹⁸⁹ Florida Department of Education, Statewide Email- Get There- Florida's Workforce Education Initiative Unveiled (Sept. 23, 2020), available at <http://www.fldoe.org/core/fileparse.php/7671/urlt/swe-GET-THERE-FL-WorkforceEduInitiativeUnveiled.pdf>.

¹⁹⁰ Florida Department of Economic Opportunity, *Apprenticeship FLA*, <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/apprenticeship-fla> (last visited April 15, 2021).

¹⁹¹ Southern Association of Colleges and Schools Commission on Colleges, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2020), at 81, available at <https://sacscoc.org/app/uploads/2019/08/2018-POA-Resource-Manual.pdf>.

¹⁹² Section 1007.25(8) and (9), F.S.

¹⁹³ Section 1007.25(3), F.S.

¹⁹⁴ Florida Board of Governors, General Education Core Course Options, Regulation 8.005(1) and Rule 6A-14.0303(5), F.A.C.

III. Effect of Proposed Changes:

Florida's Workforce Development System (Section 1)

To create greater alignment among Florida's WDS for the delivery of programs suited for the 21st century which are focused on equity and efficiency, the bill creates s. 14.36, F.S., to create the Reimagining Education and Career Help Act (REACH Act).

The REACH Act serves to address the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training and providing for equity and access to a more integrated workforce and education system for Florida. To facilitate alignment and coordination of entities responsible for Florida's WDS, the bill creates the Office of Reimagining Education and Career Help (REACH Office) in the Executive Office of the Governor. The Director of the REACH Office is required to be appointed by the Governor and serve at his or her pleasure.

REACH Office Duties

The REACH Office is required to fulfill the following duties:

- Serve as an advisor to the Governor on matters related to the state's WDS;
- Establish criteria and goals for workforce development and diversification in Florida's WDS;
- Provide strategies to align and improve efficiency in Florida's WDS and the delivery of workforce related programs;
- Coordinate state and federal workforce related programs, plans, resources, and activities provided by CareerSource, the DEO, and the DOE;
- Oversee the workforce development information system designed by the DOE to verify the validity of data collected and monitor compliance of workforce related programs and education and training programs with applicable federal and state requirements as authorized by federal and state law;
- Serve on the Credentials Review Committee to identify non-degree and degree credentials of value and facilitate the collection of data necessary to conduct committee work;
- Coordinate and facilitate a memorandum of understanding (MOU) for data sharing agreements of the state's workforce performance data among state agencies and align, to the greatest extent possible, adopted performance measures;
- Streamline the clinical placement process and increase clinical placement opportunities for students, hospitals, and other clinical sites by administering, directly or through a contract, a web-based centralized clinical placement system for use by all nursing education programs subject to the requirements of nursing education program approval; and
- Direct the objectives of the Talent Development Council.

In addition, the REACH Office will develop the criteria DEO will use to assign a letter grade to each LWDB, and require the criteria, in part, be based on LWDB performance accountability measures and return on investment. The majority of the grade should be based on the improvement by each LWDB in the long-term self-sufficiency of participants through outcome measures such as reduction in long-term public assistance and the percentage of participants whose wages were higher after program completion compared to wages before participation in a program.

No-Wrong-Door Entry Strategy

The REACH Office is required to improve equity and access to the myriad of state and federally funded workforce related programs offered across different entities by creating a no-wrong-door entry strategy whereby a Floridian must not be required to visit multiple locations when seeking access to education and workforce training. In creating the no-wrong-door strategy, the office is required to do the following:

- Develop a training course to cross-train all staff within Florida's WDS on workforce related programs, including how to use an integrated case management system, develop an individual employment plan, conduct a comprehensive needs assessment, pre-certify individuals for workforce related programs, and on any other activities to reinforce the no-wrong-door-entry strategy;
- Coordinate and facilitate a common intake form and case management system for use by workforce related programs to minimize duplicate data entry;
- Coordinate and facilitate a MOU between the DEO and the DCF to permit Supplemental Nutrition Assistance Program (SNAP) and TANF clients to pre-certify for WIOA training services without having to physically visit a one-stop center;
- Oversee the performance evaluation of workforce related programs and services for participants receiving family self-sufficiency benefits and in welfare transition programs; and
- Identify other state and federal programs that serve individuals with significant barriers to employment as demonstrated by low placement, employment, and earnings rates and identify strategies to increase the utilization of such programs by LWDBs.

Workforce Opportunity Portal

The REACH Office is required to minimize duplication and use existing resources to adapt and integrate state information systems into an online workforce opportunity portal. The REACH Office should maximize the use of available federal and private funds for the development and initial operation of the portal.

To determine the quality of workforce related programs offered by public postsecondary educational institutions and public and private training providers, the office must review each program one year after the program's first graduating class and every five years after the first review.

The bill requires the REACH Office to maximize the use of the portal at locations within Florida's WDS and ensure the portal provides access to labor market data consistent with official information developed by the Labor Market Estimating Conference as well as information on how to appropriately use and analyze the presented data, including any limitations.

The REACH Office is required to report to the Legislature on December 1, 2022, and annually thereafter, on the implementation and outcomes of the workforce opportunity portal, including the increase of economic self-sufficiency of individuals.

Definitions

To define the work of the REACH Office, the bill provides the following definitions:

- “Workforce development system” includes the entities and activities that contribute to Florida’s talent pipeline system through education, training, and support services that prepare individuals for employment or career advancement. The definition specifies the entities that are responsible for oversight or conducting those activities such as CareerSource, LWDB, One-Stop Centers, the DEO, the DOE, and the Department of Children and Families.
- “Workforce education region” as areas of the state identified by the DOE, in collaboration with the DEO, to maximize resource allocation by combining two or more sources of funding to integrate education and training in order to improve access to credentials of value for participants in adult education programs.
- “Workforce related program” as a program operated, delivered, or enabled, in whole or in part, by a state or local entity using federal funds or state appropriations to offer incentives, funding, support, or guidance for any of the following purposes:
 - Job training;
 - Attainment of a credential of value as identified by the Credentials Review Committee;
 - Attainment of a postsecondary degree or credential;
 - The provision of other types of employment assistance; or
 - Any other program that has, at least in part, the goal of securing employment or better employment for an individual and receives federal funds or a state appropriation.

The bill defines the attainment of a postsecondary degree or credential to include an apprenticeship certificate, industry certification, license, advanced technical certificate, college credit certificate, career certificate, applied technology diploma, associate in applied science degree, associate in science degree, bachelors of applied science degree, and bachelors of science degree.

State Plan (Section 7)

The bill requires the CareerSource state board to work with state and local partners in the workforce development system to develop the strategic planning elements required by WIOA for Florida’s state plan. Additionally, the bill modifies s. 445.006, F.S., to require the state plan to describe the following:

- How the activities will be carried out by the core programs to implement the strategy and how the activities will be aligned across the programs and among the entities administering the programs, including using co-enrollment and other strategies.
- How the activities will be aligned with other activities that are provided under employment, training, education, including CTE, and human services programs that are not covered by the state plan, as appropriate, to avoid duplication and assure coordination.
- How the entities carrying out the respective core programs will coordinate activities and provide comprehensive, high-quality services, including supportive services, to individuals.
- How the state's strategy to engage Florida College System (FCS) institutions and local CTE schools as partners in the WDS will enable the state to leverage other federal, state, and local investments and increase access to workforce development programs at those institutions.
- How the activities will be coordinated with economic development strategies.

- How the state's strategy will improve access to activities leading to a state approved recognized postsecondary credential, including a credential that is an industry recognized certificate or certification that is portable and builds on additional education or training.

Use of WIOA Funds (Section 5)

The bill modifies s. 445.003, F.S., to require the 15 percent of WIOA Title I funds which are retained for state administration to be used to evaluate the long-term impact of innovative Individual Training Account pilots, demonstrations, and programs to enable participants to attain self-sufficiency and to evaluate the effectiveness of performance-based contracts¹⁹⁵ used by LWDBs on increasing wages and employment over the long term.

CareerSource State Board (Section 6)

The bill modifies s.445.004, F.S., to add to the membership of the state board a representative from the DOE's Divisions of Vocational Rehabilitation and Blind Services as well as a representative from the DCF.

The bill requires the state board to, beginning July 1, 2022, assign and make public a letter grade for each LWDB using the criteria established by the REACH Office.

In carrying out their duties, the bill requires the state board to do the following:

- Create a state employment, education, and training policy that ensures workforce related programs are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.
- Establish policy direction for a uniform funding system that prioritizes evidence-based, results-driven solutions.
- Include in their policy related to the education and training of target populations the effective use of federal, state, local, and private resources in reducing the need for public assistance by combining two or more sources of funding to support workforce related programs or activities for vulnerable populations.
- Identify barriers to coordination and alignment among workforce related programs and activities and develop solutions to remove such barriers.
- Maintain a Master Credentials List that:
 - Serves as a public and transparent inventory of state-approved credentials of value.
 - Directs the use of federal and state funds for workforce education and training programs that lead to approved credentials of value.
 - Guides workforce education and training programs by informing the public of the credentials that have value in the current or future job market.
- Establish incentives for LWDBs which reward effective alignment and coordination of federal and state programs and programs identified by the REACH Office and outline rewards for achieving long-term self-sufficiency of participants.

¹⁹⁵ Outcomes-based contracts, also known as fixed-price performance-based contracts, help focus on the delivery of results for those being served with an emphasis on the outcomes of participants, such as obtaining and retaining jobs. Traditional cost-reimbursement contracts pay the same amount for the services provided, regardless of whether they actually help people gain skills, get jobs, or earn higher wages. Results for America, *Performance-Based Contracts in WIOA* (Dec. 2020), available at <https://results4america.org/wp-content/uploads/2019/12/Performance-Based-Contracts-in-WIOA.pdf>.

The bill amends s. 445.004, F.S., to require the state board, to work with DEO to submit their annual report on December 1 to the Governor and Legislature and requires the report to include the following:

- All investigations;
- Number of mandatory partners located within one-stop centers; and
- Progress on implementing solutions to address barriers to coordination and alignment among programs and activities.

Section 1 of the bill requires the state board to ensure the Executive Director of CareerSource and his or her staff works with the DEO to minimize duplication and maximize efficient use of resources in carrying out their duties to implement the WIOA.

The bill modifies s. 445.002, F.S., in Section 4 to add gross management and waste as instances which would provide cause for removal of a state board member.

The bill modifies s. 445.004, F.S., to authorize any committees, councils, or administrative entities of the state board to use funds to award recognition by a LWDB, its committees and subdivision, and other units of the workforce system.

The bill amends s. 288.047, F.S., in Section 3 to align the required wages for participants in the Quick-Response Training program administered by CareerSource to present market wages.

The bill amends s. 445.004, F.S., to remove the authority for the state board to designate Institutes of Applied Technology, provide policy direction to evaluate labor market supply, and expand the occupations of the Workforce Estimating Conference. The bill removes duplicative language already in current law which allows the Auditor General to conduct an audit of the state board and CareerSource or any programs or entities created by the state board and the authority for the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review performance outcomes and quality of services of the state board and CareerSource.¹⁹⁶

DEO Compliance Monitoring (Section 5)

The bill amends s. 445.003, F.S., to require the DEO to adopt rules to monitor the compliance of workforce related programs and determine whether programs are meeting performance expectations, including an analysis of the return on investment of workforce related programs on individual employment, earnings, and public benefit usage outcomes and a cost-benefit analysis of the monetary impacts of workforce services from the participant and taxpayer points of view.

Consumer-First Workforce System (Section 10)

To transform Florida's workforce system into a unified workforce system which focuses on the consumer, the bill amends s. 445.011, F.S. to create a consumer-first workforce system, requiring the DEO to consult with the DOE and the DCF to implement one state automated system that improves coordination among the required one-stop partners to efficiently and effectively provide workforce and education programs and services in Florida.

¹⁹⁶ See s.11.45(3)(p) and s. 11.51(1), F.S.

The consumer-first workforce system requires an integrated service delivery system that includes common registration and intake for required one-stop partners and support service integration and case management across programs and agencies. The bill requires the DEO to develop training for required one-stop partners on the use of the system and prequalifying individuals for workforce programs. The bill requires any contract to implement the consumer-first workforce system, entered into or renewed on or after July 1, 2021, to be performance based.

The bill makes conforming changes (ss. 443.151, 445.010, and 445.045, F.S.) to reflect the implementation of one consumer-first workforce system.

One-Stop Career Centers (Section 9)

The bill amends s. 445.009, F.S., to require training services provided to One-Stop Center participants through Individual Training Accounts to be used on programs that prepare individuals to enter occupations identified by the Labor Market Estimating Conference. Additionally, the bill requires training services provided through Individual Training Accounts to condition final payment, of at least 10 percent, to a training provider upon a participant's successful job placement.

Program Evaluation (Section 11)

To effectively assess the impact of services on workforce participants who are dually served, the bill amends s. 445.033, F.S. to require the DEO and DCF to measure the performance of workforce related programs and services for participants who receive benefits and welfare transition programs. The evaluation must include participants who receive TANF and also those receiving family self-sufficiency program benefits.

The DEO is required to consult with LWDBs to develop annual performance reports which analyze participants as they transition from public assistance to self-sufficiency. Participant co-enrollment in programs must be considered as a part of the performance measure.

Each LWDB is required to, at a minimum, provide quarterly reports on the following measures:

- Percent of participants working in unsubsidized employment;
- Percent of participants who stop receiving benefits for reasons other than disqualification or sanction;
- Number of sanctions and waivers that are granted, measured by the type of sanction or waiver and the number of completed compliance activities that lead to a restoration of benefits.
- Median placement wage rate;
- TANF work participation rate; and
- Self-sufficiency index, by county, based on the percent of current or former participants who stop receiving benefits or are working 30 or more hours per week and at 1 and 2 years after participants stop receiving benefits or work 30 or more hours per week.

The self-sufficiency index is required to include the percentage of participants earning at or above 200 percent of the federal poverty level three years after participants stop receiving benefits or work 30 or more hours per week. Additionally, the report must contain an expected

range of performance for each county on the self-sufficiency index. The expected range is required to be derived by a statistical methodology developed in consultation with the local boards and that the methodology control for differences across counties in economic conditions and demographics of participants in family self-sufficiency programs and welfare transition programs.

To conduct the evaluation, the state board and the DEO are required to share information with and develop protocols for information exchange with the Florida Education and Training Placement Information Program (FETPIP).

WIOA Waiver Authority (Section 7)

To provide Florida with additional flexibility in overseeing the state's workforce investment and to streamline administration of our system while also increasing accountability, the bill amends s. 445.006, F.S., to require the DEO to prepare a federal waiver to be submitted by the Governor to the USDOL that allows:

- The CareerSource state board to fulfill the roles and responsibilities of LWDBs or that reduces the number of LWDBs based on population size and commuting patterns in order to:
 - Eliminate multiple layers of administrative entities to improve coordination of the WDS;
 - Establish consistent eligibility standards across the state to improve the accountability of workforce related programs; and
 - Provide greater flexibility in the allocation of resources to maximize the funds directed to training and business services.
- The Governor to reallocate funds among local areas that have a demonstrated need for additional funding and programmatic outcomes that will maximize the use of the additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants.

Local Workforce Boards (Section 8)

The bill amends s. 445.007, F.S., to establish term limits for a LWDB chair as no more than two years and establishes term limits for all members of a LWDB as no more than eight consecutive years, unless the member is a representative of a government entity. The bill requires LWDB members to serve staggered terms and specifies that service which commenced before July 1, 2021, will not count toward the eight year term limit.

To provide greater oversight in a LWDBs contracting process, the bill does the following:

- Requires prior approval from DEO for contracts between the board and an organization or individual represented on the LWDB and states that such contracts may not be included on a consent agenda by the LWDB. Additionally, a member whose organization may benefit from the contract must abstain from voting on the contract.
- Reduces the threshold from \$25,000 to \$10,000 for contracts between local boards, a relative of a local board, or an employee of the board, which do not require prior approval from the DEO but do require approval by a two-thirds vote of the board.
- Requires the publication of contracts between a LWDB and a member of the board, a relative of a board member, an organization or individual represented on the board, or an employee of the board approved on or after July 1, 2021, to be published on the board's website, or

DEO's website if the local board does not maintain a website within ten days after approval by DEO and requires it to remain published for at least 1 year after termination of the contract.

- Requires the DEO, in their review of required contracts to consider documentation provided by the LWDB, including performance ratings of the entity under consideration for contract and whether such entity is the only provider of the desired good and services within the area served.

Each LWDB is required to annually, within 30 days after the end of the fiscal year, disclose to the DEO, in a manner determined by the department, the amount and nature of compensation paid to all executives, officers, directors, trustees, key employees, and the highest compensated employees, as defined for purposes of the Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax. The reported compensation must include salary, bonuses, present value of vested benefits including but not limited to retirement, accrued leave and paid time off, cashed-in leave, cash equivalents, severance pay, pension plan accruals and contributions, deferred compensation, real property gifts, and any other liability owed to such persons. The disclosure must be accompanied by a written declaration from the chief financial officer, or his or her designee, that he or she has read the compensation disclosure and affirms it is true and accurate. The compensation disclosure information must also be published on the LWDB's website, or the department's website if the local board does not maintain a website, for a period of three years after it is first published.

The bill amends s. 445.004, F.S., to require any local performance accountability measures established to gauge the performance of a LWDB in achieving the workforce development strategy to be based on identified local area needs.

The bill amends s. 445.002, F.S., to add gross management and waste as instances which would provide cause for removal of a LWDB member and LWDB executive director.

WIOA Eligible Training Providers (Section 5)

To support informed consumer choice, with a focus on positive labor market outcomes for participants, the bill amends s. 445.003, F.S., to direct the use of WIOA workforce program funds to high-quality training providers. The DEO is required to determine high-quality training providers by adopting rules for initial and subsequent eligibility criteria for the ETPL, based on input from the CareerSource state board, LWDBs, the DOE, and other stakeholders. The bill requires a training provider who offers training for credentials identified on the Master Credentials List, as determined by the CareerSource Credentials Review Committee, to no longer be eligible for inclusion on a state or local ETPL if the provider fails to submit required information or fails to meet initial or subsequent eligibility criteria.

The bill amends s. 445.003, F.S., to require subsequent eligibility criteria to use performance and outcome measures which at a minimum, must require each program offered by a training provider to meet the following phased in criteria:

- For the 2021-2022 program year, the DEO and the DOE must set the minimum criteria a training provider program must achieve for completion, earnings, and employment rates of eligible participants. The bill requires that the minimum program criteria set must not exceed

the threshold at which more than 20 percent of all eligible training provider programs in the state would fall below.

- Beginning with the 2022-2023 program year, each program offered by a training provider must, at a minimum, meet all of the following:
 - Income earnings for all individuals who complete the program that are equivalent to or above the state's minimum wage in a calendar quarter.
 - An employment rate of at least 75 percent for all individuals, with programs linked to an occupation, the employment rate must be calculated based on obtaining employment in the field in which the participant was trained.
 - A completion rate of at least 75 percent for all individuals, beginning with the 2023-2024 program year.

Credential Attainment in Florida (Section 25)

To increase momentum towards Florida's SAIL to 60 Attainment goal, and respond to those impacted by job loss or disruption due to COVID-19, the bill amends s. 1004.013, F.S., to create the Strategic Efforts to Achieve Self-Sufficiency (SEAS). SEAS creates three key strategies: the workforce opportunity portal, the Open Door Grant Program, and the Money-Back Guarantee Program.

Workforce Opportunity Portal (Section 1)

The workforce opportunity portal, created in the Office of Reimagining Education and Career Help (REACH Office) under s. 14.36, F.S., is intended to provide the public with more effective access to available federal, state, and local services and a system-wide, global view of workforce related program data across various programs through actionable qualitative and quantitative information. The goal of the portal is to help residents:

- Explore and identify career opportunities.
- Identify in-demand jobs and associated earning potential.
- Identify the skills and credentials needed for specific jobs.
- Access a broad array of federal, state, and local workforce related programs.
- Determine the quality of workforce related programs offered by public postsecondary educational institutions and public and private training providers, based on employment, wages, continued education, student loan debt, and receipt of public assistance by graduates of workforce, certificate, or degree programs.
- Identify opportunities and resources to support individuals along their career pathway.
- Provide information to help individuals understand their potential earnings through paid employment and cope with the loss of public assistance as they progress through career pathways toward self-sufficiency.
- Map the timing and magnitude of the loss of public assistance for in-demand occupations across the state to help individuals visualize how their incomes will increase over time as they move toward self-sufficiency.

Open Door Grant Program (Section 34)

The Open Door Grant Program established under s. 1009.895, F.S., provides grants to school district's postsecondary technical centers and FCS institutions to cover up to two-thirds of the

cost of short-term high-demand programs for eligible students upon successful completion and award of a credential of value.

Under the Open Door Grant program, an eligible student must complete the Free Application for Federal Student Aid and:

- For a student who does not receive state or federal aid, at the time of enrollment, the student is responsible for paying one-third of the cost of the program and signing an agreement to either complete the program or pay an additional one-third of the program cost in the event of non-completion. Grant funds may be used to cover the student's one-third of the cost of the program for students in integrated education and training programs and students who do not have a high school diploma and meet requirements established by the DOE.
- For a student who does receive state or federal aid, grant funds may be awarded to cover the unmet need after all eligible aid is accounted for.

The DOE must prioritize funding for integrated education and training programs in which institutions establish partnerships with LWDBs to provide basic skills instruction contextually and concurrently with workforce training that results in the award of credentials on the Master Credentials List. One-quarter of the appropriated grant funds must be prioritized to serve students attending rural institutions and no more than one-quarter of funds may be disbursed annually to any one eligible institution. Grant funds may be used to cover the cost of a program, which includes tuition and fees, examination, books, and materials. The DOE may not reimburse any institution more than \$3,000 per completed workforce training program by an eligible student.

The bill requires the SBE to adopt rules and the DOE to administer the grant by:

- Requiring eligible institutions to provide student-specific data and make final decisions on any dispute between eligible institutions and grant recipients;
- Undertaking periodic assessments of the overall success of the grant program and recommend modifications, interventions, and other actions based on such assessments;
- Establishing the procedure by which eligible institutions shall notify the department when eligible students enroll in eligible programs; and
- Requiring each eligible institution to submit a report with data from the previous fiscal year on program completion and credential attainment by students participating in the grant program.

The DOE must provide an annual report to the SBE on program completion, attainment, and participant wage and demographics categorized by credential name and relevant occupation.

Money-Back Guarantee Program (Section 38)

The Money-Back Guarantee Program created under s. 1011.803, F.S., requires each school district and FCS institution, beginning in the 2022-2023 academic year, to refund the cost of tuition to students who are not able to find a job within six months of successful completion of select workforce related programs.

Each institution is required to offer a money-back guarantee on at least three programs that prepare individuals to enter in-demand, middle-level to high-level wage occupations, or at least

50 percent of workforce education programs if the institution offers six or fewer programs. The money-back guarantee program must be offered for all workforce education programs which are established to meet a critical local economic need and are not aligned to statewide needs identified by the Labor Market Estimating Conference.

Each institution is required to establish student eligibility criteria for the program, including student attendance, career service attendance, participation in internships or work-study, job search documentation and development of a student career plan.

Institutions are required to notify the SBE of the money-back guarantee programs it offers by July 1, 2022 and information on the offered programs are required to be made available on each school district's and FCS institution's website, on the DOE's website, and on the Employ Florida website. The DOE is required to provide a report on performance results by school district, FCS institution, and program by November 1 of each year.

Florida's Healthcare Workforce (Section 26)

To address Florida's health care needs, the bill amends s. 1004.015, F.S., to require the Florida Talent Development Council (FTDC) to coordinate, facilitate, and communicate statewide efforts to meet supply and demand needs for Florida's health care workforce. The FTDC must annually, beginning December 1, 2021, report on their implementation on the council's webpage.

To support the efforts of the council, the BOG and the SBE must do the following:

- Conduct a statistically valid biennial data-driven gap analysis of the healthcare workforce. Demand must align with the Labor Market Estimating Conference.
- Provide 10-year trend information on nursing education programs. In order to collect the information, the bill requires the Department of Health, the BOG, the SBE, the Commission for Independent Education (CIE), the Independent Colleges and Universities of Florida (ICUF), and postsecondary institutions participating in the Access to Better Learning and Education (ABLE) or Effective Access to Student Education (EASE) state grant program to provide data on:
 - Number and type of programs and student slots available;
 - Number of student applications submitted, the number of qualified student applicants, and the number of students accepted;
 - Number of program graduates;
 - Program retention rates of students tracked from program entry to graduation;
 - Graduate passage rates on and the number of times each graduate took the National Council of State Boards of Nursing Licensing Examination;
 - Number of graduates who become employed as practical or professional nurses in the state; and
 - Educational advancement of nurses through career pathways by comparing their initial degree to their highest degree obtained for the preceding 10 years.
- Develop a survey for use by the Department of Health, the CIE, the ICUF, and postsecondary institutions participating in ABLE or EASE, to collect information on trends in nursing education programs. The survey must include, but is not limited to, a student's age, gender, race, ethnicity, veteran status, wage, employer information, loan debt, and retirement expectations.

Through the creation of s. 14.36, F.S., the bill requires the REACH Office to streamline the clinical placement process across the state by administering a web-based centralized clinical placement system for use by all nursing programs.

The bill amends s. 445.003, F.S., to define businesses for Incumbent Working Training Program funds to include hospitals operated by nonprofit or local government entities which provide nursing opportunities to acquire new or improved skills.¹⁹⁷

Identifying Labor Market Demand in Florida (Section 2)

The bill amends s. 216.136, F.S., to reconstitute the Workforce Estimating Conference as the Labor Market Estimating Conference.

The conference is required to develop real-time supply and demand information on Florida's statewide, regional, and local labor markets. Such information must include labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, a ranking of critical areas of concern, and identification of in-demand, high-skill, middle-level to high-level wage occupations prioritized by level of statewide or regional shortages.

The Office of Economic and Demographic Research (EDR) is designated as the official lead for the United States Census Bureau's State Data Center Program or its successor. All state agencies are required to provide the EDR with the necessary data to accomplish the goals of the conference and that agencies must ensure that any related work product regarding labor demand and supply is consistent with the official information developed by the conference.

The conference must meet at least twice a year and as necessary to address emerging opportunities for the state's economy.

The bill makes conforming changes to reflect the Labor Market Estimating Conference and their role in developing labor demand and identification of in-demand, high-skill, high-wage occupations.

Credentials of Value

Credentials Review Committee (Section 6)

The bill amends s. 445.004, F.S., to centralize identification and designation of credentials of value by requiring the CareerSource state board to appoint a Credentials Review Committee (committee) to identify non-degree credentials and degree credentials of value for approval by the CareerSource state board and inclusion in a Master Credentials List. Credentials must include registered apprenticeship programs, industry certifications, licenses, advanced technical

¹⁹⁷ See United States Department of Labor, Employment and Training Administration, *Training and Employment Guidance Letter WIOA No. 19-16*, at 17, available at https://wdr.doleta.gov/directives/attach/TEGL/TEGL_19-16_acc.pdf.

certificates, college credit certificates, career certificates, applied technology diplomas, associate degrees, baccalaureate degrees, and graduate degrees.

The bill provides the composition of the committee to include:

- The Chancellor of the Division of Public Schools;
- The Chancellor of the Division of Career and Adult Education;
- The Chancellor of the FCS;
- The Chancellor of the SUS;
- The Director of the REACH Office;
- Four members from LWDBs, with equal representation from urban and rural regions’;
- Two members from nonpublic postsecondary institutions;
- Two members from industry associations;
- Two members from Florida-based businesses;
- Two members from the DEO; and
- One member from the DACS.

The committee is required to establish a definition for credentials of value for Florida and create a framework of quality. The framework must align with federally funded workforce accountability requirements and undergo biennial review. The bill establishes minimum criteria to determine value for non-degree credentials to include the following:

- Evidence the credential meets labor market demand as identified by the Labor Market Estimating Conference or meets local demand as identified in the criteria adopted by the Credentials Review Committee. Evidence must include employer information on present credential use or emerging opportunities.
- Evidence the competencies mastered upon completion of the credential are aligned with labor market demand.
- Evidence of employment and earnings outcomes for individuals after obtaining the credential. Earnings outcomes must provide middle-level to high-level wages with preference given to credentials generating high-level wages. Credentials that do not meet the earnings outcomes criteria must be part of a sequence of credentials required for the next level occupation that does meet the earnings outcomes criteria to be identified as a credential of value. For new credentials, this criteria may be met with conditional eligibility until measurable labor market outcomes are obtained.

The committee is required to establish criteria to determine value for degree programs. Criteria for degree programs must include evidence that the program meets the labor market demand as identified by the Labor Market Estimating Conference or meets local demand as determined by the committee.

The committee is required to establish a process for the following:

- Prioritizing non-degree credentials and degree programs based on critical statewide or regional shortages;
- At a minimum, quarterly review and approval of credential applications which must be used to develop the Master Credentials List;
- Annual review of the Master Credentials List;

- Phasing out credentials on the Master Credentials List that no longer meet the framework of quality;
- Designating performance funding eligibility for credentials earned by postsecondary students, based upon the highest available certification; and
- Linking Classifications of Instructional Programs (CIP) to Standard Occupational Classifications (SOC) for all new credentials of value identified on the Master Credentials List.

The committee must identify all data elements necessary by the Florida Education and Training Placement Program (FETPIP).

All information pertaining to the committee, the process for the approval of credentials of value, and the Master Credentials List must be made publicly available and easily accessible on all relevant state agency websites.

CAPE Industry Certification Identification

Beginning with the 2022-2023 school year, the bill amends s. 4454.004, F.S., to require the CareerSource state board to produce and submit a Master Credentials List to the SBE. The list must, at a minimum, identify non-degree credentials and degree programs determined to be of value for CAPE Industry Certification funding; if the credential or degree program meets statewide, regional, or local level demand; the type of certificate, credential, or degree; and the primary standard occupation classification code. The Master Credentials List shall be used by the SBE to establish the CAPE Industry Certification Funding List beginning with the 2022-2023 school year. For the 2021-2022 school year the SBE will continue to use the certifications identified in the CAPE Industry Certification Funding List and the CAPE Postsecondary Industry Certification Funding List adopted by the SBE before October 1, 2021.

The bill amends s. 570.07, F.S., to require the Department of Agriculture and Consumer Services (DACS) to work with the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida and the College of Agriculture and Food Sciences at the Florida Agricultural and Mechanical University to annually submit industry certifications for agriculture occupations to the committee for consideration on the Master Credentials List.

The CAPE Industry Certification Funding List will assign additional full-time equivalent (FTE) membership (incentives) to certifications identified by the Master Credentials List that meet a statewide, regional, or local demand and courses that lead to such certifications. The bill amends s. 1008.44, F.S., to provide that additional FTE funding for regional and local demand certifications and courses that lead to such certifications may only be earned in areas with regional or local demand as identified by the Credentials Review Committee.

The bill amends s. 1003.4203, F.S., to require the CAPE Industry Certification Funding List to be comprised of CAPE industry certifications identified as credentials of value (both at the secondary and postsecondary level); CAPE digital tools certificates (removing the previous cap of no more than 30 CAPE digital tools); CAPE ESE digital tool certificates, workplace industry certifications, and OSHA industry certificates; CAPE Innovation Courses (removing the previous cap of no more than five courses); and CAPE acceleration industry certifications. The

bill amends s. 1003.4935, F.S., to require middle grades career and professional academy courses and career-themed courses to lead to careers in occupations aligned to the Cape Industry Certification Funding List.

The bill amends s. 1011.81, F.S., to clarify that postsecondary industry certifications must be identified on the CAPE Industry Certification Funding List and are eligible for performance funding. The bill amends s. 1011.80, F.S., to delete occupational areas for which industry certifications may be earned which are identified in the GAA for performance funding eligibility.

The bill amends s. 1008.44, F.S., to require the Chancellor of Career and Adult Education to provide the Articulation Coordinating Committee recommendations for articulation of postsecondary credit for related degrees for the approved certifications within 90 days after an industry certification has been approved for inclusion on the Master Credentials List.

State University System-Programs of Strategic Emphasis

The bill amends s. 1001.706, F.S., to require the BOG, beginning with the 2022-2023 academic year, to adopt the criteria to determine value for and prioritization of degree programs established by the committee to review and designate programs of emphasis. The bill requires the BOG to review the PSE list at least every three years to ensure alignment with the prioritization of degree credentials and degree programs identified by the committee.

Incentivizing Credentials

School Districts and Florida College System Institutions

The bill amends s. 1008.44, F.S., to require the commissioner to conduct a review of the methodology used to determine additional FTE membership weights assigned to CAPE programs and, if necessary, recommend revised weights. The weights must factor in prioritization of critical shortages of labor market demand and middle-level to high-level wage earning outcomes as identified by the Credentials Review Committee (committee). The results of the review and the commissioner's recommendations must be submitted to the Governor and the Legislature no later than December 1, 2021.

Beginning with FY 2022-2023, the bill amends s. 1011.80, F.S., to revise the formula for allocating postsecondary performance incentive funding to school district technical centers and FCS institutions. Rather than each certification, earned by a student, earning \$1,000; the Credentials Review Committee is required to develop a returned-value funding formula that rewards job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations. One-third of the performance funds must be allocated based on student job placements. The remaining two-thirds must be allocated using a tiered weighted system based on aggregate student wages that exceed minimum wage with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the bill requires the Credentials Review Committee to take into account variables such as differences in population and wages across school districts and the state when developing the returned-value funding formula. In addition, when developing the formula, the committee must not penalize school districts or institutions for

students who postpone employment to continue their education. The bill removes an obsolete methodology for distribution of performance funds.

The bill amends s. 1003.491, F.S., to require the CAPE strategic 3-year plan developed jointly by the local school district, LWDBs, economic development agencies, and state-approved postsecondary institutions to be developed based on local and regional workforce needs for the ensuing three years, using labor projections as identified by the Labor Market Estimating Conference and strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Estimating Conference.

Measuring Outcomes for Florida's Workforce Programs

Florida Education and Training Placement Information Program (FETPIP)

The bill amends s. 1008.39, F.S., to require the DOE automated system, which matches the social security numbers of former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment, and United States armed service records, to include former participants in workforce related programs. Additionally, the bill requires that the system incorporate any data collection elements prescribed by the Credentials Review Committee.

Workforce Development Information System (WDIS)

The bill amends s. 1008.40, F.S., to require the DOE to design the WDIS using common terms and to use the data to conduct audits, and determine compliance of workforce related programs and education and training programs with applicable federal and state requirements as authorized by federal and state law. The bill requires the DOE to establish a process for the collection, review, and reporting of Comprehensive Local Needs Assessments (CLNA) as required by federal law.

The bill requires the WDIS to link data from multiple sources for consideration in developing broad public policy initiatives for workforce related programs and requires the DOE to work with the DEO, the DCF, and other entities to define statewide education, workforce development, and employment metrics and ensure the integrity and quality of data being collected.

The bill requires the DOE to develop a workforce development metrics dashboard that measures the state's investments in workforce development. The bill requires the dashboard to be produced, to the extent feasible, using existing available data and resources that are currently collected and accessible to state agencies. To the extent feasible, the dashboard must use statistically rigorous methodologies to estimate, assess, and isolate the impact of programs on participant outcomes.

The bill the dashboard to provide the following data:

- Impact of workforce related programs on credential attainment, training completion, degree attainment, and participant wages;

- Demographic breakdowns, including, to the extent possible, race, ethnicity, age, gender, veteran status, wage, student loan debt, barriers to employment, and credential or degree outcomes, and information on workforce outcomes in different industry sectors;
- Performance data on training providers to enable individuals to make informed choices; and
- Measure, at a minimum and to the extent feasible with existing resources, the return on investment of the following workforce related programs:
 - CTE programs offered by school districts and FCS institutions;
 - Workforce related programs; and
 - State apprenticeship programs.

The bill amends s. 1003.491, F.S., to require the DOE to utilize the WDIS to conduct the annual review of CTE programs and use data captured in WDIS to provide an automated data collection process that includes the collection and evaluation of the federal CLNA, to assist in the review of programs.

Apprenticeship and Preapprenticeship Programs in Florida

To determine the impact of apprenticeship and preapprenticeship programs on participants, the bill amends s. 446.032, F.S., to require the DOE to establish uniform minimum standards and policies governing apprenticeship and preapprenticeship programs and agreements which must require apprenticeship training providers to submit data which is necessary to determine program performance. The bill clarifies that uniform minimum standards are the requirements established for each occupation under which an apprenticeship or preapprenticeship program is administered. The bill amends s. 446.0915, F.S., to require the DOE to adopt rules to administer such standards and policies.

The bill amends s 446.032, F.S., to require the DOE to provide the following additional information in the annual report on apprenticeship and preapprenticeship programs:

- Detailed summary of each local educational agency's expenditure of total funds allocated, expended for administrative costs, and expended for instructional costs by training provider, program, and occupation;
- Documentation of the outcomes of activities conducted to promote apprenticeship and preapprenticeship programs and their impact on establishing or expanding such programs;
- Retention and completion rates of participants disaggregated by training provider, program, and occupation; and
- Wage progression of participants as demonstrated by starting, exit, and post apprenticeship wages at 1 and 5 years after participants exit the program.

Florida Pathways to Career Opportunities Grant Program (Section 37)

The bill amends s. 1011.802, F.S., to require the DOE to award Florida Pathway to Career Opportunities Grants to preapprenticeship or apprenticeship programs with demonstrated regional demand which:

- address a critical statewide or regional shortage as identified by the Labor Market Estimating Conference and that are industry sectors not adequately represented throughout the state, such as health care;

- address a critical statewide or regional shortage as identified by the Labor Market Estimating Conference; or
- expand existing programs that exceed the median completion rate and employment rate 1 year after completion of similar programs in the region, or the state if there are no similar programs in the region.

The DOE is required to annually report on the Florida Pathways to Career Opportunities website the following information:

- number of programs funded and represented throughout the state;
- retention, completion, and employment rates, categorized by program and provider; and
- starting and ending salaries, as categorized by program and provider, for participants who complete the program.

The DOE is authorized to use up to \$200,000 of the total grant allocation to administer the grant program.

The bill requires the SBE to adopt rules to implement the Pathways to Career Opportunities Grant.

Workforce Education Programs

Program Approval (Section 35)

The bill amends s. 1011.80, F.S., to require the SBE to develop criteria for the review and approval of new workforce education programs which are not included in the statewide curriculum framework and are proposed to be offered by a FCS institution or a school district technical center. The bill requires the criteria to be based on the framework of quality established by the Credentials Review Committee.

A FCS institution or school district is authorized to offer new workforce education programs that are already included in the statewide curriculum framework, however, these programs may not receive performance funding and add on FTE funding until they are reviewed and approved by the SBE. The bill requires an expedited SBE review process for these programs that must include, but is not limited to, the following:

- A description of the workforce education program that includes all of the following:
 - An analysis of workforce demand and unmet need for graduates of the program on a district, regional, or statewide basis, as appropriate, including evidence from entities independent of the technical center or institution
 - Geographic region to be served; and
- Documentation of collaboration among technical centers and institutions serving the same students in a geographical or service area that enhances program offerings and prevents program duplication which exceeds workforce need. Unnecessary duplication of programs offered by public and private institutions must be avoided.
- Beginning with the 2022-2023 academic year, alignment of program offerings with credentials or degree programs identified by the Credential Review Committee on the Master Credentials List.

- Articulation agreements between technical centers and FCS institutions for the enrollment of graduates in related workforce education programs.
- Documentation of alignment between the exit requirements of a technical center and the admissions requirements of a FCS institution.
- Performance and compliance indicators that will be used in determining the program's success.

The SBE is authorized to phase out workforce education program offerings that are not aligned with the framework of quality, do not meet labor market demand, or are unwarranted program duplications.

Continuing Workforce Education (CWE)

To provide clarity, the bill amends s. 1004.02, F.S., to revise the definition of CWE to mean instruction that does not result in a registered apprenticeship certificate of completion and revises the definition of workforce education to include a course or program of study which leads to a registered apprenticeship certificate of completion. The revision distinguishes apprenticeship and preapprenticeship programs as a workforce education program.

To expand opportunities for apprenticeship and preapprenticeship programs, the bill amends s. 1011.80, F.S., to authorize\ school districts and FCS institutions to count enrollments in apprenticeship and preapprenticeship programs for purposes of funding FTE enrollment.¹⁹⁸

Career and Technical Education (CTE) Program Audit (Section 22)

The bill amends s. 1003.491, F.S., to require the DOE's annual CTE audit to examine, at a minimum, the following:

- Alignment of offerings with the framework of quality established by the Credentials Review Committee;
- Alignment of offerings at the K-12 and postsecondary levels with credentials or degree programs identified on the Master Credentials List;
- Program utilization and unwarranted duplication across institutions serving the same students in a geographical or service area; and
- Institutional performance measured by student outcomes.

The CTE audit shall use data captured through the WDIS and provide an automated data collection process that includes the collection and evaluation of the federal CLNA, to assist in the review of programs.

The commissioner is required to use the findings from the CTE audit to phase out CTE offerings which are not aligned with the framework of quality established by the Credentials Review

¹⁹⁸ School districts are presently able to report a maximum of 2,000 on-the-job training hours for apprenticeship FTE. Florida Department of Education, *2020-2021 District Workforce Education Funding Summary*, at 2-4, available at <http://www.fldoe.org/core/fileparse.php/7529/urlt/2021-wf-fundingsummary.pdf>; For apprenticeship programs at a FCS institution, the students are exempt from the payment of tuition and fees, however, state funding is provided equal to 100 percent of the average cost of instruction. s. 1011.80(6)(c), F.S.

Committee, do not meet labor market demand or institutional performance, or are unwarranted program duplications.

The bill requires the DOE to adopt rules to administer the annual review of K-12 and postsecondary CTE offerings.

Career Planning for Florida's Students

To provide students with the information necessary to explore and make decisions as they plan for their future and embark on a career pathway, the bill amends s. 1003.4156, F.S., to require secondary career and education planning courses, curriculum, and postsecondary career services to utilize state career planning resources as a student progresses along their educational experience.

At the secondary level, the bill requires the middle grades career and education planning course to include information from state career planning resources. In the character development curriculum for grades 9 through 12, the bill amends s. 1003.42, F.S., to require students to explore career pathways using state career planning resources and to create a digital resume.

At the postsecondary level, the bill amends s. 1007.25, F.S., to authorize courses that provide instruction in student life skills, including career planning and exploration, or similar, to use state career planning resources within the course and provide students with the opportunity to create a digital resume. For postsecondary student career service centers, the bill creates s. 1006.75, F.S. to require centers to prepare students for employment upon completion of their academic work. Career service centers, to the extent possible, are required to use state career planning resources to assist students in: exploring and identifying career opportunities; identifying in-demand jobs and associated earnings outcomes; understanding the skills and credentials needed for specific jobs; identifying opportunities to gain on-the-job experiences; and creating a digital resume.

Developing Workplace Readiness

To provide opportunities for students to experience and develop the skills necessary to enter the workforce and distinguish their unique skills to employers, the bill makes the changes discussed below.

Work-based Learning (Section 16)

The bill creates s. 446.090, F.s., to define a work-based learning opportunity to mean an interaction with industry or community professionals that occurs in a workplace setting, to the extent possible, or a simulated environment at an educational institution that allows firsthand experience with tasks required in a given career field, is aligned with curriculum and instruction, and is provided in partnership with an educational institution.

Work-based learning must be developmentally appropriate, identify learning objectives for the experience, explore multiple aspects of an industry, develop workplace skills and competencies, assess performance, provide opportunities for work-based reflection, link to next steps in career planning and preparation in a student's chosen career pathway, be provided in an equal and fair manner, and be documented and reported in compliance with state and federal labor law. The bill

prioritizes paid work-based learning opportunities, such as apprenticeship and preapprenticeship programs.

The SBE is required to adopt rules to implement work-based learning opportunities. The adopted rules must include uniform minimum standards and guidelines for determining student eligibility, obligations of employers, and requirements of institutions that offer work-based learning opportunities.

Career Readiness Credential

Beginning with students initially entering a public postsecondary institution in 2022-2023, and thereafter, the bill amends s. 1007.25, F.S., to require each student to be able to earn a nationally recognized digital credential from competencies within the general education core courses which demonstrate career readiness.

The digital credentials must be identified by a faculty committee appointed by the chair of the SBE and the chair of the BOG. The faculty committee must identify the competencies within the general education core courses which demonstrate career readiness and will result in the award of a verifiable and interoperable nationally recognized digital credential.

In order to ensure students pursuing an associate in applied science or associate in science degree may earn a digital credential, the bill requires, beginning in the 2022-2023 academic year, students entering such degree programs to complete at least one identified core course in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.

The bill requires all public postsecondary institutions to distinguish in their course catalog the general education core courses linked to earning a digital credential, and requires institutions to grant and accept the identified digital credential.

The bill provides conforming changes.

The bill is effective 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill identifies and categorizes in-demand credentials and degree programs and requires information to be made available to the public to determine the performance of these programs and training providers offering these programs, as well as long-term earnings results and impact to self-sufficiency.

Employers may incur costs to integrate with a new or modified system to post job, apprenticeship, and training opportunities.

C. Government Sector Impact:

Based on standard salaries/benefits and expense packages for a policy coordinator and associated analysts within the Governor's office, staffing the new Office of Reimagining Education and Career Help (REACH) within the Executive Office of the Governor office is estimated to require 8 full-time-equivalent (FTE) positions, at a cost of \$887,503.

The cost of implementing an automated and coordinated Consumer-First Workforce Information System among the state's workforce partners is indeterminate and cannot be quantified at this time as each entity currently operates its own data systems. Analysis by the DOE and the DEO state that the cost could be between \$70 million and \$140 million for each program and each agency involved. Detailed analysis is required to include data governance for shared data across all entities, engineering of data interoperability and new business processes, and documentation of detailed functional requirements for the procurement of supporting technologies. Analysis should also include how current data and intake systems can be enhanced or augmented to include these functionalities. Based on historical costs related to planning information technology systems, such an analysis could cost between \$1.5 million and \$2 million. Funding for the Consumer-First Workforce Information System will be dependent upon consideration of the General Appropriations Act for Fiscal Year 2021-2022.

The DOE estimates they would need two additional FTE to assist with data collections and outcome reporting requirements for the development of a workforce development

metrics dashboard. Based on standard salaries/benefits and expense packages associated with the personnel handling this workload, the cost will be \$268,265.

The DOE estimates a need of two additional FTE to successfully implement the new reporting requirements in the Pathways to Career Opportunities Grant Program. While costs for these positions are estimated to be \$199,496, the DOE states the cost for the new positions can be absorbed within the current, recurring appropriations for the program.

To the extent the Legislature provides funding for the new program, it would have an indeterminate, negative impact based on the amount of appropriations made available for the newly created Open Door Grant Program. Funding requirements for the personnel and the grant program provisions within the bill will be dependent upon consideration of the General Appropriations Act for Fiscal Year 2021-2022.

The application of the Master Credentials List and the development of a returned-value funding formula may affect the distribution of funds currently being allocated to Florida Colleges and District workforce programs, however the affect is indeterminate.

Actual expenditures Money Back Guarantee Program will vary depending on the number of guarantees that must be honored and the cost of tuition for those students.

The bill may require the incorporation of multiple federally funded programs with diverse funding and program requirements. Each agency will need to come to agreements on allocation methodologies to ensure that each federal source is appropriately charged.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.36, 216.136, 288.047, 443.151, 445.002, 445.003, 445.004, 445.006, 445.007, 445.009, 445.010, 445.011, 445.033, 445.038, 445.045, 446.021, 446.032, 446.041, 570.07, 943.22, 1001.64, 1001.706, 1003.4156, 1003.42, 1003.4203, 1003.491, 1003.492, 1003.4935, 1004.013, 1004.015, 1004.02, 1007.25, 1008.40, 1008.39, 1008.41, 1008.44, 1011.80, 1011.801, 1011.802, and 1011.81.

The bill creates the following sections of Florida Statutes: 446.0915, 1006.75, 1009.895, and 1011.803.

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 Appropriations on April 15, 2021:

The committee substitute makes the following changes:

- Establishes the Reimagining Education and Career Help Act (REACH Act) to create a system-wide approach to Florida’s workforce development system by integrating services through the:
 - Creation of the Office of Reimagining Education and Career Help (REACH Office) within the Executive Office of the Governor.
 - Implementation the consumer-first workforce system for data management.
 - Creation of an online opportunity portal to provide public access to identify in-demand jobs, the skills needed, and where to obtain those skills.
- Authorizes the Governor to seek federal waivers to create greater flexibility and strategic investment in Florida’s implementation of the Workforce Innovation and Opportunity Act (WIOA).

In relation to labor market supply and demands, the amendment:

- Establishes a Labor Market Estimating Conference to determine real-time labor market supply and demand.
- Requires CareerSourceFL to appoint a Credentials Review Committee, which includes rural representation, to:
 - Identify and include in a Master Credentials List credentials of value, which are associated with positive earnings outcomes.
 - Designate eligibility for performance funding for state college and school district workforce education programs.

To safeguard workforce funding and provide accountability, the amendment requires:

- The Department of Economic Opportunity to establish eligibility requirements for in-demand eligible training program providers.
- The Department of Education to develop a workforce development metrics dashboard to measure return on the state’s workforce investments.
- The Department of Education to review for approval new workforce education programs at tech centers and state colleges and phase out existing programs that fail to meet performance benchmarks.
- The REACH Office to develop criteria for assigning letter grades to local workforce development boards (LWDB). The grades must account for local area needs and improvement of participants’ self-sufficiency. The amendment also requires staggered 8-year terms for LWDB board members.

In relation to Funding Incentives for Workforce Education, the amendment:

- Aligns the Career and Professional Education (CAPE) Act with projections made by the Labor Market Estimating Conference.

- Requires the Commissioner of Education to recommend revised funding weights for the CAPE Industry Certification Funding List to the Governor and the Legislature by December 31, 2021.
- Creates a new workforce performance funding model for school district and state college workforce programs requiring:
 - One-third based on student job placement.
 - Two-thirds based on student earnings, with a focus on increasing the economic mobility of underserved populations.

In relation to Healthcare Needs, the amendment:

- Requires the Talent Development Council to conduct a review of the healthcare labor market and nursing program alignment.
- Prioritizes funds in the Incumbent Worker Training programs for nonprofit and local public hospitals that provide nursing education opportunities.
- Requires the REACH Office to administer a web-based centralized clinical placement system for use by all nursing programs.

The amendment encourages work-based learning educational opportunities by:

- Requiring standards to be developed by the Department of Education.
- Breaking down the Department of Education annual report on apprenticeship to better measure individual program outcomes.

The amendment expands educational access for students through:

- The creation of the Open Door Workforce Grant Program, which provides grants to school districts and state colleges to cover some or all of the cost of short-term, high-demand programs, including programs for students without a high school diploma.
- The creation of the Money-Back Guarantee Program, which requires each school district and state college to refund the cost of tuition to students who are not able to find a job within six months of completing one of three in-demand programs chosen by the institution.
- Aligning apprenticeship grants with labor shortages.

In relation to core curriculum, the amendment:

- Requires that seeking students in state colleges and universities earn verified digital credentials which demonstrate career readiness.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
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The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 14.36, Florida Statutes, is created to
read:

14.36 Reimagining Education and Career Help Act.—The
Reimagining Education and Career Help Act is created to address
the evolving needs of Florida’s economy by increasing the level
of collaboration and cooperation among state businesses and



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11 education communities while improving training within and equity
12 and access to a more integrated workforce and education system
13 for all Floridians.

14 (1) The Office of Reimagining Education and Career Help is
15 created in the Executive Office of the Governor to facilitate
16 alignment and coordination of entities responsible for the
17 state's workforce development system. The head of the office is
18 the Director of the Office of Reimagining Education and Career
19 Help. The Director of the Office of Reimagining Education and
20 Career Help shall be appointed by and shall serve at the
21 pleasure of the Governor.

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

23 (a) "Credential" means an apprenticeship certificate,
24 industry certification, license, advanced technical certificate,
25 college credit certificate, career certificate, applied
26 technology diploma, associate in applied science degree,
27 associate in science degree, bachelor of applied science degree,
28 and bachelor of science degree.

29 (b) "Office" means the Office of Reimagining Education and
30 Career Help.

31 (c) "Workforce development system" means the entities and
32 activities that contribute to the state's talent pipeline system
33 through education, training, and support services that prepare
34 individuals for employment or career advancement and the
35 entities that are responsible for oversight or conducting those
36 activities, such as CareerSource Florida, Inc., local workforce
37 development boards, one-stop career centers, the Department of
38 Economic Opportunity, the Department of Education, and the
39 Department of Children and Families.



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40 (d) "Workforce education region" means areas of the state
41 identified by the Department of Education, in collaboration with
42 the Department of Economic Opportunity, to maximize resource
43 allocation by combining two or more sources of funding to
44 integrate education and training in order to improve access to
45 credentials of value for participants in adult education
46 programs.

47 (e) "Workforce-related program" means a program operated,
48 delivered, or enabled, in whole or in part, by a state or local
49 entity using federal funds or state appropriations to offer
50 incentives, funding, support, or guidance for any of the
51 following purposes:

52 1. Job training.

53 2. The attainment of a credential of value identified
54 pursuant to s. 445.004(4)(h)4.c.

55 3. The attainment of a postsecondary degree or credential.

56 4. The provision of other types of employment assistance.

57 5. Any other program that has, at least in part, the goal
58 of securing employment or better employment for an individual
59 and receives federal funds or a state appropriation.

60 (3) The duties of the office are to:

61 (a) Serve as the advisor to the Governor on matters related
62 to the state's workforce development system.

63 (b) Establish criteria and goals for workforce development
64 and diversification in the state's workforce development system.

65 (c) Provide strategies to align and improve efficiency in
66 the state's workforce development system and the delivery of
67 workforce-related programs.

68 (d) Coordinate state and federal workforce-related



69 programs, plans, resources, and activities provided by
70 CareerSource Florida, Inc., the Department of Economic
71 Opportunity, and the Department of Education.

72 (e) Oversee the Workforce Development Information System
73 described in s. 1008.40 to verify the validity of data collected
74 and monitor compliance of workforce-related programs and
75 education and training programs with applicable federal and
76 state requirements as authorized by federal and state law.

77 (f) Serve on the Credentials Review Committee established
78 in s. 445.004 to identify nondegree and degree credentials of
79 value and facilitate the collection of data necessary to conduct
80 committee work.

81 (g) Coordinate and facilitate a memorandum of understanding
82 for data sharing agreements of the state's workforce performance
83 data among state agencies and align, to the greatest extent
84 possible, performance measures adopted under ss. 445.004 and
85 1008.43.

86 (h) Develop the criteria for assigning a letter grade for
87 each local workforce development board under s. 445.004. The
88 criteria shall, in part, be based on local workforce development
89 board performance accountability measures and return on
90 investment. The majority of the grade shall be based on the
91 improvement by each local workforce development board in the
92 long-term self-sufficiency of participants through outcome
93 measures such as reduction in long-term public assistance and
94 the percentage of participants whose wages were higher after
95 program completion compared to wages before participation in a
96 program.

97 (i) Streamline the clinical placement process and increase



98 clinical placement opportunities for students, hospitals, and
99 other clinical sites by administering, directly or through a
100 contract, a web-based centralized clinical placement system for
101 use by all nursing education programs subject to the
102 requirements in s. 464.019.

103 (j) Direct the objectives of the Florida Talent Development
104 Council established in s. 1004.015.

105 (4) The office shall create a no-wrong-door-entry strategy
106 to improve equity and access to the myriad of state and
107 federally funded workforce-related programs through CareerSource
108 Florida, Inc., local workforce development boards, one-stop
109 career centers, school districts, charter technical centers,
110 Florida College System institutions, the State University
111 System, and through eligible training providers. Individuals may
112 not be required to visit multiple locations when seeking access
113 to education and workforce training. To create the strategy, the
114 office shall:

115 (a) Develop a training course to cross-train all staff
116 within the state's workforce development system on workforce-
117 related programs, including how to use an integrated case
118 management system, develop an individual employment plan,
119 conduct a comprehensive needs assessment, precertify individuals
120 for workforce-related programs, and on any other activities to
121 reinforce the no-wrong-door-entry strategy.

122 (b) Coordinate and facilitate a common intake form and case
123 management system for use by workforce-related programs to
124 minimize duplicate data entry.

125 (c) Coordinate and facilitate a memorandum of understanding
126 between the Department of Economic Opportunity and the



127 Department of Children and Families to permit Supplemental
128 Nutrition Assistance Program (SNAP) and Temporary Assistance for
129 Needy Families (TANF) clients to precertify for Workforce
130 Innovation and Opportunity Act training services without having
131 to physically visit a one-stop center.

132 (d) Oversee the performance evaluation of workforce-related
133 programs and services under s. 445.033.

134 (e) Identify other state and federal programs that serve
135 individuals with significant barriers to employment as
136 demonstrated by low placement, employment, and earnings rates
137 and identify strategies to increase the utilization of such
138 programs by local workforce development boards.

139 (5) The office shall provide the public with access to
140 available federal, state, and local services and provide
141 stakeholders with a systemwide, global view of workforce-related
142 program data across various programs through actionable
143 qualitative and quantitative information. The office shall:

144 (a) Minimize duplication and maximize the use of existing
145 resources by facilitating the adaptation and integration of
146 state information systems to improve usability and seamlessly
147 link to the workforce opportunity portal and other compatible
148 state information systems and applications to help residents of
149 the state:

150 1. Explore and identify career opportunities.

151 2. Identify in-demand jobs and associated earning
152 potential.

153 3. Identify the skills and credentials needed for specific
154 jobs.

155 4. Access a broad array of federal, state, and local



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156 workforce-related programs.

157 5. Determine the quality of workforce-related programs
158 offered by public postsecondary educational institutions and
159 public and private training providers, based on employment,
160 wages, continued education, student loan debt, and receipt of
161 public assistance by graduates of workforce, certificate, or
162 degree programs. To gather this information, the office shall
163 review each workforce-related program 1 year after the program's
164 first graduating class and every 5 years after the first review.

165 6. Identify opportunities and resources to support
166 individuals along their career pathway.

167 7. Provide information to help individuals understand their
168 potential earnings through paid employment and cope with the
169 loss of public assistance as they progress through career
170 pathways toward self-sufficiency.

171 8. Map the timing and magnitude of the loss of public
172 assistance for in-demand occupations across the state to help
173 individuals visualize how their incomes will increase over time
174 as they move toward self-sufficiency.

175 (b) Provide access to labor market data consistent with the
176 official information developed by the Labor Market Estimating
177 Conference and provide guidance on how to analyze the data, the
178 appropriate use of the data, and any limitations of the data,
179 including instances in which such data may not be used.

180 (c) Maximize the use of the workforce opportunity portal at
181 locations within the workforce development system.

182 (d) Maximize the use of available federal and private funds
183 for the development and initial operation of the workforce
184 opportunity portal. Any incidental costs to state agencies must



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185 be derived from existing resources.

186 (e) By December 1, 2022, and annually thereafter, report to
187 the Legislature on the implementation and outcomes of the
188 workforce opportunity portal, including the increase of economic
189 self-sufficiency of individuals.

190 Section 2. Subsection (7) of section 216.136, Florida
191 Statutes, is amended to read:

192 216.136 Consensus estimating conferences; duties and
193 principals.—

194 (7) LABOR MARKET WORKFORCE ESTIMATING CONFERENCE.—

195 (a) The Labor Market Workforce Estimating Conference shall
196 develop such official information with respect to real-time
197 supply and demand in Florida's statewide, regional, and local
198 labor markets on the workforce development system planning
199 process as it relates to the personnel needs of current, new,
200 and emerging industries as the conference determines is needed
201 by the state planning and budgeting system. Such information
202 shall include labor supply by education level, analyses of labor
203 demand by occupational groups and occupations compared to labor
204 supply, a ranking of critical areas of concern, and
205 identification of in-demand, high-skill, middle-level to high-
206 level wage occupations prioritized by level of statewide or
207 regional shortages. The Office of Economic and Demographic
208 Research is designated as the official lead for the United
209 States Census Bureau's State Data Center Program or its
210 successor. All state agencies must provide the Office of
211 Economic and Demographic Research with the necessary data to
212 accomplish the goals of the conference. In accordance with s.
213 216.135, state agencies must ensure that any related work



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214 product regarding labor demand and supply is consistent with the
215 official information developed by the Labor Market Estimating
216 Conference created in this section,~~using quantitative and~~
217 ~~qualitative research methods, must include at least: short-term~~
218 ~~and long-term forecasts of employment demand for jobs by~~
219 ~~occupation and industry; entry and average wage forecasts among~~
220 ~~those occupations; and estimates of the supply of trained and~~
221 ~~qualified individuals available or potentially available for~~
222 ~~employment in those occupations, with special focus upon those~~
223 ~~occupations and industries which require high skills and have~~
224 ~~high entry wages and experienced wage levels. In the development~~
225 ~~of workforce estimates, the conference shall use, to the fullest~~
226 ~~extent possible, local occupational and workforce forecasts and~~
227 ~~estimates.~~

228 ~~(b) The Workforce Estimating Conference shall review data~~
229 ~~concerning local and regional demands for short-term and long-~~
230 ~~term employment in High-Skills/High-Wage Program jobs, as well~~
231 ~~as other jobs, which data is generated through surveys conducted~~
232 ~~as part of the state's Internet-based job matching and labor~~
233 ~~market information system authorized under s. 445.011. The~~
234 ~~conference shall consider this data in developing its forecasts~~
235 ~~for statewide employment demand, including reviewing local and~~
236 ~~regional data for common trends and conditions among localities~~
237 ~~or regions which may warrant inclusion of a particular~~
238 ~~occupation on the statewide occupational forecasting list~~
239 ~~developed by the conference. Based upon its review of such~~
240 ~~survey data, the conference shall also make recommendations~~
241 ~~semiannually to CareerSource Florida, Inc., on additions or~~
242 ~~deletions to lists of locally targeted occupations approved by~~



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243 ~~CareerSource Florida, Inc.~~

244 ~~(b)(e) The Labor Market Workforce Estimating Conference,~~
245 ~~for the purposes described in paragraph (a), shall meet at least~~
246 ~~twice a year and as necessary to address emerging opportunities~~
247 ~~for the state's economy no less than 2 times in a calendar year.~~
248 ~~The first meeting shall be held in February, and the second~~
249 ~~meeting shall be held in August. Other meetings may be scheduled~~
250 ~~as needed.~~

251 Section 3. Paragraph (b) of subsection (8) of section
252 288.047, Florida Statutes, is amended to read:

253 288.047 Quick-response training for economic development.-

254 (8) The Quick-Response Training Program is created to
255 provide assistance to participants in the welfare transition
256 program. CareerSource Florida, Inc., may award quick-response
257 training grants and develop applicable guidelines for the
258 training of participants in the welfare transition program. In
259 addition to a local economic development organization, grants
260 must be endorsed by the applicable local workforce development
261 board.

262 (b) Participants trained under ~~pursuant to~~ this subsection
263 must be employed at a job paying a wage equivalent to or above
264 the state's minimum hourly wage ~~at least \$6 per hour.~~

265 Section 4. Subsection (2) of section 445.002, Florida
266 Statutes, is amended to read:

267 445.002 Definitions.-As used in this chapter, the term:

268 (2) "For cause" includes, but is not limited to, engaging
269 in fraud or other criminal acts, incapacity, unfitness, neglect
270 of duty, official incompetence and irresponsibility,
271 misfeasance, malfeasance, nonfeasance, gross mismanagement,



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272 waste, or lack of performance.

273 Section 5. Paragraph (a) of subsection (3) and subsection
274 (6) of section 445.003, Florida Statutes, are amended, and
275 subsection (7) is added to that section, to read:

276 445.003 Implementation of the federal Workforce Innovation
277 and Opportunity Act.—

278 (3) FUNDING.—

279 (a) Title I, Workforce Innovation and Opportunity Act
280 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be
281 expended based on the 4-year plan of the state board. The plan
282 must outline and direct the method used to administer and
283 coordinate various funds and programs that are operated by
284 various agencies. The following provisions apply to these funds:

285 1. At least 50 percent of the Title I funds for Adults and
286 Dislocated Workers which are passed through to local workforce
287 development boards shall be allocated to and expended on
288 Individual Training Accounts unless a local workforce
289 development board obtains a waiver from the state board.
290 Tuition, books, and fees of training providers and other
291 training services prescribed and authorized by the Workforce
292 Innovation and Opportunity Act qualify as Individual Training
293 Account expenditures.

294 2. Fifteen percent of Title I funding shall be retained at
295 the state level and dedicated to state administration and shall
296 be used to design, develop, induce, ~~and~~ fund, and evaluate the
297 long-term impact of innovative Individual Training Account
298 pilots, demonstrations, and programs to enable participants to
299 attain self-sufficiency and to evaluate the effectiveness of
300 performance-based contracts used by local workforce development



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301 boards under s. 445.024(5) on increasing wages and employment
302 over the long term. Of such funds retained at the state level,
303 \$2 million may be reserved for the Incumbent Worker Training
304 Program created under subparagraph 3. Eligible state
305 administration costs include the costs of funding for the state
306 board and state board staff; operating fiscal, compliance, and
307 management accountability systems through the department;
308 conducting evaluation and research on workforce development
309 activities; and providing technical and capacity building
310 assistance to local workforce development areas at the direction
311 of the state board. Notwithstanding s. 445.004, such
312 administrative costs may not exceed 25 percent of these funds.
313 An amount not to exceed 75 percent of these funds shall be
314 allocated to Individual Training Accounts and other workforce
315 development strategies for other training designed and tailored
316 by the state board in consultation with the department,
317 including, but not limited to, programs for incumbent workers,
318 nontraditional employment, and enterprise zones. The state
319 board, in consultation with the department, shall design, adopt,
320 and fund Individual Training Accounts for distressed urban and
321 rural communities.

322 3. The Incumbent Worker Training Program is created for the
323 purpose of providing grant funding for continuing education and
324 training of incumbent employees at existing Florida businesses.
325 The program will provide reimbursement grants to businesses that
326 pay for preapproved, direct, training-related costs. For
327 purposes of this subparagraph, the term "businesses" includes
328 hospitals operated by nonprofit or local government entities
329 which provide nursing opportunities to acquire new or improved



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330 skills.

331 a. The Incumbent Worker Training Program will be
332 administered by CareerSource Florida, Inc., which may, at its
333 discretion, contract with a private business organization to
334 serve as grant administrator.

335 b. The program shall be administered under ~~pursuant to~~ s.
336 134(d) (4) of the Workforce Innovation and Opportunity Act.
337 ~~Priority for~~ Funding priority shall be given in the following
338 order: to

339 (I) Businesses that provide employees with opportunities to
340 acquire new or improved skills by earning a credential on the
341 Master Credentials List.

342 (II) Hospitals operated by nonprofit or local government
343 entities that provide nursing opportunities to acquire new or
344 improved skills.

345 (III) Businesses whose grant proposals represent a
346 significant upgrade in employee skills.

347 (IV) Businesses with 25 employees or fewer, businesses in
348 rural areas, and businesses in distressed inner-city areas.

349 (V) Businesses in a qualified targeted industry, ~~businesses~~
350 ~~whose grant proposals represent a significant upgrade in~~
351 ~~employee skills,~~ or businesses whose grant proposals represent a
352 significant layoff avoidance strategy.

353 c. All costs reimbursed by the program must be preapproved
354 by CareerSource Florida, Inc., or the grant administrator. The
355 program may not reimburse businesses for trainee wages, the
356 purchase of capital equipment, or the purchase of any item or
357 service that may possibly be used outside the training project.
358 A business approved for a grant may be reimbursed for



359 preapproved, direct, training-related costs including tuition,
360 fees, books and training materials, and overhead or indirect
361 costs not to exceed 5 percent of the grant amount.

362 d. A business that is selected to receive grant funding
363 must provide a matching contribution to the training project,
364 including, but not limited to, wages paid to trainees or the
365 purchase of capital equipment used in the training project; must
366 sign an agreement with CareerSource Florida, Inc., or the grant
367 administrator to complete the training project as proposed in
368 the application; must keep accurate records of the project's
369 implementation process; and must submit monthly or quarterly
370 reimbursement requests with required documentation.

371 e. All Incumbent Worker Training Program grant projects
372 shall be performance-based with specific measurable performance
373 outcomes, including completion of the training project and job
374 retention. CareerSource Florida, Inc., or the grant
375 administrator shall withhold the final payment to the grantee
376 until a final grant report is submitted and all performance
377 criteria specified in the grant contract have been achieved.

378 f. The state board may establish guidelines necessary to
379 implement the Incumbent Worker Training Program.

380 g. No more than 10 percent of the Incumbent Worker Training
381 Program's total appropriation may be used for overhead or
382 indirect purposes.

383 4. At least 50 percent of Rapid Response funding shall be
384 dedicated to Intensive Services Accounts and Individual Training
385 Accounts for dislocated workers and incumbent workers who are at
386 risk of dislocation. The department shall also maintain an
387 Emergency Preparedness Fund from Rapid Response funds, which



388 will immediately issue Intensive Service Accounts, Individual
389 Training Accounts, and other federally authorized assistance to
390 eligible victims of natural or other disasters. At the direction
391 of the Governor, these Rapid Response funds shall be released to
392 local workforce development boards for immediate use after
393 events that qualify under federal law. Funding shall also be
394 dedicated to maintain a unit at the state level to respond to
395 Rapid Response emergencies and to work with state emergency
396 management officials and local workforce development boards. All
397 Rapid Response funds must be expended based on a plan developed
398 by the state board in consultation with the department and
399 approved by the Governor.

400 (6) AUTHORITY TO HIRE EXECUTIVE DIRECTOR AND STAFF.—The
401 state board may hire an executive director and staff to assist
402 in carrying out the functions of the Workforce Innovation and
403 Opportunity Act and in using funds made available through the
404 act. The state board shall require ~~authorize~~ the executive
405 director and staff to work with the department to minimize
406 duplication and maximize efficient use of resources in carrying
407 out the functions of the Workforce Innovation and Opportunity
408 Act.

409 (7) DUTIES OF THE DEPARTMENT.—The department shall adopt
410 rules to implement the requirements of this chapter, including:

411 (a) The submission, review, and approval of local workforce
412 plans.

413 (b) Initial and subsequent eligibility criteria, based on
414 input from the state board, local workforce development boards,
415 the Department of Education, and other stakeholders, for the
416 Workforce Innovation and Opportunity Act eligible training



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417 provider list. This list directs training resources to programs
418 leading to employment in high-demand and high-priority
419 occupations that provide economic security, particularly those
420 occupations facing a shortage of skilled workers. A training
421 provider who offers training to obtain a credential on the
422 Master Credentials List under s. 445.004(4) (h) may not be
423 included on a state or local eligible training provider list if
424 the provider fails to submit the required information or fails
425 to meet initial or subsequent eligibility criteria. Subsequent
426 eligibility criteria must use the performance and outcome
427 measures defined and reported under s. 1008.40, to determine
428 whether each program offered by a training provider is qualified
429 to remain on the list.

430 1. For the 2021-2022 program year, the Department of
431 Economic Opportunity and the Department of Education shall
432 establish the minimum criteria a training provider must achieve
433 for completion, earnings, and employment rates of eligible
434 participants. The minimum program criteria may not exceed the
435 threshold at which more than 20 percent of all eligible training
436 providers in the state would fall below.

437 2. Beginning with the 2022-2023 program year, each program
438 offered by a training provider must, at a minimum, meet all of
439 the following:

440 a. Income earnings for all individuals who complete the
441 program that are equivalent to or above the state's minimum wage
442 in a calendar quarter.

443 b. An employment rate of at least 75 percent for all
444 individuals. For programs linked to an occupation, the
445 employment rate is calculated based on obtaining employment in



446 the field in which the participant was trained.

447 c. A completion rate of at least 75 percent for all
448 individuals, beginning with the 2023-2024 program year.

449 (c) Monitoring compliance of programs authorized by this
450 chapter and determining whether such programs are meeting
451 performance expectations, including an analysis of the return on
452 investment of workforce-related programs on individual
453 employment, earnings, and public benefit usage outcomes and a
454 cost-benefit analysis of the monetary impacts of workforce
455 services from the participant and taxpayer points of view.

456 Section 6. Paragraph (d) of subsection (3), paragraphs (b)
457 and (e) of subsection (5), subsections (6), (7), and (8),
458 paragraph (b) of subsection (9), and subsection (11) of section
459 445.004, Florida Statutes, are amended, and paragraph (h) is
460 added to subsection (4) of that section, to read:

461 445.004 CareerSource Florida, Inc., and the state board;
462 creation; purpose; membership; duties and powers.—

463 (3)

464 (d) The state board must include the vice chairperson of
465 the board of directors of Enterprise Florida, Inc., and one
466 member representing each of the Workforce Innovation and
467 Opportunity Act partners, including the Division of Career and
468 Adult Education, the Division of Vocational Rehabilitation, the
469 Division of Blind Services, the Department of Children and
470 Families, and other entities representing programs identified in
471 the Workforce Innovation and Opportunity Act, as determined
472 necessary.

473 (4)

474 (h)1. The state board shall appoint a Credentials Review



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475 Committee to identify nondegree credentials and degree
476 credentials of value for approval by the state board and
477 inclusion in the Master Credentials List. Such credentials must
478 include registered apprenticeship programs, industry
479 certifications, licenses, advanced technical certificates,
480 college credit certificates, career certificates, applied
481 technology diplomas, associate degrees, baccalaureate degrees,
482 and graduate degrees. The Credentials Review Committee must
483 include:

- 484 a. The Chancellor of the Division of Public Schools.
- 485 b. The Chancellor of the Division of Career and Adult
486 Education.
- 487 c. The Chancellor of the Florida College System.
- 488 d. The Chancellor of the State University System.
- 489 e. The director of the Office of Reimagining Education and
490 Career Help.
- 491 f. Four members from local workforce development boards,
492 with equal representation from urban and rural regions.
- 493 g. Two members from nonpublic postsecondary institutions.
- 494 h. Two members from industry associations.
- 495 i. Two members from Florida-based businesses.
- 496 j. Two members from the Department of Economic Opportunity.
- 497 k. One member from the Department of Agriculture and
498 Consumer Services.

499 2. All information pertaining to the Credentials Review
500 Committee, the process for the approval of credentials of value,
501 and the Master Credentials List must be made available and be
502 easily accessible to the public on all relevant state agency
503 websites.



504 3. The Credentials Review Committee shall establish a
505 definition for credentials of value and create a framework of
506 quality. The framework must align with federally funded
507 workforce accountability requirements and undergo biennial
508 review.

509 4. The criteria to determine value for nondegree
510 credentials should, at a minimum, require:

511 a. Evidence that the credential meets labor market demand
512 as identified by the Labor Market Estimating Conference created
513 in s. 216.136 or meets local demand as identified in the
514 criteria adopted by the Credentials Review Committee. Evidence
515 must include employer information on present credential use or
516 emerging opportunities.

517 b. Evidence that the competencies mastered upon completion
518 of the credential are aligned with labor market demand.

519 c. Evidence of the employment and earnings outcomes for
520 individuals after obtaining the credential. Earnings outcomes
521 must provide middle-level to high-level wages with preference
522 given to credentials generating high-level wages. Credentials
523 that do not meet the earnings outcomes criteria must be part of
524 a sequence of credentials that are required for the next level
525 occupation that does meet the earnings outcomes criteria in
526 order to be identified as a credential of value. For new
527 credentials, this criteria may be met with conditional
528 eligibility until measurable labor market outcomes are obtained.

529 5. The Credentials Review Committee shall establish the
530 criteria to determine value for degree programs. This criteria
531 shall include evidence that the program meets the labor market
532 demand as identified by the Labor Market Estimating Conference



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533 created in s. 216.136 or meets local demand as determined by the
534 committee. Such criteria must be used to designate programs of
535 emphasis under s. 1001.706 and to guide the development of
536 program standards and benchmarks under s. 1004.92.

537 6. The Credentials Review Committee shall establish a
538 process for prioritizing nondegree credentials and degree
539 programs based on critical statewide or regional shortages.

540 7. The Credentials Review Committee shall establish a
541 process for:

542 a. At a minimum, quarterly review and approval of
543 credential applications. Approved credentials of value shall be
544 used by the committee to develop the Master Credentials List.

545 b. Annual review of the Master Credentials List.

546 c. Phasing out credentials on the Master Credentials List
547 which no longer meet the framework of quality.

548 d. Designating performance funding eligibility under ss.
549 1011.80 and 1011.81, based upon the highest available
550 certification for postsecondary students.

551 e. Beginning with the 2022-2023 school year, the state
552 board shall submit the Master Credentials List to the State
553 Board of Education. The list must, at a minimum, identify
554 nondegree credentials and degree programs determined to be of
555 value for purposes of ss. 1008.44 and 1011.62(1); if the
556 credential or degree program meets statewide, regional, or local
557 level demand; the type of certificate, credential, or degree;
558 and the primary standard occupation classification code. For the
559 2021-2022 school year, the Master Credentials List shall be
560 composed of the CAPE Industry Certification Funding List and the
561 CAPE Postsecondary Industry Certification Funding List under ss.



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562 1008.44 and 1011.62(1) and adopted by the State Board of
563 Education before October 1, 2021.

564 8. The Credentials Review Committee shall establish a
565 process for linking Classifications of Instructional Programs
566 (CIP) to Standard Occupational Classifications (SOC) for all new
567 credentials of value identified on the Master Credentials List.
568 The CIP code aligns instructional programs to occupations. A CIP
569 to SOC link indicates that programs classified in the CIP code
570 category prepare individuals for jobs classified in the SOC code
571 category. The state board shall submit approved CIP to SOC
572 linkages to the State Board of Education with each credential
573 that is added to the Master Credentials List.

574 9. The Credentials Review Committee shall identify all data
575 elements necessary to collect information on credentials by the
576 Florida Education and Training Placement Program automated
577 system under s. 1008.39.

578 10. The Credentials Review Committee shall develop a
579 returned-value funding formula as provided under ss.
580 1011.80(7)(b) and 1011.81(2)(b). When developing the formula,
581 the committee may not penalize Florida College System
582 institutions or school districts if students postpone employment
583 to continue their education.

584 (5) The state board has all the powers and authority not
585 explicitly prohibited by statute which are necessary or
586 convenient to carry out and effectuate its purposes as
587 determined by statute, Pub. L. No. 113-128, and the Governor, as
588 well as its functions, duties, and responsibilities, including,
589 but not limited to, the following:

590 (b) Providing policy direction to ensure that the following



591 programs are administered by the department consistent with
592 approved plans:

593 1. Programs authorized under Title I of the Workforce
594 Innovation and Opportunity Act, Pub. L. No. 113-128, with the
595 exception of programs funded directly by the United States
596 Department of Labor under Title I, s. 167.

597 2. Programs authorized under the Wagner-Peyser Act of 1933,
598 as amended, 29 U.S.C. ss. 49 et seq.

599 3. Activities authorized under Title II of the Trade Act of
600 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade
601 Adjustment Assistance Program.

602 4. Activities authorized under 38 U.S.C. chapter 41,
603 including job counseling, training, and placement for veterans.

604 5. Employment and training activities carried out under
605 funds awarded to this state by the United States Department of
606 Housing and Urban Development.

607 6. Welfare transition services funded by the Temporary
608 Assistance for Needy Families Program, created under the
609 Personal Responsibility and Work Opportunity Reconciliation Act
610 of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403,
611 of the Social Security Act, as amended.

612 7. The Florida Bonding Program, provided under Pub. L. No.
613 97-300, s. 164(a)(1).

614 8. The Food Assistance Employment and Training Program,
615 provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss.
616 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198;
617 the Hunger Prevention Act, Pub. L. No. 100-435; and the
618 Agriculture Improvement Act of 2018, Pub. L. No. 115-334.

619 9. The Quick-Response Training Program, provided under ss.



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620 288.046-288.047. Matching funds and in-kind contributions that
621 are provided by clients of the Quick-Response Training Program
622 count toward the requirements of s. 288.904, pertaining to the
623 return on investment from activities of Enterprise Florida, Inc.

624 10. The Work Opportunity Tax Credit, provided under the Tax
625 and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, and
626 the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

627 11. Offender placement services, provided under ss.
628 944.707-944.708.

629

630 ~~The department may adopt rules necessary to administer this~~
631 ~~chapter which relate to implementing and administering the~~
632 ~~programs listed in this paragraph as well as rules related to~~
633 ~~eligible training providers and auditing and monitoring~~
634 ~~subrecipients of the workforce system grant funds.~~

635 (e) Ensuring that the state does not waste valuable
636 training resources. The state board's policy is that all
637 resources, including equipment purchased for training Workforce
638 Innovation and Opportunity Act clients, be available for use at
639 all times by eligible populations as first priority users. At
640 times when eligible populations are not available, such
641 resources shall be used for any other state-authorized education
642 and training purpose. The state board and any of its committees,
643 councils, or administrative entities may authorize expenditures
644 to award suitable framed certificates, pins, or other tokens of
645 recognition for performance by a local workforce development
646 board, its committees and subdivisions, and other units of the
647 workforce system. The state board may also authorize
648 expenditures for promotional items, such as t-shirts, hats, or



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649 pens printed with messages promoting the state's workforce
650 system to employers, job seekers, and program participants.
651 However, such expenditures are subject to federal regulations
652 applicable to the expenditure of federal funds.

653 (6) The state board shall ~~may take action that it deems~~
654 ~~necessary to~~ achieve the purposes of this section by, ~~including,~~
655 ~~but not limited to:~~

656 (a) Creating a state employment, education, and training
657 policy that ensures workforce-related programs ~~that programs to~~
658 ~~prepare workers~~ are responsive to present and future business
659 and industry needs and complement the initiatives of Enterprise
660 Florida, Inc.

661 (b) Establishing policy direction for a uniform funding
662 system that prioritizes evidence-based, results-driven solutions
663 by providing ~~provides~~ incentives to improve the outcomes of
664 career education, registered apprenticeship, and work-based
665 learning programs and that focuses resources on occupations
666 related to new or emerging industries that add greatly to the
667 value of the state's economy.

668 (c) Establishing a comprehensive policy related to the
669 education and training of target populations such as those who
670 have disabilities, are economically disadvantaged, receive
671 public assistance, are not proficient in English, or are
672 dislocated workers. This approach should ensure the effective
673 use of federal, state, local, and private resources in reducing
674 the need for public assistance by combining two or more sources
675 of funding to support workforce-related programs or activities
676 for vulnerable populations.

677 (d) Identifying barriers to coordination and alignment



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678 among workforce-related programs and activities and developing
679 solutions to remove such barriers.

680 (e) Maintaining a Master Credentials List that:

681 1. Serves as a public and transparent inventory of state-
682 approved credentials of value.

683 2. Directs the use of federal and state funds for workforce
684 education and training programs that lead to approved
685 credentials of value.

686 3. Guides workforce education and training programs by
687 informing the public of the credentials that have value in the
688 current or future job market

689 ~~(d) Designating Institutes of Applied Technology composed~~
690 ~~of public and private postsecondary institutions working~~
691 ~~together with business and industry to ensure that career~~
692 ~~education programs use the most advanced technology and~~
693 ~~instructional methods available and respond to the changing~~
694 ~~needs of business and industry.~~

695 ~~(e) Providing policy direction for a system to project and~~
696 ~~evaluate labor market supply and demand using the results of the~~
697 ~~Workforce Estimating Conference created in s. 216.136 and the~~
698 ~~career education performance standards identified under s.~~
699 ~~1008.43.~~

700 ~~(f) Reviewing the performance of public programs that are~~
701 ~~responsible for economic development, education, employment, and~~
702 ~~training. The review must include an analysis of the return on~~
703 ~~investment of these programs.~~

704 ~~(g) Expanding the occupations identified by the Workforce~~
705 ~~Estimating Conference to meet needs created by local emergencies~~
706 ~~or plant closings or to capture occupations within emerging~~



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707 ~~industries.~~

708 (7) By December 1 of each year, the state board, in
709 consultation with the department, shall submit to the Governor,
710 the President of the Senate, the Speaker of the House of
711 Representatives, the Senate Minority Leader, and the House
712 Minority Leader a complete and detailed annual report setting
713 forth:

714 (a) All audits and investigations, ~~including any audit~~
715 ~~conducted under subsection (8).~~

716 (b) The operations and accomplishments of the state board,
717 including the programs or entities specified in subsection (6).

718 (c) The number of mandatory partners located within one-
719 stop centers.

720 (d) The progress on implementing solutions to address
721 barriers to coordination and alignment among programs and
722 activities identified under paragraph (6) (d).

723 (8) Annually, beginning July 1, 2022, the state board shall
724 assign and make public a letter grade for each local workforce
725 development board using the criteria established by the Office
726 of Reimagining Education and Career Help under s. 14.36 Pursuant
727 ~~to his or her own authority or at the direction of the~~
728 ~~Legislative Auditing Committee, the Auditor General may conduct~~
729 ~~an audit of the state board and CareerSource Florida, Inc., or~~
730 ~~the programs or entities created by the state board. The Office~~
731 ~~of Program Policy Analysis and Government Accountability,~~
732 ~~pursuant to its authority or at the direction of the Legislative~~
733 ~~Auditing Committee, may review the systems and controls related~~
734 ~~to performance outcomes and quality of services of the state~~
735 ~~board and CareerSource Florida, Inc.~~



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736 (9) The state board, in collaboration with the local
737 workforce development boards and appropriate state agencies and
738 local public and private service providers, shall establish
739 uniform performance accountability measures that apply across
740 the core programs to gauge the performance of the state and
741 local workforce development boards in achieving the workforce
742 development strategy.

743 (b) The performance accountability measures for each local
744 area consist of the primary indicators of performance, any
745 additional indicators of performance, and a local level of
746 performance for each indicator pursuant to Pub. L. No. 113-128.
747 The local level of performance is determined by the local board,
748 the chief elected official, and the Governor pursuant to Pub. L.
749 No. 113-128, Title I, s. 116(c). Any local performance
750 accountability measures that are established must be based on
751 identified local area needs.

752 (11) The workforce development system must use local design
753 and control of service delivery and targeted activities. The
754 state board, in consultation with the department, is responsible
755 for ensuring that local workforce development boards have a
756 membership consistent with the requirements of federal and state
757 law and have developed a plan consistent with the state's
758 workforce development strategy. The plan must specify methods
759 for allocating the resources and programs in a manner that
760 eliminates unwarranted duplication, minimizes administrative
761 costs, meets the existing job market demands and the job market
762 demands resulting from successful economic development
763 activities, ensures access to quality workforce development
764 services for all Floridians, allows for pro rata or partial



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765 distribution of benefits and services, prohibits the creation of
766 a waiting list or other indication of an unserved population,
767 serves as many individuals as possible within available
768 resources, and maximizes successful outcomes. The state board
769 shall establish incentives for effective alignment and
770 coordination of federal and state programs and those identified
771 by the Office of Reimagining Education and Career Help under s.
772 14.36(4) (e), outline rewards for long-term self-sufficiency of
773 successful job placements participants, and institute
774 collaborative approaches among local service providers.

775 Section 7. Subsection (2) of section 445.006, Florida
776 Statutes, is amended, and subsection (4) is added to that
777 section, to read:

778 445.006 State plan for workforce development.—

779 (2) STRATEGIC PLANNING ELEMENTS.—The state board, in
780 conjunction with state and local partners in the workforce
781 development system, shall develop strategic planning elements,
782 pursuant to Pub. L. No. 113-128, Title I, s. 102, for the state
783 plan.

784 (a) The strategic planning elements of the state plan must
785 include, but need not be limited to, strategies for:

786 1. Fulfilling the workforce system goals and strategies
787 prescribed in s. 445.004.†

788 2. Aggregating, integrating, and leveraging workforce
789 system resources.†

790 3. Coordinating the activities of federal, state, and local
791 workforce system partners.†

792 4. Addressing the workforce needs of small businesses.†~~and~~

793 5. Fostering the participation of rural communities and



794 distressed urban cores in the workforce system.

795 (b) The strategic planning elements must include criteria
796 for allocating workforce resources to local workforce
797 development boards. With respect to allocating funds to serve
798 customers of the welfare transition program, such criteria may
799 include weighting factors that indicate the relative degree of
800 difficulty associated with securing and retaining employment
801 placements for specific subsets of the welfare transition
802 caseload.

803 (c) The state plan must describe:

804 1. How the activities will be carried out by the respective
805 core programs to implement the strategy and how the activities
806 will be aligned across the programs and among the entities
807 administering the programs, including using coenrollment and
808 other strategies.

809 2. How the activities will be aligned with other activities
810 that are provided under employment, training, education,
811 including career and technical education, and human services
812 programs that are not covered by the state plan, as appropriate,
813 to avoid duplication and assure coordination.

814 3. How the entities carrying out the respective core
815 programs will coordinate activities and provide comprehensive,
816 high-quality services, including supportive services, to
817 individuals.

818 4. How the state's strategy to engage Florida College
819 System institutions and local career and technical education
820 schools as partners in the workforce development system will
821 enable the state to leverage other federal, state, and local
822 investments and increase access to workforce development



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823 programs at those institutions.

824 5. How the activities will be coordinated with economic
825 development strategies.

826 6. How the state's strategy will improve access to
827 activities leading to a state approved recognized postsecondary
828 credential, including a credential that is an industry
829 recognized certificate or certification that is portable and
830 builds on additional education or training.

831 (4) WAIVERS.—The department shall prepare a federal waiver
832 to be submitted by the Governor to the United States Department
833 of Labor which:

834 (a) Allows the state board to fulfill the roles and
835 responsibilities of local workforce development boards or that
836 reduces the number of local workforce development boards based
837 on population size and commuting patterns in order to:

838 1. Eliminate multiple layers of administrative entities to
839 improve coordination of the workforce development system.

840 2. Establish consistent eligibility standards across the
841 state to improve the accountability of workforce-related
842 programs.

843 3. Provide greater flexibility in the allocation of
844 resources to maximize the funds directed to training and
845 business services.

846 (b) Allows the Governor to reallocate funds among local
847 areas that have a demonstrated need for additional funding and
848 programmatic outcomes that will maximize the use of the
849 additional funds to serve low-income individuals, public
850 assistance recipients, dislocated workers, and unemployment
851 insurance claimants.



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852 Section 8. Section 445.007, Florida Statutes, is amended to
853 read:

854 445.007 Local workforce development boards.—

855 (1) One local workforce development board shall be
856 appointed in each designated service delivery area and shall
857 serve as the local workforce development board pursuant to Pub.
858 L. No. 113-128. The membership of the local board must be
859 consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a
860 public education or training provider is represented on the
861 local board, a representative of a private education provider
862 must also be appointed to the local board. The state board may
863 waive this requirement if requested by a local ~~workforce~~
864 ~~development~~ board if it is demonstrated that such
865 representatives do not exist in the region. The importance of
866 minority and gender representation shall be considered when
867 making appointments to the local board. The local board, its
868 committees, subcommittees, and subdivisions, and other units of
869 the workforce system, including units that may consist in whole
870 or in part of local governmental units, may use any method of
871 telecommunications to conduct meetings, including establishing a
872 quorum through telecommunications, provided that the public is
873 given proper notice of the telecommunications meeting and
874 reasonable access to observe and, when appropriate, participate.
875 Local ~~workforce development~~ boards are subject to chapters 119
876 and 286 and s. 24, Art. I of the State Constitution. ~~If the~~
877 ~~local workforce development board enters into a contract with an~~
878 ~~organization or individual represented on the local board, the~~
879 ~~contract must be approved by a two-thirds vote of the local~~
880 ~~board, a quorum having been established, and the local board~~



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881 ~~member who could benefit financially from the transaction must~~
882 ~~abstain from voting on the contract. A local board member must~~
883 ~~disclose any such conflict in a manner that is consistent with~~
884 ~~the procedures outlined in s. 112.3143.~~ Each member of a local
885 ~~workforce development~~ board who is not otherwise required to
886 file a full and public disclosure of financial interests under
887 s. 8, Art. II of the State Constitution or s. 112.3144 shall
888 file a statement of financial interests under s. 112.3145. The
889 executive director or designated person responsible for the
890 operational and administrative functions of the local ~~workforce~~
891 ~~development~~ board who is not otherwise required to file a full
892 and public disclosure of financial interests under s. 8, Art. II
893 of the State Constitution or s. 112.3144 shall file a statement
894 of financial interests under s. 112.3145. The local board's
895 website, or the department's website if the local board does not
896 maintain a website, must inform the public that each disclosure
897 or statement has been filed with the Commission on Ethics and
898 provide information on how each disclosure or statement may be
899 reviewed. The notice to the public must remain on the website
900 throughout the term of office or employment of the filer and
901 until 1 year after the term on the local board or employment
902 ends.

903 (2) (a) The local workforce development board shall elect a
904 chair from among the representatives described in Pub. L. No.
905 113-128, Title I, s. 107(b) (2) (A) to serve for a term of no more
906 than 2 years and may not shall serve ~~no~~ more than two terms as
907 chair. Members of a local workforce development board shall
908 serve staggered terms and may not serve for more than 8
909 consecutive years, unless such member is a representative of a



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910 governmental entity. Service in a term of office which commenced
911 before July 1, 2021, does not count toward the 8-year
912 limitation.

913 (b) The Governor may remove a member of the local board,
914 the executive director of the local board, or the designated
915 person responsible for the operational and administrative
916 functions of the local board for cause.

917 (c) The chief elected official for the local ~~workforce~~
918 ~~development~~ board may remove a member of the local board, the
919 executive director of the local board, or the designated person
920 responsible for the operational and administrative functions of
921 the local board for cause.

922 (3) The department shall assign staff to meet with each
923 local workforce development board annually to review the local
924 board's performance as determined under s. 445.004(8) and to
925 certify that the local board is in compliance with applicable
926 state and federal law.

927 (4) In addition to the duties and functions specified by
928 the state board and by the interlocal agreement approved by the
929 local county or city governing bodies, the local workforce
930 development board shall have the following responsibilities:

931 (a) Develop, submit, ratify, or amend the local plan
932 pursuant to Pub. L. No. 113-128, Title I, s. 108 and this act.

933 (b) Conclude agreements necessary to designate the fiscal
934 agent and administrative entity. A public or private entity,
935 including an entity established under s. 163.01, which makes a
936 majority of the appointments to a local ~~workforce development~~
937 board may serve as the local board's administrative entity if
938 approved by the department based upon a showing that a fair and



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939 competitive process was used to select the administrative
940 entity.

941 (c) Provide ongoing oversight related to administrative
942 costs, duplicated services, career counseling, economic
943 development, equal access, compliance and accountability, and
944 performance outcomes.

945 (d) Oversee the one-stop delivery system in its local area.

946 (5) The department and CareerSource Florida, Inc., in
947 consultation with the state board, shall implement a training
948 program for the local workforce development boards to
949 familiarize local board members with the state's workforce
950 development goals and strategies.

951 (6) Consistent with federal and state law, the local
952 workforce development board shall designate all local service
953 providers and may not transfer this authority to a third party.
954 Consistent with the intent of the Workforce Innovation and
955 Opportunity Act, local ~~workforce development~~ boards should
956 provide the greatest possible choice of training providers to
957 those who qualify for training services. A local ~~workforce~~
958 ~~development~~ board may not restrict the choice of training
959 providers based upon cost, location, or historical training
960 arrangements. However, a local board may restrict the amount of
961 training resources available to any one client. Such
962 restrictions may vary based upon the cost of training in the
963 client's chosen occupational area. The local ~~workforce~~
964 ~~development~~ board may be designated as a one-stop operator and
965 direct provider of intake, assessment, eligibility
966 determinations, or other direct provider services except
967 training services. Such designation may occur only with the



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968 agreement of the chief elected official and the Governor as
969 specified in 29 U.S.C. s. 2832(f)(2). The state board shall
970 establish procedures by which a local ~~workforce development~~
971 board may request permission to operate under this section and
972 the criteria under which such permission may be granted. The
973 criteria shall include, but need not be limited to, a reduction
974 in the cost of providing the permitted services. Such permission
975 shall be granted for a period not to exceed 3 years for any
976 single request submitted by the local ~~workforce development~~
977 board.

978 (7) Local workforce development boards shall adopt a
979 committee structure consistent with applicable federal law and
980 state policies established by the state board.

981 (8) The importance of minority and gender representation
982 shall be considered when appointments are made to any committee
983 established by the local workforce development board.

984 (9) For purposes of procurement, local workforce
985 development boards and their administrative entities are not
986 state agencies and are exempt from chapters 120 and 287. The
987 local ~~workforce development~~ boards shall apply the procurement
988 and expenditure procedures required by federal law and policies
989 of the department and the state board for the expenditure of
990 federal, state, and nonpass-through funds. The making or
991 approval of smaller, multiple payments for a single purchase
992 with the intent to avoid or evade the monetary thresholds and
993 procedures established by federal law and policies of the
994 department and the state board is grounds for removal for cause.
995 Local ~~workforce development~~ boards, their administrative
996 entities, committees, and subcommittees, and other workforce



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997 units may authorize expenditures to award suitable framed
998 certificates, pins, or other tokens of recognition for
999 performance by units of the workforce development system. Local
1000 ~~workforce development~~ boards; their administrative entities,
1001 committees, and subcommittees; and other workforce units may
1002 authorize expenditures for promotional items, such as t-shirts,
1003 hats, or pens printed with messages promoting the state's
1004 ~~Florida's~~ workforce system to employers, job seekers, and
1005 program participants. However, such expenditures are subject to
1006 federal regulations applicable to the expenditure of federal
1007 funds. All contracts executed by local ~~workforce development~~
1008 boards must include specific performance expectations and
1009 deliverables.

1010 (10) State and federal funds provided to the local
1011 workforce development boards may not be used directly or
1012 indirectly to pay for meals, food, or beverages for members,
1013 staff, or employees of local ~~workforce development~~ boards, the
1014 state board, or the department except as expressly authorized by
1015 state law. Preapproved, reasonable, and necessary per diem
1016 allowances and travel expenses may be reimbursed. Such
1017 reimbursement shall be at the standard travel reimbursement
1018 rates established in s. 112.061 and shall be in compliance with
1019 all applicable federal and state requirements. The department
1020 shall provide fiscal and programmatic guidance to the state
1021 board, CareerSource Florida, Inc., and all local ~~workforce~~
1022 ~~development~~ boards to hold both the state and local ~~workforce~~
1023 ~~development~~ boards strictly accountable for adherence to the
1024 policy and subject to regular and periodic monitoring by the
1025 department. Local boards are prohibited from expending state or



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1026 federal funds for entertainment costs and recreational
1027 activities for local board members and employees as these terms
1028 are defined by 2 C.F.R. part 200.

1029 (11) (a) To increase transparency and accountability, a
1030 local workforce development board must comply with the
1031 requirements of this section before contracting with a member of
1032 the local board; ~~or~~ a relative, as defined in s. 112.3143(1)(c),
1033 of a local board member; an organization or individual
1034 represented on the local board; or of an employee of the local
1035 board. Such contracts may not be executed before or without the
1036 prior approval of the department. Such contracts, as well as
1037 documentation demonstrating adherence to this section as
1038 specified by the department, must be submitted to the department
1039 for review and approval. Such a contract must be approved by a
1040 two-thirds vote of the local board, a quorum having been
1041 established; all conflicts of interest must be disclosed before
1042 the vote in a manner consistent with the procedures outlined in
1043 s. 112.3143(4); and any member who may benefit from the
1044 contract, or whose organization or relative may benefit from the
1045 contract, must abstain from the vote. A contract subject to the
1046 requirements of this subsection may not be included on a consent
1047 agenda.

1048 (b) A contract under \$10,000 ~~\$25,000~~ between a local
1049 ~~workforce development board, and a member of that board or~~
1050 ~~between~~ a relative, as defined in s. 112.3143(1)(c), of a local
1051 board member, or of an employee of the local board is not
1052 required to have the prior approval of the department, but must
1053 be approved by a two-thirds vote of the local board, a quorum
1054 having been established, and must be reported to the department



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1055 and the state board within 30 days after approval.

1056 (c) All contracts between a local board and a member of the
1057 local board; a relative, as defined in s. 112.3143(1)(c), of a
1058 local board member; an organization or individual represented on
1059 the local board; or an employee of the local board, approved on
1060 or after July 1, 2021, must also be published on the local
1061 board's website, or on the department's website if the local
1062 board does not maintain a website, within 10 days after approval
1063 by the local board or department, whichever is later. Such
1064 contracts must remain published on the website for at least 1
1065 year after termination of the contract.

1066 (d) In considering whether to approve a contract under this
1067 subsection, the department shall review and consider all
1068 documentation provided to the department by the local board,
1069 including the performance of the entity with which the local
1070 board is proposing to contract with, if applicable, and the
1071 nature, size, and makeup of the business community served by the
1072 local board, including whether the entity with which the local
1073 board is proposing to contract with is the only provider of the
1074 desired goods or services within the area served by the local
1075 board ~~If a contract cannot be approved by the department, a~~
1076 ~~review of the decision to disapprove the contract may be~~
1077 ~~requested by the local workforce development board or other~~
1078 ~~parties to the disapproved contract.~~

1079 (12) Each local workforce development board shall develop a
1080 budget for the purpose of carrying out the duties of the local
1081 board under this section, subject to the approval of the chief
1082 elected official. Each local ~~workforce development~~ board shall
1083 submit its annual budget for review to the department no later



1084 than 2 weeks after the chair approves the budget. The local
1085 board shall publish the budget on its website, or the
1086 department's website if the local board does not maintain a
1087 website, within 10 days after approval by the department. The
1088 budget must remain published on the website for the duration of
1089 the fiscal year for which it accounts for the expenditure of
1090 funds.

1091 (13) Each local workforce development board shall annually,
1092 within 30 days after the end of the fiscal year, disclose to the
1093 department, in a manner determined by the department, the amount
1094 and nature of compensation paid to all executives, officers,
1095 directors, trustees, key employees, and the highest compensated
1096 employees, as defined for purposes of the Internal Revenue
1097 Service Form 990, Return of Organization Exempt from Income Tax,
1098 including salary, bonuses, present value of vested benefits,
1099 including, but not limited to, retirement, accrued leave and
1100 paid time off, cashed-in leave, cash equivalents, severance pay,
1101 pension plan accruals and contributions, deferred compensation,
1102 real property gifts, and any other liability owed to such
1103 persons. The disclosure must be accompanied by a written
1104 declaration, as provided for under s. 92.525(2), from the chief
1105 financial officer, or his or her designee, that he or she has
1106 read the foregoing document and the facts stated in it are true.
1107 Such information must also be published on the local board's
1108 website, or the department's website if the local board does not
1109 maintain a website, for a period of 3 years after it is first
1110 published.

1111 (14) Each local workforce development board shall annually
1112 publish its most recent Internal Revenue Service Form 990,



1113 Return of Organization Exempt from Income Tax, on its website,
1114 or the department's website if the local board does not maintain
1115 a website. The form must be posted on the local board's website
1116 within 60 calendar days after it is filed with the Internal
1117 Revenue Service and remain posted for 3 years after it is filed.

1118 Section 9. Paragraphs (a) and (e) of subsection (8) of
1119 section 445.009, Florida Statutes, are amended to read:

1120 445.009 One-stop delivery system.—

1121 (8) (a) Individual Training Accounts must be expended on
1122 programs that prepare people to enter ~~high-wage~~ occupations
1123 identified by the Labor Market Workforce Estimating Conference
1124 created by s. 216.136, and on other programs recommended and
1125 approved by the state board following a review by the department
1126 to determine the program's compliance with federal law.

1127 (e) Training services provided through Individual Training
1128 Accounts must be performance-based, with successful job
1129 placement triggering final full payment of at least 10 percent.

1130 Section 10. Section 445.011, Florida Statutes, is amended,
1131 to read:

1132 445.011 Consumer-first workforce system ~~information~~
1133 ~~systems~~.—

1134 (1) The department, in consultation with the state board,
1135 the Department of Education, and the Department of Children and
1136 Families, shall implement, subject to legislative appropriation,
1137 an automated consumer-first workforce system that improves
1138 coordination among required one-stop partners and is ~~information~~
1139 ~~systems that are necessary for the efficient and effective~~
1140 operation and management of the workforce development system.
1141 This system ~~These information systems~~ shall include, but need



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1142 not be limited to, the following:

1143 (a) An integrated management system for the one-stop
1144 service delivery system, which includes, at a minimum, common
1145 registration and intake for required one-stop partners,
1146 screening for needs and benefits, case management ~~planning and~~
1147 ~~tracking~~, training benefits management, service and training
1148 provider management, performance reporting, executive
1149 information and reporting, and customer-satisfaction tracking
1150 and reporting.

1151 1. The system should report current budgeting, expenditure,
1152 and performance information for assessing performance related to
1153 outcomes, service delivery, and financial administration for
1154 workforce programs pursuant to s. 445.004(5) and (9).

1155 2. The ~~information~~ system should include auditable systems
1156 and controls to ensure financial integrity and valid and
1157 reliable performance information.

1158 3. The system should support service integration and case
1159 management across programs and agencies by providing for case
1160 tracking for participants in workforce programs, participants
1161 who receive benefits pursuant to public assistance programs
1162 under chapter 414, and participants in welfare transition
1163 programs under this chapter.

1164 (b) An automated job-matching information system that is
1165 accessible to employers, job seekers, and other users via the
1166 Internet, and that includes, at a minimum:

1167 1. Skill match information, including skill gap analysis;
1168 resume creation; job order creation; skill tests; job search by
1169 area, employer type, and employer name; and training provider
1170 linkage;



1171 2. Job market information based on surveys, including
1172 local, state, regional, national, and international occupational
1173 and job availability information; and

1174 3. Service provider information, including education and
1175 training providers, child care facilities and related
1176 information, health and social service agencies, and other
1177 providers of services that would be useful to job seekers.

1178 (2) The department may procure independent verification and
1179 validation services associated with developing and implementing
1180 the consumer-first any workforce information system.

1181 (3) The department shall coordinate development and
1182 implementation of the consumer-first workforce system
1183 ~~information systems~~ with the state chief information officer to
1184 ensure compatibility with the state's information system
1185 strategy and enterprise architecture.

1186 (4) Any contract entered into or renewed on or after July
1187 1, 2021, for the purpose of implementing this section must be
1188 performance based.

1189 (5) The department shall develop training for required one-
1190 stop partners on the use of the consumer-first workforce system
1191 and how to prequalify individuals for workforce programs.

1192 Section 11. Section 445.033, Florida Statutes, is amended
1193 to read:

1194 445.033 Evaluation.—The department state board and the
1195 Department of Children and Families shall measure the
1196 performance of workforce-related programs and services for
1197 participants who receive benefits pursuant to family self-
1198 sufficiency programs under chapter 414, and participants in
1199 welfare transition ~~arrange for evaluation of TANF-funded~~



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1200 programs ~~operated~~ under this chapter, as follows:

1201 ~~(1) If required by federal waivers or other federal~~
1202 ~~requirements, the state board and the department may provide for~~
1203 ~~evaluation according to these requirements.~~

1204 ~~(1)(2) The state board and the department shall consult~~
1205 ~~with local workforce development boards to develop annual~~
1206 ~~performance reports that analyze participants' transition from~~
1207 ~~public assistance to self-sufficiency, including, but not~~
1208 ~~limited to, shall participate in the evaluation of this program~~
1209 ~~in conjunction with evaluation of the state's workforce~~
1210 ~~development programs or similar activities aimed at evaluating~~
1211 ~~program outcomes, cost-effectiveness, ~~or~~ return on investment,~~
1212 ~~coenrollment in these programs, and the impact of time limits,~~
1213 ~~sanctions, and other welfare reform measures set out in this~~
1214 ~~chapter. Each local board shall, at a minimum, provide quarterly~~
1215 ~~reports on the following measures:~~

1216 ~~(a) The percent of participants working in unsubsidized~~
1217 ~~employment.~~

1218 ~~(b) The percent of participants who stop receiving benefits~~
1219 ~~for reasons other than disqualification or sanction.~~

1220 ~~(c) The number of sanctions and waivers that are granted,~~
1221 ~~measured by the type of sanction or waiver and the number of~~
1222 ~~completed compliance activities that lead to a restoration of~~
1223 ~~benefits.~~

1224 ~~(d) The median placement wage rate.~~

1225 ~~(e) The TANF work participation rate, defined as the~~
1226 ~~participation requirements specified under Pub. L. No. 109-171,~~
1227 ~~the Deficit Reduction Act of 2005.~~

1228 ~~(f) A self-sufficiency index, by county, calculated each~~



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1229 quarter based on the percent of current or former participants
1230 who stop receiving benefits or are working 30 or more hours per
1231 week and at 1 and 2 years after participants stop receiving
1232 benefits or work 30 or more hours per week. The quarterly report
1233 must include the percentage of participants earning at or above
1234 200 percent of the federal poverty level 3 years after
1235 participants stop receiving benefits or work 30 or more hours
1236 per week. The quarterly report must also contain an expected
1237 range of performance for each county on the self-sufficiency
1238 index. The expected range shall be derived by a statistical
1239 methodology developed in consultation with the local boards. The
1240 statistical methodology shall control differences across
1241 counties in economic conditions and demographics of participants
1242 in family self-sufficiency programs under chapter 414, and
1243 welfare transition programs under this chapter ~~Evaluation shall~~
1244 ~~also contain information on the number of participants in work~~
1245 ~~experience assignments who obtain unsubsidized employment,~~
1246 ~~including, but not limited to, the length of time the~~
1247 ~~unsubsidized job is retained, wages, and the public benefits, if~~
1248 ~~any, received by such families while in unsubsidized employment.~~
1249 ~~The evaluation must solicit the input of consumers, community-~~
1250 ~~based organizations, service providers, employers, and the~~
1251 ~~general public, and must publicize, especially in low-income~~
1252 ~~communities, the process for submitting comments.~~

1253 (2)~~(3)~~ The state board and the department shall ~~may~~ share
1254 information with and develop protocols for information exchange
1255 with the Florida Education and Training Placement Information
1256 Program.

1257 (3)~~(4)~~ The state board and the department may initiate or



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1258 participate in additional evaluation or assessment activities
1259 that will further the systematic study of issues related to
1260 program goals and outcomes.

1261 (4)~~(5)~~ In providing for evaluation activities, the state
1262 board and the department shall safeguard the use or disclosure
1263 of information obtained from program participants consistent
1264 with federal or state requirements. Evaluation methodologies may
1265 be used which are appropriate for evaluation of program
1266 activities, including random assignment of recipients or
1267 participants into program groups or control groups. To the
1268 extent necessary or appropriate, evaluation data shall provide
1269 information with respect to the state, district, or county, or
1270 other substate area.

1271 (5)~~(6)~~ The state board and the department may contract with
1272 a qualified organization for evaluations conducted under this
1273 section.

1274 Section 12. Section 445.038, Florida Statutes, is amended
1275 to read:

1276 445.038 Digital media; job training.—CareerSource Florida,
1277 Inc., through the Department of Economic Opportunity, may use
1278 funds dedicated for incumbent worker training for the digital
1279 media industry. Training may be provided by public or private
1280 training providers for broadband digital media jobs listed on
1281 the ~~targeted~~ occupations list developed by the Labor Market
1282 ~~Workforce~~ Estimating Conference ~~or CareerSource Florida, Inc.~~
1283 Programs that operate outside the normal semester time periods
1284 and coordinate the use of industry and public resources should
1285 be given priority status for funding.

1286 Section 13. Subsection (8) of section 446.021, Florida



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1287 Statutes, is amended to read:

1288 446.021 Definitions of terms used in ss. 446.011-446.092.—

1289 As used in ss. 446.011-446.092, the term:

1290 (8) "Uniform minimum ~~preapprenticeship~~ standards" means the
1291 minimum requirements established uniformly for each occupation
1292 ~~craft~~ under which an apprenticeship or a preapprenticeship
1293 program is administered or a work-based learning opportunity is
1294 provided. The term and includes standards of admission, training
1295 goals, training objectives, curriculum outlines, objective
1296 standards to measure successful completion of the apprenticeship
1297 or preapprenticeship program or work-based learning opportunity,
1298 and the percentage of credit which may be given to an apprentice
1299 or a preapprentice or work-based learning student
1300 ~~preapprenticeship graduates upon acceptance into the~~
1301 ~~apprenticeship program.~~

1302 Section 14. Subsection (1), paragraphs (b) and (f) of
1303 subsection (2), and subsection (3) of section 446.032, Florida
1304 Statutes, are amended, and paragraphs (g) and (h) are added to
1305 subsection (2) of that section, to read:

1306 446.032 General duties of the department for apprenticeship
1307 training.—The department shall:

1308 (1) Establish uniform minimum standards and policies
1309 governing apprenticeship and preapprenticeship apprentice
1310 programs and agreements which must require training providers to
1311 submit data necessary to determine program performance
1312 consistent with state and federal law. The standards and
1313 policies shall govern the terms and conditions of the
1314 apprentice's employment and training, including the quality
1315 training of the apprentice for, but not limited to, such matters



1316 as ratios of apprentices to journeymen, safety, related
1317 instruction, and on-the-job training; but these standards and
1318 policies may not include rules, standards, or guidelines that
1319 require the use of apprentices and job trainees on state,
1320 county, or municipal contracts. The department shall ~~may~~ adopt
1321 rules necessary to administer the standards and policies.

1322 (2) By September 1 of each year, publish an annual report
1323 on apprenticeship and preapprenticeship programs. The report
1324 must be published on the department's website and, at a minimum,
1325 include all of the following:

1326 (b) A detailed summary of each local educational agency's
1327 expenditure of funds for apprenticeship and preapprenticeship
1328 programs, including:

1329 1. The total amount of funds received for apprenticeship
1330 and preapprenticeship programs. ~~†~~

1331 2. The total amount of funds allocated by training
1332 provider, program, and to each trade or ~~†~~ occupation. ~~†~~

1333 3. The total amount of funds expended for administrative
1334 costs by training provider, program, and per trade or
1335 occupation. ~~†~~ ~~and~~

1336 4. The total amount of funds expended for instructional
1337 costs by training provider, program, ~~per trade~~ and occupation.

1338 (f) Documentation of activities conducted by the department
1339 to promote apprenticeship and preapprenticeship programs through
1340 public engagement, community-based partnerships, and other
1341 initiatives and the outcomes of such activities and their impact
1342 on establishing or expanding apprenticeship and
1343 preapprenticeship programs.

1344 (g) Retention and completion rates of participants



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1345 disaggregated by training provider, program, and occupation.

1346 (h) Wage progression of participants as demonstrated by
1347 starting, exit, and postapprenticeship wages at 1 and 5 years
1348 after participants exit the program.

1349 (3) Provide assistance to district school boards, Florida
1350 College System institution boards of trustees, program sponsors,
1351 and local workforce development boards in notifying students,
1352 parents, and members of the community of the availability of
1353 apprenticeship and preapprenticeship opportunities, including
1354 data provided in the economic security report under ~~pursuant to~~
1355 s. 445.07 and other state career planning resources.

1356 Section 15. Section 446.041, Florida Statutes, is amended
1357 to read:

1358 446.041 ~~Apprenticeship program~~, Duties of the department.-
1359 The department shall:

1360 (1) Administer ss. 446.011-446.092.

1361 (2) Administer the standards established by the department.

1362 (3) Register in accordance with this chapter any
1363 apprenticeship or preapprenticeship program, regardless of
1364 affiliation, which meets standards established by the
1365 department.

1366 (4) Investigate complaints concerning the failure of any
1367 registered program to meet the standards established by the
1368 department.

1369 (5) Cancel the registration of any program that fails to
1370 comply with the standards and policies of the department or that
1371 unreasonably fails or refuses to cooperate with the department
1372 in monitoring and enforcing compliance with the standards.

1373 (6) Develop and encourage apprenticeship programs.



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1374 (7) Lead and coordinate outreach efforts to educate
1375 veterans about apprenticeship and career opportunities.

1376 (8) Cooperate with and assist local apprenticeship sponsors
1377 in the development of their apprenticeship standards and
1378 training requirements.

1379 (9) Encourage registered apprenticeship programs to grant
1380 consideration and credit to individuals completing registered
1381 preapprenticeship programs.

1382 (10) Monitor registered apprenticeship programs to ensure
1383 that they are being operated in compliance with all applicable
1384 standards.

1385 (11) Supervise all apprenticeship programs that are
1386 registered with the department.

1387 (12) Ensure that minority and gender diversity are
1388 considered in administering this program.

1389 (13) Adopt rules required to administer ss. 446.011-
1390 446.092.

1391 Section 16. Section 446.090, Florida Statutes, is created
1392 to read:

1393 446.090 Work-based learning opportunities.-

1394 (1) As used in this section, the term "work-based learning
1395 opportunity" means an interaction with industry or community
1396 professionals which occurs in a workplace setting, to the extent
1397 possible, or a simulated environment at an educational
1398 institution that allows firsthand experience with tasks required
1399 in a given career field, is aligned with curriculum and
1400 instruction, and is provided in partnership with an educational
1401 institution.

1402 (2) A work-based learning opportunity must meet all of the



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1403 following criteria:

1404 (a) Be developmentally appropriate.

1405 (b) Identify learning objectives for the term of
1406 experience.

1407 (c) Explore multiple aspects of an industry.

1408 (d) Develop workplace skills and competencies.

1409 (e) Assess performance.

1410 (f) Provide opportunities for work-based reflection.

1411 (g) Link to next steps in career planning and preparation
1412 in a student's chosen career pathway.

1413 (h) Be provided in an equal and fair manner.

1414 (i) Be documented and reported in compliance with state and
1415 federal labor laws.

1416
1417 A work-based learning opportunity should prioritize paid
1418 experiences, such as apprenticeship and preapprenticeship
1419 programs.

1420 (3) The State Board of Education shall adopt rules to
1421 implement this section which must include uniform minimum
1422 standards and guidelines for determining student eligibility,
1423 obligations of employers, and requirements of institutions that
1424 offer work-based learning opportunities.

1425 Section 17. Subsection (43) of section 570.07, Florida
1426 Statutes, is amended to read:

1427 570.07 Department of Agriculture and Consumer Services;
1428 functions, powers, and duties.—The department shall have and
1429 exercise the following functions, powers, and duties:

1430 (43) In cooperation with the Institute of Food and
1431 Agricultural Sciences at the University of Florida and the



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1432 College of Agriculture and Food Sciences at the Florida
1433 Agricultural and Mechanical University, submit industry
1434 certifications for agriculture occupations to annually provide
1435 to the Credentials Review Committee established in s. 445.004(4)
1436 ~~State Board of Education and the Department of Education~~
1437 ~~information and industry certifications for farm occupations to~~
1438 be considered for placement on the Master Credentials List ~~CAPE~~
1439 ~~Industry Certification Funding List and the CAPE Postsecondary~~
1440 ~~Industry Certification Funding List pursuant to s. 1008.44.~~
1441 ~~Information and industry certifications provided by the~~
1442 ~~department must be based upon the best available~~
1443 ~~data.~~

1444 Section 18. Paragraph (b) of subsection (5) of section
1445 1001.706, Florida Statutes, is amended to read:

1446 1001.706 Powers and duties of the Board of Governors.—

1447 (5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

1448 (b) The Board of Governors shall develop a strategic plan
1449 specifying goals and objectives for the State University System
1450 and each constituent university, including each university's
1451 contribution to overall system goals and objectives. The
1452 strategic plan must:

1453 1. Include performance metrics and standards common for all
1454 institutions and metrics and standards unique to institutions
1455 depending on institutional core missions, including, but not
1456 limited to, student admission requirements, retention,
1457 graduation, percentage of graduates who have attained
1458 employment, percentage of graduates enrolled in continued
1459 education, licensure passage, average wages of employed
1460 graduates, average cost per graduate, excess hours, student loan



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1461 burden and default rates, faculty awards, total annual research
1462 expenditures, patents, licenses and royalties, intellectual
1463 property, startup companies, annual giving, endowments, and
1464 well-known, highly respected national rankings for institutional
1465 and program achievements.

1466 2. Consider reports and recommendations of the Florida
1467 Talent Development Council under ~~pursuant to~~ s. 1004.015 and the
1468 Articulation Coordinating Committee under ~~pursuant to~~ s.
1469 1007.01.

1470 3. Include student enrollment and performance data
1471 delineated by method of instruction, including, but not limited
1472 to, traditional, online, and distance learning instruction.

1473 4. Include criteria for designating baccalaureate degree
1474 and master's degree programs at specified universities as high-
1475 demand programs of emphasis. The programs of emphasis list
1476 adopted by the Board of Governors before July 1, 2021, shall be
1477 used for the 2021-2022 academic year. Beginning in the 2022-2023
1478 academic year, the Board of Governors shall adopt the criteria
1479 to determine value for and prioritization of degree credentials
1480 and degree programs established by the Credentials Review
1481 Committee under s. 445.004 for designating ~~Fifty percent of the~~
1482 criteria for designation as high-demand programs of emphasis.
1483 The Board of Governors must review designated programs of
1484 emphasis, at a minimum, every 3 years to ensure alignment with
1485 the prioritization of degree credentials and degree programs
1486 identified by the Credentials Review Committee ~~must be based on~~
1487 achievement of performance outcome thresholds determined by the
1488 Board of Governors, and 50 percent of the criteria must be based
1489 on achievement of performance outcome thresholds specifically



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1490 ~~linked to:~~

1491 ~~a. Job placement in employment of 36 hours or more per week~~
1492 ~~and average full-time wages of graduates of the degree programs~~
1493 ~~1 year and 5 years after graduation, based in part on data~~
1494 ~~provided in the economic security report of employment and~~
1495 ~~earning outcomes produced annually pursuant to s. 445.07.~~

1496 ~~b. Data-driven gap analyses, conducted by the Board of~~
1497 ~~Governors, of the state's job market demands and the outlook for~~
1498 ~~jobs that require a baccalaureate or higher degree. Each state~~
1499 ~~university must use the gap analyses to identify internship~~
1500 ~~opportunities for students to benefit from mentorship by~~
1501 ~~industry experts, earn industry certifications, and become~~
1502 ~~employed in high-demand fields.~~

1503 Section 19. Paragraph (e) of subsection (1) of section
1504 1003.4156, Florida Statutes, is amended to read:

1505 1003.4156 General requirements for middle grades
1506 promotion.—

1507 (1) In order for a student to be promoted to high school
1508 from a school that includes middle grades 6, 7, and 8, the
1509 student must successfully complete the following courses:

1510 (e) One course in career and education planning to be
1511 completed in grades 6, 7, or 8, which may be taught by any
1512 member of the instructional staff. The course must be Internet-
1513 based, customizable to each student, and include research-based
1514 assessments to assist students in determining educational and
1515 career options and goals. In addition, the course must result in
1516 a completed personalized academic and career plan for the
1517 student that may be revised as the student progresses through
1518 middle school and high school; must emphasize the importance of



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1519 entrepreneurship and employability skills; and must include
1520 information from the Department of Economic Opportunity's
1521 economic security report under s. 445.07 and other state career
1522 planning resources. The required personalized academic and
1523 career plan must inform students of high school graduation
1524 requirements, including a detailed explanation of the
1525 requirements for earning a high school diploma designation under
1526 s. 1003.4285; the requirements for each scholarship in the
1527 Florida Bright Futures Scholarship Program; state university and
1528 Florida College System institution admission requirements;
1529 available opportunities to earn college credit in high school,
1530 including Advanced Placement courses; the International
1531 Baccalaureate Program; the Advanced International Certificate of
1532 Education Program; dual enrollment, including career dual
1533 enrollment; and career education courses, including career-
1534 themed courses, preapprenticeship and apprenticeship programs,
1535 and course sequences that lead to industry certification
1536 pursuant to s. 1003.492 or s. 1008.44. The course may be
1537 implemented as a stand-alone course or integrated into another
1538 course or courses.

1539 Section 20. Paragraph (s) of subsection (2) of section
1540 1003.42, Florida Statutes, is amended to read:

1541 1003.42 Required instruction.—

1542 (2) Members of the instructional staff of the public
1543 schools, subject to the rules of the State Board of Education
1544 and the district school board, shall teach efficiently and
1545 faithfully, using the books and materials required that meet the
1546 highest standards for professionalism and historical accuracy,
1547 following the prescribed courses of study, and employing



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1548 approved methods of instruction, the following:

1549 (s) A character development program in the elementary
1550 schools, similar to Character First or Character Counts, which
1551 is secular in nature. Beginning in school year 2004-2005, the
1552 character development program shall be required in kindergarten
1553 through grade 12. Each district school board shall develop or
1554 adopt a curriculum for the character development program that
1555 shall be submitted to the department for approval. The character
1556 development curriculum shall stress the qualities of patriotism;
1557 responsibility; citizenship; kindness; respect for authority,
1558 life, liberty, and personal property; honesty; charity; self-
1559 control; racial, ethnic, and religious tolerance; and
1560 cooperation. The character development curriculum for grades 9
1561 through 12 shall, at a minimum, include instruction on
1562 developing leadership skills, interpersonal skills, organization
1563 skills, and research skills; creating a resume, including a
1564 digital resume; exploring career pathways; using state career
1565 planning resources; developing and practicing the skills
1566 necessary for employment interviews; conflict resolution,
1567 workplace ethics, and workplace law; managing stress and
1568 expectations; and developing skills that enable students to
1569 become more resilient and self-motivated.

1570
1571 The State Board of Education is encouraged to adopt standards
1572 and pursue assessment of the requirements of this subsection. A
1573 character development program that incorporates the values of
1574 the recipients of the Congressional Medal of Honor and that is
1575 offered as part of a social studies, English Language Arts, or
1576 other schoolwide character building and veteran awareness



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1577 initiative meets the requirements of paragraphs (s) and (t).

1578 Section 21. Subsections (3) and (5) of section 1003.4203,
1579 Florida Statutes, are amended to read:

1580 1003.4203 Digital materials, CAPE Digital Tool
1581 certificates, and technical assistance.—

1582 (3) CAPE DIGITAL TOOL CERTIFICATES.—The department shall
1583 identify, in the CAPE Industry Certification Funding List under
1584 ss. 1003.492 and 1008.44 ~~by June 15 of each year~~, CAPE Digital
1585 Tool certificates that indicate a student's digital skills. The
1586 department shall notify each school district when the
1587 certificates are available. The certificates shall be made
1588 available to all public elementary and middle grades students.

1589 (a) Targeted skills to be mastered for the certificate
1590 include digital skills that are necessary to the student's
1591 academic work and skills the student may need in future
1592 employment. ~~The skills must include, but are not limited to,~~
1593 ~~word processing; spreadsheets; presentations, including sound,~~
1594 ~~motion, and color presentations; digital arts; cybersecurity;~~
1595 ~~and coding consistent with CAPE industry certifications that are~~
1596 ~~listed on the CAPE Industry Certification Funding List, pursuant~~
1597 ~~to ss. 1003.492 and 1008.44.~~ CAPE Digital Tool certificates
1598 earned by students are eligible for additional full-time
1599 equivalent membership under ~~pursuant to~~ s. 1011.62(1)(o)1.a.

1600 (b) The school district shall notify each middle school
1601 advisory council of the methods of delivery of the open-access
1602 content and assessments for the certificates. If there is no
1603 middle school advisory council, notification must be provided to
1604 the district advisory council.

1605 (c) The Legislature intends that by July 1, 2018, on an



1606 annual basis, at least 75 percent of public middle grades
1607 students earn at least one CAPE Digital Tool certificate.

1608 (5) CAPE INNOVATION AND CAPE ACCELERATION.—

1609 (a) *CAPE Innovation.*—~~Up to five Courses identified in the~~
1610 CAPE Industry Certification Funding List which annually approved
1611 ~~by the commissioner that~~ combine academic and career content,
1612 and performance outcome expectations that, if achieved by a
1613 student, shall articulate for college credit and be eligible for
1614 additional full-time equivalent membership under ~~pursuant to~~ s.
1615 1011.62(1)(o)1.c. Such approved courses must incorporate at
1616 least two third-party assessments that, if successfully
1617 completed by a student, shall articulate for college credit. At
1618 least one of the two third-party assessments must be associated
1619 with an industry certification that is identified on the CAPE
1620 Industry Certification Funding List. Each course that is
1621 approved by the commissioner must be specifically identified in
1622 the Course Code Directory as a CAPE Innovation Course.

1623 (b) *CAPE Acceleration.*—Industry certifications, ~~annually~~
1624 ~~approved by the commissioner,~~ that articulate for 15 or more
1625 college credit hours and, if successfully completed, are ~~shall~~
1626 ~~be~~ eligible for additional full-time equivalent membership under
1627 ~~pursuant to~~ s. 1011.62(1)(o)1.d. Each approved industry
1628 certification must be specifically identified in the CAPE
1629 Industry Certification Funding List as a CAPE Acceleration
1630 Industry Certification.

1631 Section 22. Paragraphs (a) and (b) of subsection (3) and
1632 subsection (5) of section 1003.491, Florida Statutes, are
1633 amended to read:

1634 1003.491 Florida Career and Professional Education Act.—The



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1635 Florida Career and Professional Education Act is created to
1636 provide a statewide planning partnership between the business
1637 and education communities in order to attract, expand, and
1638 retain targeted, high-value industry and to sustain a strong,
1639 knowledge-based economy.

1640 (3) The strategic 3-year plan developed jointly by the
1641 local school district, local workforce development boards,
1642 economic development agencies, and state-approved postsecondary
1643 institutions shall be constructed and based on:

1644 (a) Research conducted to objectively determine local and
1645 regional workforce needs for the ensuing 3 years, using labor
1646 projections as identified by the Labor Market Estimating
1647 Conference created in s. 216.136 of the United States Department
1648 of Labor and the Department of Economic Opportunity;

1649 (b) Strategies to develop and implement career academies or
1650 career-themed courses based on occupations identified by the
1651 Labor Market Estimating Conference created in s. 216.136 ~~those~~
1652 ~~careers determined to be high-wage, high-skill, and high-demand;~~

1653 (5) (a) The Commissioner of Education shall conduct an
1654 annual review of K-12 and postsecondary career and technical
1655 education offerings that, at a minimum, must examine: ~~in~~
1656 ~~consultation with the Department of Economic Opportunity,~~
1657 ~~CareerSource Florida, Inc., leaders of business and industry,~~
1658 ~~the Board of Governors, the Florida College System, school~~
1659 ~~districts, and other education stakeholders, to determine the~~
1660 ~~alignment of existing offerings with employer demand,~~
1661 ~~postsecondary degree or certificate programs, and professional~~
1662 ~~industry certifications. The review shall identify career and~~
1663 ~~technical education offerings that are linked to occupations~~



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1664 ~~that are in high demand by employers, require high-level skills,~~
1665 ~~and provide middle-level and high-level wages.~~

1666 1. Alignment of offerings with the framework of quality
1667 under s. 445.004(4).

1668 2. Alignment of offerings at the K-12 and postsecondary
1669 levels with credentials or degree programs identified on the
1670 Master Credentials List under s. 445.004(4).

1671 3. Program utilization and unwarranted duplication across
1672 institutions serving the same students in a geographical or
1673 service area.

1674 4. Institutional performance measured by student outcomes
1675 such as academic achievement, college readiness, postsecondary
1676 enrollment, credential and certification attainment, job
1677 placement, and wages.

1678 (b) The annual review shall utilize data captured through
1679 the Workforce Development Information System under s. 1008.40
1680 and provide an automated data collection process that includes
1681 the collection and evaluation of the federal Comprehensive Local
1682 Needs Assessments, to assist in the review of programs.

1683 (c) ~~(b)~~ Using the findings from the annual review required
1684 in paragraphs (a) and (b) ~~paragraph (a)~~, the commissioner shall
1685 phase out career and technical education offerings that are not
1686 aligned with the framework of quality, do not meet labor market
1687 demand under s. 445.004(4), do not meet institutional
1688 performance, or are unwarranted program duplications. The
1689 commissioner shall ~~needs of employers or do not provide program~~
1690 completers with a middle-wage or high-wage occupation and
1691 encourage school districts and Florida College System
1692 institutions to offer programs that are not offered currently.



1693 (d) The department shall adopt rules to administer this
1694 section.

1695 Section 23. Subsections (2) through (5) of section
1696 1003.492, Florida Statutes, are amended to read:

1697 1003.492 Industry-certified career education programs.—

1698 (2) Industry certification as used in this section is a
1699 voluntary process through which students are assessed by an
1700 independent, third-party certifying entity using predetermined
1701 standards for knowledge, skills, and competencies, resulting in
1702 the award of a credential that is identified on the Master
1703 Credentials List under s. 445.004(4) ~~nationally recognized and~~
1704 ~~must be at least one of the following:~~

1705 ~~(a) Within an industry that addresses a critical local or~~
1706 ~~statewide economic need;~~

1707 ~~(b) Linked to an occupation that is included in the~~
1708 ~~workforce system's targeted occupation list; or~~

1709 ~~(c) Linked to an occupation that is identified as emerging.~~

1710 ~~(3) The State Board of Education shall use the expertise of~~
1711 ~~CareerSource Florida, Inc., and the Department of Agriculture~~
1712 ~~and Consumer Services to develop and adopt rules pursuant to ss.~~
1713 ~~120.536(1) and 120.54 for implementing an industry certification~~
1714 ~~process.~~

1715 ~~(a) For nonfarm occupations, industry certification must be~~
1716 ~~based upon the highest available national standards for specific~~
1717 ~~industry certification to ensure student skill proficiency and~~
1718 ~~to address emerging labor market and industry trends. A local~~
1719 ~~workforce development board or a school principal may apply to~~
1720 ~~CareerSource Florida, Inc., to request additions to the approved~~
1721 ~~list of industry certifications based on high-skill, high-wage,~~



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1722 ~~and high demand job requirements in the local economy.~~
1723 ~~(b) For farm occupations submitted pursuant to s. 570.07,~~
1724 ~~industry certification must demonstrate student skill~~
1725 ~~proficiency and be based upon the best available data to address~~
1726 ~~critical local or statewide economic needs.~~
1727 ~~(4) The list of industry certifications approved by~~
1728 ~~CareerSource Florida, Inc., the Department of Agriculture and~~
1729 ~~Consumer Services, and the Department of Education shall be~~
1730 ~~published and updated annually by a date certain, to be included~~
1731 ~~in the adopted rule.~~
1732 ~~(3)(5) The Department of Education shall collect student~~
1733 ~~achievement and performance data in industry-certified career~~
1734 ~~education programs and career-themed courses which includes and~~
1735 ~~shall work with CareerSource Florida, Inc., and the Department~~
1736 ~~of Agriculture and Consumer Services in the analysis of~~
1737 ~~collected data. The data collection and analyses shall examine~~
1738 ~~the performance of participating students over time. Performance~~
1739 ~~factors must include, but need not be limited to, graduation~~
1740 ~~rates, retention rates, Florida Bright Futures Scholarship~~
1741 ~~awards, additional educational attainment, employment records,~~
1742 ~~earnings, industry certification, return on investment, and~~
1743 ~~employer satisfaction. The results of this study shall be~~
1744 ~~submitted to the President of the Senate and the Speaker of the~~
1745 ~~House of Representatives annually by December 31.~~
1746 Section 24. Paragraph (a) of subsection (2) and subsection
1747 (3) of section 1003.4935, Florida Statutes, are amended to read:
1748 1003.4935 Middle grades career and professional academy
1749 courses and career-themed courses.—
1750 (2) Each middle grades career and professional academy or



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1751 career-themed course must be aligned with at least one high
1752 school career and professional academy or career-themed course
1753 offered in the district and maintain partnerships with local
1754 business and industry and economic development boards. Middle
1755 grades career and professional academies and career-themed
1756 courses must:

1757 (a) Lead to careers in occupations aligned to designated as
1758 ~~high-skill, high-wage, and high-demand~~ in the CAPE Industry
1759 Certification Funding List approved under rules adopted by the
1760 State Board of Education;

1761 (3) Beginning with the 2012-2013 school year, if a school
1762 district implements a middle school career and professional
1763 academy or a career-themed course, the Department of Education
1764 shall collect and report student achievement data pursuant to
1765 performance factors identified under s. 1003.492(3) ~~§-~~
1766 ~~1003.492(5)~~ for students enrolled in an academy or a career-
1767 themed course.

1768 Section 25. Subsection (3) is added to section 1004.013,
1769 Florida Statutes, to read:

1770 1004.013 SAIL to 60 Initiative.—

1771 (3) There is created within the SAIL to 60 Initiative the
1772 Strategic Efforts to Achieve Self-Sufficiency (SEAS) which
1773 consists of:

1774 (a) The workforce opportunity portal under s. 14.36, which
1775 provides the public with more effective access to available
1776 federal, state, and local services and a systemwide, global view
1777 of workforce-related program data across various programs
1778 through actionable qualitative and quantitative information.

1779 (b) The Open Door Grant Program under s. 1009.895, which



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1780 provides grants to school district's postsecondary technical
1781 centers and Florida College System institutions to cover up to
1782 two-thirds of the cost of short-term high-demand programs for
1783 eligible students upon successful completion and award of a
1784 credential of value.

1785 (c) The Money-Back Guarantee Program under s. 1011.803,
1786 which requires each school district and Florida College System
1787 institution to refund the cost of tuition to students who are
1788 not able to find a job within 6 months of successful completion
1789 of select workforce-related programs.

1790 Section 26. Subsection (6) is added to section 1004.015,
1791 Florida Statutes, to read:

1792 1004.015 Florida Talent Development Council.—

1793 (6) The council shall coordinate, facilitate, and
1794 communicate statewide efforts to meet supply and demand needs
1795 for the state's healthcare workforce. Annually, beginning
1796 December 1, 2021, the council shall report on the implementation
1797 of this subsection and any other relevant information on the
1798 Florida Talent Development Council's webpage located on the
1799 Department of Economic Opportunity's website. To support the
1800 efforts of the council, the Board of Governors and the State
1801 Board of Education shall:

1802 (a) Conduct a statistically valid biennial data-driven gap
1803 analysis of the supply and demand of the healthcare workforce.
1804 Demand must align with the Labor Market Estimating Conference
1805 created in s. 216.136.

1806 (b) Provide 10-year trend information on nursing education
1807 programs subject to the requirements of s. 464.019. The
1808 Department of Health, the Board of Governors, the State Board of



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1809 Education, the Commission for Independent Education, the
1810 Independent Colleges and Universities of Florida, and
1811 postsecondary institutions participating in a state grant
1812 program under s. 1009.89 or s. 1009.891 shall provide data on:
1813 1. The number and type of programs and student slots
1814 available.
1815 2. The number of student applications submitted, the number
1816 of qualified student applicants, and the number of students
1817 accepted.
1818 3. The number of program graduates.
1819 4. Program retention rates of students tracked from program
1820 entry to graduation.
1821 5. Graduate passage rates on and the number of times each
1822 graduate took the National Council of State Boards of Nursing
1823 Licensing Examination.
1824 6. The number of graduates who become employed as practical
1825 or professional nurses in this state.
1826 7. The educational advancement of nurses through career
1827 pathways by comparing their initial degree to the highest degree
1828 they obtained for the preceding 10 years.
1829 (c) Develop a survey for use by the Department of Health,
1830 the Commission for Independent Education, the Independent
1831 Colleges and Universities of Florida, and postsecondary
1832 institutions participating in a state grant program under s.
1833 1009.89 or s. 1009.891, to collect data required under paragraph
1834 (b). The survey must include, but is not limited to, a student's
1835 age, gender, race, ethnicity, veteran status, wage, employer
1836 information, loan debt, and retirement expectations.
1837 Section 27. Subsections (12) and (25) of section 1004.02,



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1838 Florida Statutes, are amended to read:
1839 1004.02 Definitions.—As used in this chapter:
1840 (12) “Continuing workforce education” means instruction
1841 that does not result in a registered apprenticeship certificate
1842 of completion, technical certificate, diploma, associate in
1843 applied science degree, or associate in science degree.
1844 Continuing workforce education is for:
1845 (a) Individuals who are required to have training for
1846 licensure renewal or certification renewal by a regulatory
1847 agency or credentialing body;
1848 (b) New or expanding businesses as described in chapter
1849 288;
1850 (c) Business, industry, and government agencies whose
1851 products or services are changing so that retraining of
1852 employees is necessary or whose employees need training in
1853 specific skills to increase efficiency and productivity; or
1854 (d) Individuals who are enhancing occupational skills
1855 necessary to maintain current employment, to cross train, or to
1856 upgrade employment.
1857 (25) “Workforce education” means adult general education or
1858 career education and may consist of a continuing workforce
1859 education course or a program of study leading to an
1860 occupational completion point, a career certificate, an applied
1861 technology diploma, ~~or~~ a career degree, or a registered
1862 apprenticeship certificate of completion.
1863 Section 28. Section 1006.75, Florida Statutes, is created
1864 to read:
1865 1006.75 Student career services.—
1866 (1) Each career center, charter technical center, Florida



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1867 College System institution, and state university shall ensure
1868 that their student career service centers and job placement
1869 resources prepare students for employment upon completion of
1870 their academic work.

1871 (2) Student career service centers shall, to the extent
1872 possible, use state career planning resources to assist students
1873 with all of the following:

1874 (a) Exploring and identifying career opportunities.

1875 (b) Identifying in-demand jobs and associated earning
1876 outcomes.

1877 (c) Understanding the skills and credentials needed for
1878 specific jobs.

1879 (d) Identifying opportunities to gain on-the-job
1880 experiences.

1881 (e) Creating a digital resume.

1882 Section 29. Subsections (4) through (9) of section 1007.25,
1883 Florida Statutes, are redesignated as subsections (5) through
1884 (10), respectively, present subsections (10), (11), and (12) are
1885 redesignated as subsections (12), (13), and (14), respectively,
1886 new subsections (4) and (11) are added to that section, and
1887 present subsections (3) and (5) are amended, to read:

1888 1007.25 General education courses; common prerequisites;
1889 other degree requirements.—

1890 (3) The chair of the State Board of Education and the chair
1891 of the Board of Governors, or their designees, shall jointly
1892 appoint faculty committees to identify statewide general
1893 education core course options. General education core course
1894 options shall consist of a maximum of five courses within each
1895 of the subject areas of communication, mathematics, social



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1896 sciences, humanities, and natural sciences. The core courses may
1897 be revised, or the five-course maximum within each subject area
1898 may be exceeded, if approved by the State Board of Education and
1899 the Board of Governors, as recommended by the subject area
1900 faculty committee and approved by the Articulation Coordinating
1901 Committee as necessary for a subject area. Each general
1902 education core course option must contain high-level academic
1903 and critical thinking skills and common competencies that
1904 students must demonstrate to successfully complete the course.
1905 Beginning with students initially entering a Florida College
1906 System institution or state university in 2015-2016 and
1907 thereafter, each student must complete at least one identified
1908 core course in each subject area as part of the general
1909 education course requirements. Beginning in the 2022-2023
1910 academic year and thereafter, students entering a technical
1911 degree education program as defined in s. 1004.02(13) must
1912 complete at least one identified core course in each subject
1913 area as part of the general education course requirements before
1914 a degree is awarded. All public postsecondary educational
1915 institutions shall accept these courses as meeting general
1916 education core course requirements. The remaining general
1917 education course requirements shall be identified by each
1918 institution and reported to the department by their statewide
1919 course number. The general education core course options shall
1920 be adopted in rule by the State Board of Education and in
1921 regulation by the Board of Governors.

1922 (4) The chair of the State Board of Education and the chair
1923 of the Board of Governors, or their designees, shall jointly
1924 appoint faculty committees to identify the competencies within



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1925 the general education core courses which demonstrate career
1926 readiness and will result in the award of a verifiable and
1927 interoperable, nationally recognized digital credential. All
1928 public postsecondary educational institutions shall grant and
1929 accept the identified digital credential. Beginning with
1930 students initially entering a Florida College System institution
1931 or state university in 2022-2023 and thereafter, each student
1932 must be able to distinguish in the institution's or university's
1933 catalog which general education core courses are linked to
1934 earning a digital credential.

1935 (6)~~(5)~~ The department shall identify those courses offered
1936 by universities and accepted for credit toward a degree. The
1937 department shall identify courses designated as either general
1938 education or required as a prerequisite for a degree and the
1939 digital credentials that may be earned through the general
1940 education core courses. The courses shall be identified by their
1941 statewide course numbers.

1942 (11) Courses that provide instruction in student life
1943 skills, including career planning and exploration, or similar
1944 instruction, and fulfill the requirements for a degree in
1945 subsection (9) or subsection (10) or a degree from a technical
1946 degree education program as defined in s. 1004.02(13), may use
1947 state career planning resources and provide students with the
1948 opportunity to create a digital resume.

1949 Section 30. Subsection (2) of section 1008.39, Florida
1950 Statutes, is amended to read:

1951 1008.39 Florida Education and Training Placement
1952 Information Program.—

1953 (2) Any project conducted by the Department of Education or



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1954 the workforce development system that requires placement
1955 information shall use information provided through the Florida
1956 Education and Training Placement Information Program, and shall
1957 not initiate automated matching of records in duplication of
1958 methods already in place in the Florida Education and Training
1959 Placement Information Program. The department shall implement an
1960 automated system which matches the social security numbers of
1961 former participants in workforce-related programs as defined in
1962 s. 14.36 and state educational and training programs with
1963 information in the files of state and federal agencies that
1964 maintain educational, employment, and United States armed
1965 service records and shall implement procedures to identify the
1966 occupations of those former participants whose social security
1967 numbers are found in employment records, as required by Specific
1968 Appropriation 337A, chapter 84-220, Laws of Florida; Specific
1969 Appropriation 337B, chapter 85-119, Laws of Florida; Specific
1970 Appropriation 350A, chapter 86-167, Laws of Florida; and
1971 Specific Appropriation 351, chapter 87-98, Laws of Florida. The
1972 system shall incorporate data collection elements prescribed by
1973 the Credentials Review Committee under s. 445.004.

1974 Section 31. Section 1008.40, Florida Statutes, is amended
1975 to read:

1976 1008.40 Workforce Development Information System.—The
1977 Department of Education shall:

1978 (1) Design specifications for the collection and reporting
1979 of data and performance specifications for the Workforce
1980 Development Information System. This design must:

1981 (a) Use common terms and enable parallel reporting and
1982 state-level access of workforce data necessary to use the data



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1983 reports as a basis for calculating funding allocations,
1984 conducting audits, and determining compliance of workforce-
1985 related programs, as defined in s. 14.36, and education and
1986 training programs with applicable federal and state requirements
1987 as authorized by federal and state law. This includes
1988 establishing a process for the collection, review, and reporting
1989 of Comprehensive Local Needs Assessments as required by federal
1990 law.

1991 (b) Provide ~~In addition, the design must be capable of~~
1992 ~~providing~~ reports necessary to comply with other program
1993 performance documentation required by state or federal law,
1994 without requiring additional data collection or reporting from
1995 local educational agencies.

1996 (c) Link data from multiple sources for consideration in
1997 developing broad public policy initiatives for workforce-related
1998 programs as defined in s. 14.36.

1999 (2) Develop the computer programs, software, and edit
2000 processes necessary for local and state users to produce a
2001 single, unified Workforce Development Information System.

2002 (3) Work with the Department of Economic Opportunity, the
2003 Department of Children and Families, and other entities to
2004 define statewide education, workforce development, and
2005 employment metrics and ensure the integrity and quality of data
2006 being collected.

2007 (4) Develop a workforce development metrics dashboard that
2008 measures the state's investments in workforce development. To
2009 the extent feasible, the dashboard shall use statistically
2010 rigorous methodologies to estimate, assess, and isolate the
2011 impact of programs on participant outcomes. The workforce



2012 development metrics dashboard shall be produced, to the extent
2013 feasible, using existing available data and resources that are
2014 currently collected and accessible to state agencies. The
2015 department shall convene workforce-related program partners to
2016 develop a standardized set of inputs and outputs for the
2017 workforce development metrics dashboard. The workforce
2018 development metrics dashboard must:

2019 (a) Display the impact of workforce-related programs, as
2020 defined in s. 14.36, on credential attainment, training
2021 completion, degree attainment, and participant wages.

2022 (b) Provide demographic breakdowns, including, to the
2023 extent possible, race, ethnicity, age, gender, veteran status,
2024 wage, student loan debt, barriers to employment, and credential
2025 or degree outcomes, and information on workforce outcomes in
2026 different industry sectors.

2027 (c) Measure, at a minimum and to the extent feasible with
2028 existing resources, the return on investment of the following
2029 workforce-related programs:

2030 1. Career and technical education offered by school
2031 districts and Florida College System institutions.

2032 2. Workforce-related programs as defined in s. 14.36.

2033 3. State apprenticeship programs.

2034 (d) Provide performance data on training providers to
2035 enable individuals to make informed choices.

2036 Section 32. Subsection (3) of section 1008.41, Florida
2037 Statutes, is amended to read:

2038 1008.41 Workforce education; management information
2039 system.—

2040 (3) Planning and evaluation of job-preparatory programs



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2041 shall be based on standard sources of data and use standard
2042 occupational definitions and coding structures, including, but
2043 not limited to:

2044 (a) The Florida Occupational Information System.~~†~~

2045 (b) The Florida Education and Training Placement
2046 Information Program.~~†~~

2047 (c) The Department of Economic Opportunity.~~†~~

2048 (d) The United States Department of Labor.~~†~~ and

2049 (e) The Labor Market Estimating Conference created in s.
2050 216.136.

2051 (f)~~(e)~~ Other sources of data developed using statistically
2052 valid procedures.

2053 Section 33. Subsections (1) and (2) and paragraph (c) of
2054 subsection (4) of section 1008.44, Florida Statutes, are amended
2055 to read:

2056 1008.44 CAPE Industry Certification Funding List ~~and CAPE~~
2057 ~~Postsecondary Industry Certification Funding List.~~

2058 (1) The State Board of Education Pursuant to ss. 1003.4203
2059 and 1003.492, the Department of Education shall adopt, at least
2060 annually, based upon recommendations by the Commissioner of
2061 Education the CAPE Industry Certification Funding List that
2062 assigns additional full-time equivalent membership to
2063 certifications identified in the Master Credentials List under
2064 s. 445.004(4) that meets a statewide, regional, or local demand,
2065 and courses that lead to such certifications, in accordance with
2066 s. 1011.62(1)(o). Additional full-time equivalent membership
2067 funding for regional and local demand certifications and courses
2068 that lead to such certifications may only be earned in those
2069 areas with regional or local demand as identified by the



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2070 Credentials Review Committee. ~~identify, under rules adopted by~~
2071 ~~the State Board of Education, and the Commissioner of Education~~
2072 ~~may at any time recommend adding~~ The CAPE Industry Certification
2073 Funding List may include the following certificates,
2074 certifications, and courses:

2075 (a) CAPE industry certifications identified as credentials
2076 of value that meet the framework of quality under pursuant to s.
2077 445.004(4), ~~on the CAPE Industry Certification Funding List~~ that
2078 must be applied in the distribution of funding to school
2079 districts under ~~pursuant to~~ s. 1011.62(1)(o). The CAPE Industry
2080 Certification Funding List shall incorporate by reference the
2081 industry certifications on the career pathways list approved for
2082 the Florida Gold Seal CAPE Vocational Scholars award. ~~In~~
2083 ~~addition, by August 1 of each year, the not-for-profit~~
2084 ~~corporation established pursuant to s. 445.004 may annually~~
2085 ~~select one industry certification, that does not articulate for~~
2086 ~~college credit, for inclusion on the CAPE Industry Certification~~
2087 ~~Funding List for a period of 3 years unless otherwise approved~~
2088 ~~by the curriculum review committee pursuant to s. 1003.491. Such~~
2089 ~~industry certifications, if earned by a student, shall be~~
2090 ~~eligible for additional full-time equivalent membership,~~
2091 ~~pursuant to s. 1011.62(1)(o)1.~~

2092 (b) ~~No more than 30~~ CAPE Digital Tool certificates under
2093 ~~limited to the areas of word processing; spreadsheets; sound,~~
2094 ~~motion, and color presentations; digital arts; cybersecurity;~~
2095 ~~and coding pursuant to s. 1003.4203(3) that do not articulate~~
2096 ~~for college credit. Such certificates shall be annually~~
2097 ~~identified on the CAPE Industry Certification Funding List and~~
2098 ~~updated solely by the Chancellor of Career and Adult Education.~~



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2099 The certificates shall be made available to students in
2100 elementary school and middle school grades and, if earned by a
2101 student, shall be eligible for additional full-time equivalent
2102 membership under ~~pursuant to~~ s. 1011.62(1)(o)1.

2103 (c) CAPE ESE Digital Tool certificates, workplace industry
2104 certifications, and OSHA industry certifications ~~identified by~~
2105 ~~the Chancellor of Career and Adult Education~~ for students with
2106 disabilities under ~~pursuant to~~ s. 1003.4203(2). Such
2107 certificates and certifications shall ~~be identified on the CAPE~~
2108 ~~Industry Certification Funding List and~~, if earned by a student,
2109 be eligible for additional full-time equivalent membership under
2110 ~~pursuant to~~ s. 1011.62(1)(o)1.

2111 (d) CAPE Innovation Courses that combine academic and
2112 career performance outcomes with embedded industry
2113 certifications under ~~shall be annually approved by the~~
2114 ~~Commissioner of Education and identified pursuant to~~ s.
2115 1003.4203(5)(a). Such courses shall and, if completed by a
2116 student, be eligible for additional full-time equivalent
2117 membership under ~~pursuant to~~ s. 1011.62(1)(o)1.

2118 (e) CAPE Acceleration Industry Certifications that
2119 articulate for 15 or more college credit hours under ~~pursuant to~~
2120 s. 1003.4203(5)(b). Such certifications shall ~~be annually~~
2121 ~~approved by the Commissioner of Education and~~, if successfully
2122 completed, shall be eligible for additional full-time equivalent
2123 membership under ~~pursuant to~~ s. 1011.62(1)(o)1. ~~The approved~~
2124 ~~industry certifications must be identified on the CAPE Industry~~
2125 ~~Certification Funding List.~~

2126 (f) The Commissioner of Education shall conduct a review of
2127 the methodology used to determine additional full-time



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2128 equivalent membership weights assigned in s. 1011.62(1)(o) and,
2129 if necessary, recommend revised weights. The weights must factor
2130 in the prioritization of critical shortages of labor market
2131 demand and middle-level to high-level wage earning outcomes as
2132 identified by the Credentials Review Committee under s. 445.004.
2133 The results of the review and the commissioner's recommendations
2134 must be submitted to the Governor, the President of the Senate,
2135 and the Speaker of the House of Representatives no later than
2136 December 1, 2021.

2137 ~~(2) The State Board of Education shall approve, at least~~
2138 ~~annually, the CAPE Postsecondary Industry Certification Funding~~
2139 ~~List pursuant to this section. The Commissioner of Education~~
2140 ~~shall recommend, at least annually, the CAPE Postsecondary~~
2141 ~~Industry Certification Funding List to the State Board of~~
2142 ~~Education and may at any time recommend adding certifications.~~
2143 ~~The Chancellor of the State University System, the Chancellor of~~
2144 ~~the Florida College System, and the Chancellor of Career and~~
2145 ~~Adult Education shall work with local workforce boards, other~~
2146 ~~postsecondary institutions, businesses, and industry to~~
2147 ~~identify, create, and recommend to the Commissioner of Education~~
2148 ~~industry certifications to be placed on the funding list. The~~
2149 ~~CAPE Industry Certification Funding List adopted under~~
2150 ~~subsection (1) must list shall be used to determine annual~~
2151 ~~performance funding distributions to school districts or Florida~~
2152 ~~College System institutions as specified in ss. 1011.80 and~~
2153 ~~1011.81, respectively. The chancellors shall review results of~~
2154 ~~the economic security report of employment and earning outcomes~~
2155 ~~produced annually pursuant to s. 445.07 when determining~~
2156 ~~recommended certifications for the list, as well as other~~



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2157 ~~reports and indicators available regarding certification needs.~~

2158 (4)

2159 (c) The Articulation Coordinating Committee shall review
2160 statewide articulation agreement proposals for industry
2161 certifications and make recommendations to the State Board of
2162 Education for approval. After an industry certification is
2163 approved by CareerSource Florida, Inc., under s. 445.004(4)
2164 ~~adopted by the State Board of Education for inclusion on the~~
2165 ~~CAPE Industry Certification Funding List,~~ the Chancellor of
2166 Career and Adult Education, within 90 days, must provide to the
2167 Articulation Coordinating Committee recommendations for
2168 articulation of postsecondary credit for related degrees for the
2169 approved certifications.

2170 Section 34. Section 1009.895, Florida Statutes, is created
2171 to read:

2172 1009.895 Open Door Grant Program.-

2173 (1) As used in this section, the term:

2174 (a) "Cost of the program" means the cost of tuition, fees,
2175 examination, books, and materials to a student enrolled in an
2176 eligible program.

2177 (b) "Department" means the Department of Education.

2178 (c) "Institution" means school district postsecondary
2179 technical career centers under s. 1001.44, Florida College
2180 System institutions under s. 1000.21(3), and charter technical
2181 career centers under s. 1002.34.

2182 (d) "Program" means a noncredit industry certification
2183 preparation, clock-hour career certificate programs, or for-
2184 credit short-term career and technical education programs that
2185 result in the award of credentials identified under s.



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2186 445.004(4).

2187 (e) "Student" means a person who is a resident of this
2188 state as determined under s. 1009.21 and is unemployed,
2189 underemployed, or furloughed.

2190 (2) The Open Door Grant Program is established for the
2191 purpose of:

2192 (a) Creating and sustaining a demand-driven supply of
2193 credentialed workers for high-demand occupations by addressing
2194 and closing the gap between the skills needed by workers in this
2195 state and the skills of the available workforce in this state.

2196 (b) Expanding the affordability of workforce training and
2197 credentialing.

2198 (c) Increasing the interest of current and future workers
2199 in short-term, high-demand career and technical education
2200 credentialing and certificate programs.

2201 (3) The department shall provide grants to institutions on
2202 a first-come, first-serve basis for students who enroll in an
2203 eligible program. The department shall prioritize funding for
2204 integrated education and training programs in which institutions
2205 establish partnerships with local workforce development boards
2206 to provide basic skills instruction, contextually and
2207 concurrently, with workforce training that results in the award
2208 of credentials under s. 445.004(4). One-quarter of the
2209 appropriated funds must be prioritized to serve students
2210 attending rural institutions. No more than one-quarter of the
2211 appropriated funds may be disbursed annually to any eligible
2212 institution.

2213 (4) To be eligible to receive an open door grant under this
2214 section, a student must complete the Free Application for



2215 Federal Student Aid for each academic year in which the grant is
2216 sought.

2217 (5) Subject to the availability of funds:

2218 (a) A student who enrolls in an eligible program offered by
2219 an institution and who does not receive state or federal
2220 financial aid may apply for and be awarded a grant to cover two-
2221 thirds of the cost of the program, if at the time of enrollment
2222 the student pays one-third of the cost of the program and signs
2223 an agreement to either complete the program or pay an additional
2224 one-third of the cost of the program in the event of
2225 noncompletion. The department shall reimburse the institution in
2226 an amount equal to one-third of the cost of the program upon a
2227 student's completion of the program. An additional one-third
2228 shall be provided upon attainment of a workforce credential or
2229 certificate by the student. Grant funds may be used to cover the
2230 student's one-third of the cost of the program for students in
2231 integrated education and training programs and students who do
2232 not have a high school diploma and meet the requirements
2233 established by the department.

2234 (b) A student receiving state or federal financial aid who
2235 enrolls in an eligible program offered by an institution may
2236 apply for and be awarded a grant to cover the unmet need of the
2237 cost of the program after the application of all eligible
2238 financial aid. Financial aid and grants received by the student
2239 shall be credited first to the student's costs before the award
2240 of an open door grant. After a student is enrolled in an
2241 eligible program, the department shall award the grant to the
2242 institution for the amount of unmet need for the eligible
2243 student.



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2244 (6) The department may not reimburse any institution more
2245 than \$3,000 per completed workforce training program by an
2246 eligible student.

2247 (7) The department shall administer the grant and shall
2248 carry out the goals and purposes of the grant set forth in
2249 subsection (2). In administering the grant, the department
2250 shall:

2251 (a) Require eligible institutions to provide student-
2252 specific data.

2253 (b) Undertake periodic assessments of the overall success
2254 of the grant program and recommend modifications, interventions,
2255 and other actions based on such assessments.

2256 (c) Establish the procedure by which eligible institutions
2257 shall notify the department when eligible students enroll in
2258 eligible programs.

2259 (d) Require each eligible institution to submit a report
2260 with data from the previous fiscal year on program completion
2261 and credential attainment by students participating in the grant
2262 program that, at a minimum, includes:

2263 1. A list of the programs offered.

2264 2. The number of students who enrolled in the programs.

2265 3. The number of students who completed the programs.

2266 4. The number of students who attained workforce
2267 credentials, categorized by credential name and relevant
2268 occupation, after completing training programs.

2269 5. The average cost per workforce credential attained,
2270 categorized by credential name and relevant occupation.

2271 (8) The department shall compile the data provided under
2272 paragraph (7) (d) and annually report such data, in the aggregate



2273 and categorize such information by eligible institution, to the
2274 State Board of Education. The report shall also include
2275 information on the average wage, age, gender, race, ethnicity,
2276 veteran status, and other relevant information, of students who
2277 have completed workforce training programs categorized by
2278 credential name and relevant occupation.

2279 (9) The State Board of Education shall adopt rules to
2280 implement this section.

2281 Section 35. Subsections (10), (11), and (12), of section
2282 1011.80, Florida Statutes, are redesignated as subsections (9),
2283 (10), and (13), respectively, a new subsection (12) is added to
2284 that section, and subsection (2), paragraph (a) of subsection
2285 (6), paragraph (b) of subsection (7), and subsection (9) of that
2286 section are amended, to read:

2287 1011.80 Funds for operation of workforce education
2288 programs.—

2289 (2) Upon approval by the State Board of Education, any
2290 workforce education program may be conducted by a Florida
2291 College System institution or a school district, except that
2292 college credit in an associate in applied science or an
2293 associate in science degree may be awarded only by a Florida
2294 College System institution. However, if an associate in applied
2295 science or an associate in science degree program contains
2296 within it an occupational completion point that confers a
2297 certificate or an applied technology diploma, that portion of
2298 the program may be conducted by a school district career center.
2299 Any instruction designed to articulate to a degree program is
2300 subject to guidelines and standards adopted by the State Board
2301 of Education ~~under pursuant to~~ s. 1007.25.



2302 (a) The State Board of Education shall establish criteria,
2303 based on the framework of quality established by the Credentials
2304 Review Committee under s. 445.004(4), for review and approval of
2305 new workforce education programs by a Florida College System
2306 institution or a school district that are not included in the
2307 statewide curriculum framework.

2308 (b) A Florida College System institution or school district
2309 offering a new workforce education program in the statewide
2310 curriculum framework may not receive performance funding and
2311 additional full-time equivalent membership funding until the
2312 workforce education program is reviewed, through an expedited
2313 review process, and approved by the State Board of Education
2314 based on criteria that must include, but is not limited to, the
2315 following:

2316 1. A description of the new workforce education program
2317 that includes all of the following:

2318 a. An analysis of workforce demand and unmet need for
2319 graduates of the program on a district, regional, or statewide
2320 basis, as appropriate, including evidence from entities
2321 independent of the technical center or institution.

2322 b. The geographic region to be served.

2323 2. Documentation of collaboration among technical centers
2324 and institutions serving the same students in a geographical or
2325 service area that enhances program offerings and prevents
2326 program duplication that exceeds workforce need. Unnecessary
2327 duplication of programs offered by public and private
2328 institutions must be avoided.

2329 3. Beginning with the 2022-2023 academic year, alignment of
2330 program offerings with credentials or degree programs identified



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2331 on the Master Credentials List under s. 445.004(4).

2332 4. Articulation agreements between technical centers and
2333 Florida College System institutions for the enrollment of
2334 graduates in related workforce education programs.

2335 5. Documentation of alignment between the exit requirements
2336 of a technical center and the admissions requirements of a
2337 Florida College System institution into which students typically
2338 transfer.

2339 6. Performance and compliance indicators that will be used
2340 in determining the program's success.

2341 (6) State funding and student fees for workforce education
2342 instruction shall be established as follows:

2343 (a) Expenditures for the continuing workforce education
2344 programs provided by the Florida College System institutions or
2345 school districts must be fully supported by fees, except for
2346 preapprenticeship and apprenticeship programs as defined in s.
2347 446.021(5) and (6). Enrollments in continuing workforce
2348 education courses shall not be counted for purposes of funding
2349 full-time equivalent enrollment, except for preapprenticeship
2350 and apprenticeship programs as defined in s. 446.021(5) and (6).

2351 (7)

2352 (b) Performance funding for industry certifications for
2353 school district workforce education programs is contingent upon
2354 specific appropriation in the General Appropriations Act and
2355 shall be determined as follows:

2356 ~~1. Occupational areas for which industry certifications may~~
2357 ~~be earned, as established in the General Appropriations Act, are~~
2358 ~~eligible for performance funding. Priority shall be given to the~~
2359 ~~occupational areas emphasized in state, national, or corporate~~



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2360 ~~grants provided to Florida educational institutions.~~
2361 ~~1.2. The Chancellor of Career and Adult Education shall~~
2362 ~~identify the Industry certifications identified eligible for~~
2363 ~~funding on the CAPE Postsecondary Industry Certification Funding~~
2364 ~~List approved by the State Board of Education under pursuant to~~
2365 ~~s. 1008.44, are eligible for performance funding based on the~~
2366 ~~occupational areas specified in the General Appropriations Act.~~
2367 ~~2.3. Each school district shall be provided \$1,000 for each~~
2368 ~~industry certification earned by a workforce education student.~~
2369 ~~If funds are insufficient to fully fund the calculated total~~
2370 ~~award, such funds shall be prorated. Beginning with the 2022-~~
2371 ~~2023 fiscal year, the Credentials Review Committee established~~
2372 ~~in s. 445.004 shall develop a returned-value funding formula to~~
2373 ~~allocate school district performance funds that rewards student~~
2374 ~~job placements and wages for students earning industry~~
2375 ~~certifications, with a focus on increasing the economic mobility~~
2376 ~~of underserved populations. One-third of the performance funds~~
2377 ~~shall be allocated based on student job placements. The~~
2378 ~~remaining two-thirds shall be allocated using a tiered, weighted~~
2379 ~~system based on aggregate student wages that exceed minimum~~
2380 ~~wage, with the highest weight applied to the highest wage tier,~~
2381 ~~with additional weight for underserved populations. Student~~
2382 ~~wages above minimum wage are considered to be the value added by~~
2383 ~~the institution's training. At a minimum, the formula must take~~
2384 ~~into account variables such as differences in population and~~
2385 ~~wages across school districts.~~
2386 ~~(9) The State Board of Education and the state board as~~
2387 ~~defined in s. 445.002 shall provide the Legislature with~~
2388 ~~recommended formulas, criteria, timeframes, and mechanisms for~~



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2389 ~~distributing performance funds. The commissioner shall~~
2390 ~~consolidate the recommendations and develop a consensus proposal~~
2391 ~~for funding. The Legislature shall adopt a formula and~~
2392 ~~distribute the performance funds to the State Board of Education~~
2393 ~~for Florida College System institutions and school districts~~
2394 ~~through the General Appropriations Act. These recommendations~~
2395 ~~shall be based on formulas that would discourage low-performing~~
2396 ~~or low-demand programs and encourage through performance-funding~~
2397 ~~awards:~~

2398 ~~(a) Programs that prepare people to enter high-wage~~
2399 ~~occupations identified by the Workforce Estimating Conference~~
2400 ~~created by s. 216.136 and other programs as approved by the~~
2401 ~~state board as defined in s. 445.002. At a minimum, performance~~
2402 ~~incentives shall be calculated for adults who reach completion~~
2403 ~~points or complete programs that lead to specified high-wage~~
2404 ~~employment and to their placement in that employment.~~

2405 ~~(b) Programs that successfully prepare adults who are~~
2406 ~~eligible for public assistance, economically disadvantaged,~~
2407 ~~disabled, not proficient in English, or dislocated workers for~~
2408 ~~high-wage occupations. At a minimum, performance incentives~~
2409 ~~shall be calculated at an enhanced value for the completion of~~
2410 ~~adults identified in this paragraph and job placement of such~~
2411 ~~adults upon completion. In addition, adjustments may be made in~~
2412 ~~payments for job placements for areas of high unemployment.~~

2413 ~~(c) Programs that are specifically designed to be~~
2414 ~~consistent with the workforce needs of private enterprise and~~
2415 ~~regional economic development strategies, as defined in~~
2416 ~~guidelines set by the state board as defined in s. 445.002. The~~
2417 ~~state board as defined in s. 445.002 shall develop guidelines to~~



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2418 ~~identify such needs and strategies based on localized research~~
2419 ~~of private employers and economic development practitioners.~~

2420 ~~(d) Programs identified by the state board as defined in s.~~
2421 ~~445.002 as increasing the effectiveness and cost efficiency of~~
2422 ~~education.~~

2423 (12) The State Board of Education shall phase out program
2424 offerings that do not align with the framework of quality or do
2425 not meet labor market demand under s. 445.004(4) or that are
2426 unwarranted program duplications.

2427 Section 36. Subsection (3) of section 1011.801, Florida
2428 Statutes, is amended to read:

2429 1011.801 Workforce Development Capitalization Incentive
2430 Grant Program.—The Legislature recognizes that the need for
2431 school districts and Florida College System institutions to be
2432 able to respond to emerging local or statewide economic
2433 development needs is critical to the workforce development
2434 system. The Workforce Development Capitalization Incentive Grant
2435 Program is created to provide grants to school districts and
2436 Florida College System institutions on a competitive basis to
2437 fund some or all of the costs associated with the creation or
2438 expansion of workforce development programs that serve specific
2439 employment workforce needs.

2440 (3) The State Board of Education shall give highest
2441 priority to programs that train people to enter high-skill,
2442 high-wage occupations identified by the Labor Market Workforce
2443 Estimating Conference and other programs approved by the state
2444 board as defined in s. 445.002, programs that train people to
2445 enter occupations under the welfare transition program, or
2446 programs that train for the workforce adults who are eligible



2447 for public assistance, economically disadvantaged, disabled, not
2448 proficient in English, or dislocated workers. The State Board of
2449 Education shall consider the statewide geographic dispersion of
2450 grant funds in ranking the applications and shall give priority
2451 to applications from education agencies that are making maximum
2452 use of their workforce development funding by offering high-
2453 performing, high-demand programs.

2454 Section 37. Subsection (4) of section 1011.802, Florida
2455 Statutes, is renumbered as subsection (6), subsection (3) of
2456 that section is amended, and new subsections (4) and (5) are
2457 added to that section, to read:

2458 1011.802 Florida Pathways to Career Opportunities Grant
2459 Program.—

2460 (3)(a) The department shall award grants for
2461 preapprenticeship or give priority to apprenticeship programs
2462 with demonstrated regional demand that:

2463 1. Address a critical statewide or regional shortage as
2464 identified by the Labor Market Estimating Conference created in
2465 s. 216.136 and that are industry sectors not adequately
2466 represented throughout this state, such as health care;

2467 2. Address a critical statewide or regional shortage as
2468 identified by the Labor Market Estimating Conference created in
2469 s. 216.136; or

2470 3. Expand existing programs that exceed the median
2471 completion rate and employment rate 1 year after completion of
2472 similar programs in the region, or the state if there are no
2473 similar programs in the region.

2474 (b) Grant funds may be used for instructional equipment,
2475 supplies, instructional personnel, student services, and other



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2476 expenses associated with the creation or expansion of an
2477 apprenticeship program. Grant funds may not be used for
2478 ~~recurring instructional costs or for~~ indirect costs. Grant
2479 recipients must submit quarterly reports in a format prescribed
2480 by the department.

2481 (4) The department shall annually report on its website:

2482 (a) The number of programs funded and represented
2483 throughout the state under this section.

2484 (b) Retention, completion, and employment rates,
2485 categorized by program and provider.

2486 (c) Starting and ending salaries, as categorized by program
2487 and provider, for participants who complete the program.

2488 (5) The department may use up to \$200,000 of the total
2489 amount allocated to administer the grant program.

2490 (6)~~(4)~~ The State Board of Education shall ~~may~~ adopt rules
2491 to administer this section.

2492 Section 38. Section 1011.803, Florida Statutes, is created
2493 to read:

2494 1011.803 Money-Back Guarantee Program.—

2495 (1) The Money-Back Guarantee Program is established to help
2496 individuals achieve self-sufficiency by requiring each school
2497 district and Florida College System institution to refund the
2498 cost of tuition to students who are not able to find a job in
2499 the field in which the student was trained within 6 months of
2500 successful completion of select workforce education programs
2501 that prepare students for in-demand, middle-level to high-level
2502 wage occupations.

2503 (2) Beginning in the 2022-2023 academic year, each school
2504 district and Florida College System institution shall establish



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2505 a money-back guarantee program to:

2506 (a) Offer a money-back guarantee on at least three programs
2507 that prepare individuals to enter in-demand, middle-level to
2508 high-level wage occupations identified by the Labor Market
2509 Estimating Conference created in s. 216.136. School district or
2510 Florida College System institutions must offer a money-back
2511 guarantee on at least 50 percent of workforce education programs
2512 if they offer six or fewer programs.

2513 (b) Offer a money-back guarantee for all workforce
2514 education programs that are established to meet a critical local
2515 economic industry need, but are not linked to the statewide
2516 needs list as identified by the Labor Market Estimating
2517 Conference created in s. 216.136.

2518 (c) Establish student eligibility criteria for the money-
2519 back guarantee program that includes:

- 2520 1. Student attendance.
2521 2. Student program performance.
2522 3. Career Service or Career Day attendance.
2523 4. Participation in internship or work-study programs.
2524 5. Job search documentation.
2525 6. Development of a student career plan with the
2526 institution's career services department.

2527 (3) No later than July 1, 2022, each school district and
2528 Florida College System institution shall notify the State Board
2529 of Education of the money-back guarantee programs it offers.
2530 Information about these programs shall be made available on each
2531 school district's and Florida College System institution's
2532 website, on the department's website, and on Employ Florida's
2533 website.



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2534 (4) By November 1 of each year, the Department of Education
2535 shall report performance results by school district, Florida
2536 College System institution, and program to the Governor, the
2537 President of the Senate, and the Speaker of the House of
2538 Representatives.

2539 Section 39. Subsection (2) of section 1011.81, Florida
2540 Statutes, is amended to read:

2541 1011.81 Florida College System Program Fund.—

2542 (2) Performance funding for industry certifications for
2543 Florida College System institutions is contingent upon specific
2544 appropriation in the General Appropriations Act and shall be
2545 determined as follows:

2546 ~~(a) Occupational areas for which industry certifications~~
2547 ~~may be earned, as established in the General Appropriations Act,~~
2548 ~~are eligible for performance funding. Priority shall be given to~~
2549 ~~the occupational areas emphasized in state, national, or~~
2550 ~~corporate grants provided to Florida educational institutions.~~

2551 ~~(b) Postsecondary~~ The Chancellor of the Florida College
2552 System shall identify the industry certifications identified
2553 eligible for funding on the CAPE Postsecondary Industry
2554 Certification Funding List approved by the State Board of
2555 Education under pursuant to s. 1008.44, are eligible for
2556 performance funding based on the occupational areas specified in
2557 the General Appropriations Act.

2558 ~~(b)-(e)~~ Each Florida College System institution shall be
2559 provided \$1,000 for each industry certification earned by a
2560 student under paragraph (a). If funds are insufficient to fully
2561 fund the calculated total award, such funds shall be prorated.
2562 Beginning with the 2022-2023 fiscal year, the Credentials Review



2563 Committee established in s. 445.004 shall develop a returned-
2564 value funding formula to allocate institution performance funds
2565 that rewards student job placements and wages for students
2566 earning industry certifications, with a focus on increasing the
2567 economic mobility of underserved populations. One-third of the
2568 performance funds shall be allocated based on student job
2569 placements. The remaining two-thirds shall be allocated using a
2570 tiered weighted system based on aggregate student wages that
2571 exceed minimum wage, with the highest weight applied to the
2572 highest wage tier, with additional weight for underserved
2573 populations. Student wages above minimum wage are considered to
2574 be the value added by the institution's training. At a minimum,
2575 the formula must take into account variables such as differences
2576 in population and wages across the state.

2577 Section 40. Paragraph (b) of subsection (2) of section
2578 443.151, Florida Statutes, is amended to read:

2579 443.151 Procedure concerning claims.—

2580 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
2581 CLAIMANTS AND EMPLOYERS.—

2582 (b) *Process.*—When the Reemployment Assistance Claims and
2583 Benefits Information System described in s. 443.1113 is fully
2584 operational, the process for filing claims must incorporate the
2585 process for registering for work with the consumer-first
2586 workforce system ~~information systems~~ established under pursuant
2587 ~~to~~ s. 445.011. Unless exempted under s. 443.091(1)(b)5., a claim
2588 for benefits may not be processed until the work registration
2589 requirement is satisfied. The department may adopt rules as
2590 necessary to administer the work registration requirement set
2591 forth in this paragraph.



2592 Section 41. Section 445.010, Florida Statutes, is amended
2593 to read:

2594 445.010 Consumer-first workforce system ~~information~~
2595 technology; principles and information sharing.-

2596 (1) The following principles shall guide the development
2597 and management of workforce system ~~information~~ resources:

2598 (a) Workforce system entities should be committed to
2599 information sharing.

2600 (b) Cooperative planning by workforce system entities is a
2601 prerequisite for the effective development of systems to enable
2602 the sharing of data.

2603 (c) Workforce system entities should maximize public access
2604 to data, while complying with legitimate security, privacy, and
2605 confidentiality requirements.

2606 (d) When the capture of data for the mutual benefit of
2607 workforce system entities can be accomplished, the costs for
2608 capturing, managing, and disseminating those data should be
2609 shared.

2610 (e) The redundant capture of data should, insofar as
2611 possible, be eliminated.

2612 (f) Only data that are auditable, or that otherwise can be
2613 determined to be accurate, valid, and reliable, should be
2614 maintained in the consumer-first workforce system ~~information~~
2615 ~~systems~~.

2616 (g) The design of the consumer-first workforce system
2617 ~~information systems~~ should support technological flexibility for
2618 users without compromising system integration or data integrity,
2619 be based upon open standards, and use platform-independent
2620 technologies to the fullest extent possible.



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2621 (2) Information that is essential to the integrated
2622 delivery of services through the one-stop delivery system must
2623 be shared between partner agencies within the consumer-first
2624 workforce system to the full extent permitted under state and
2625 federal law. In order to enable the full integration of services
2626 for a specific workforce system customer, that customer must be
2627 offered the opportunity to provide written consent prior to
2628 sharing any information concerning that customer between the
2629 workforce system partners which is subject to confidentiality
2630 under state or federal law.

2631 Section 42. Subsection (3) of section 445.045, Florida
2632 Statutes, is amended to read:

2633 445.045 Development of an Internet-based system for
2634 information technology industry promotion and workforce
2635 recruitment.—

2636 (3) CareerSource Florida, Inc., shall ensure that the
2637 website developed and maintained under this section is
2638 consistent, compatible, and coordinated with the consumer-first
2639 workforce system ~~information systems~~ required under s. 445.011,
2640 including, but not limited to, the automated job-matching
2641 information system for employers, job seekers, and other users.

2642 Section 43. Paragraph (c) of subsection (1) of section
2643 943.22, Florida Statutes, is amended to read:

2644 943.22 Salary incentive program for full-time officers.—

2645 (1) For the purpose of this section, the term:

2646 (c) "Community college degree or equivalent" means
2647 graduation from an accredited community college or having been
2648 granted a degree pursuant to s. 1007.25(13) ~~s. 1007.25(11)~~ or
2649 successful completion of 60 semester hours or 90 quarter hours



2650 and eligibility to receive an associate degree from an
2651 accredited college, university, or community college.

2652 Section 44. Subsection (7) and paragraph (d) of subsection
2653 (8) of section 1001.64, Florida Statutes, are amended to read:

2654 1001.64 Florida College System institution boards of
2655 trustees; powers and duties.—

2656 (7) Each board of trustees has responsibility for: ensuring
2657 that students have access to general education courses as
2658 identified in rule; requiring no more than 60 semester hours of
2659 degree program coursework, including 36 semester hours of
2660 general education coursework, for an associate in arts degree;
2661 notifying students that earned hours in excess of 60 semester
2662 hours may not be accepted by state universities; notifying
2663 students of unique program prerequisites; and ensuring that
2664 degree program coursework beyond general education coursework is
2665 consistent with degree program prerequisite requirements adopted
2666 pursuant to s. 1007.25(7) ~~s. 1007.25(6)~~.

2667 (8) Each board of trustees has authority for policies
2668 related to students, enrollment of students, student records,
2669 student activities, financial assistance, and other student
2670 services.

2671 (d) Boards of trustees shall identify their general
2672 education curricula pursuant to s. 1007.25(8) ~~s. 1007.25(7)~~.

2673 Section 45. This act shall take effect July 1, 2021.

2674
2675 ===== T I T L E A M E N D M E N T =====

2676 And the title is amended as follows:

2677 Delete everything before the enacting clause
2678 and insert:



2679 A bill to be entitled
2680 An act relating to workforce-related programs and
2681 services; creating s. 14.36, F.S.; creating the Office
2682 of Reimagining Education and Career Help Act for
2683 certain purposes; creating the Office of Reimagining
2684 Education and Career Help within the Executive Office
2685 of the Governor for a specified purpose; providing
2686 definitions; providing the duties of the office;
2687 requiring the office to create a specified strategy;
2688 providing requirements for such strategy; requiring
2689 the office to establish a workforce opportunity
2690 portal; providing requirements related to the portal;
2691 requiring a report to the Legislature; amending s.
2692 216.136, F.S.; renaming the Workforce Estimating
2693 Conference as the Labor Market Estimating Conference;
2694 removing requirements of the Workforce Estimating
2695 Conference; providing requirements for the Labor
2696 Market Estimating Conference; amending s. 288.047,
2697 F.S.; requiring participants of the Quick-Response
2698 Training Program to earn at or above minimum wage;
2699 amending s. 445.002, F.S.; revising the definition of
2700 the term "for cause"; amending s. 445.003, F.S.;
2701 revising requirements for Workforce Innovation and
2702 Opportunity Act Title I funds; requiring, rather than
2703 authorizing, the executive director of the state
2704 workforce development board to work with the
2705 Department of Economic Opportunity for certain
2706 purposes; defining the term "businesses"; providing
2707 duties of the Department of Economic Opportunity for



2708 the implementation of the federal Workforce Innovation
2709 and Opportunity Act; amending s. 445.004, F.S.;

2710 revising the composition of the state board; requiring
2711 the state board to appoint a Credentials Review
2712 Committee for a specified purpose; providing the
2713 composition of the committee; requiring certain
2714 information to be accessible to the public; providing
2715 duties and requirements of the committee; specifying
2716 entities that can authorize certain expenditures;
2717 providing and revising requirements for the state
2718 board in order to achieve certain purposes; requiring
2719 the state board, in consultation with the Department
2720 of Economic Opportunity, to submit a report to the
2721 Governor and Legislature; providing and revising
2722 reporting requirements; requiring the state board to
2723 assign and make public a letter grade for each local
2724 workforce development board based on certain criteria;
2725 removing certain auditing authority of the Auditor
2726 General; requiring local performance accountability
2727 measures to be based on identified local area needs;
2728 amending s. 445.006, F.S.; providing requirements for
2729 the state plan for workforce development; requiring
2730 the Department of Economic Opportunity to prepare a
2731 federal waiver for specified purposes; amending s.
2732 445.007, F.S.; requiring certain information be
2733 accessible on the website of a local workforce
2734 development board or the Department of Economic
2735 Opportunity; providing term limits for members of
2736 local boards; providing an exception; requiring



2737 actions of the local board to be consistent with
2738 federal and state law; providing requirements for
2739 certain contracts between a local board and certain
2740 entities; providing an exception; requiring the
2741 Department of Economic Opportunity to review certain
2742 documentation when considering whether to approve a
2743 contract; removing authority for a local board to
2744 review a decision by the Department of Economic
2745 Opportunity to deny a contract; requiring a local
2746 board to disclose certain compensation information to
2747 the Department of Economic Opportunity; requiring a
2748 local board to annually publish specified information
2749 on its website or the Department of Economic
2750 Opportunity's website; amending s. 445.009, F.S.;
2751 requiring a certain final payment amount to Individual
2752 Training Accounts; conforming provisions to changes
2753 made by the act; amending s. 445.011, F.S.;
2754 establishing an automated consumer-first workforce
2755 system; requiring the Department of Education and the
2756 Department of Children and Families, in consultation
2757 with the Department of Economic Opportunity, to
2758 implement such system; requiring that such system
2759 improve coordination among specified partners;
2760 revising requirements for such system; requiring that
2761 certain contracts be performance based; requiring the
2762 Department of Economic Opportunity to develop training
2763 for specified partners; amending s. 445.033, F.S.;
2764 requiring the Department of Economic Opportunity and
2765 the Department of Children and Families, rather than



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2766 the state board, to measure the performance of certain
2767 workforce-related programs and services; requiring the
2768 state board to consult with local boards; requiring
2769 local boards to provide quarterly reports to the state
2770 board with certain information; requiring, rather than
2771 authorizing, the state board and the Department of
2772 Economic Opportunity to share certain information;
2773 amending s. 445.038, F.S.; conforming provisions to
2774 changes made by the act; amending s. 446.021, F.S.;
2775 revising the definition of the term "uniform minimum
2776 standards"; amending s. 446.032, F.S.; requiring
2777 certain standards and policies established by the
2778 Department of Education to include a specified
2779 requirement for training providers; requiring, rather
2780 than authorizing, the Department of Education to adopt
2781 rules; revising provisions relating to a certain
2782 summary of expenditures for apprenticeship and
2783 preapprenticeship programs; providing requirements for
2784 a certain annual report; requiring the Department of
2785 Education to provide data from certain resources to
2786 specified persons and entities; amending s. 446.041,
2787 F.S.; revising a catchline relating to the Department
2788 of Education's duties regarding apprenticeship and
2789 preapprenticeship programs; creating s. 446.090, F.S.;
2790 defining the term "work-based learning opportunity";
2791 specifying the required criteria for such opportunity;
2792 providing that such opportunity should prioritize paid
2793 experiences; requiring the State Board of Education to
2794 adopt rules; amending s. 570.07, F.S.; requiring the



2795 Department of Agriculture and Consumer Services to
2796 submit certain information to the Credentials Review
2797 Committee for placement on the Master Credentials
2798 List, rather than the CAPE Industry Certification
2799 Funding List or CAPE Postsecondary Industry
2800 Certification Funding List; amending s. 1001.706,
2801 F.S.; revising and providing requirements for the
2802 Board of Governors' strategic plan; removing criteria
2803 for the designation of high-demand programs of
2804 emphasis; amending s. 1003.4156, F.S.; requiring a
2805 career and education planning course to include
2806 certain resources; amending s. 1003.42, F.S.;
2807 requiring a specified character development curriculum
2808 to include certain instruction and resources; amending
2809 s. 1003.4203, F.S.; specifying where the Department of
2810 Education has to identify CAPE Digital Tool
2811 certificates; removing the deadline for such
2812 identification; removing specified skills that have to
2813 be mastered; authorizing courses identified in the
2814 CAPE Industry Certification Funding List to articulate
2815 for college credit; removing the course limit;
2816 amending s. 1003.491, F.S.; requiring certain
2817 strategic plans to use labor projections identified by
2818 the Labor Market Estimating Conference; providing and
2819 revising the information that the Commissioner of
2820 Education must review for the annual review of K-12
2821 and postsecondary career and technical education
2822 offerings; requiring the Department of Education to
2823 adopt rules; amending s. 1003.492, F.S.; providing



2824 that industry certification is achieved when a student
2825 receives a credential that is identified on the Master
2826 Credentials List; conforming provisions to changes
2827 made by the act; amending s. 1003.4935, F.S.;
2828 conforming provisions to changes made by the act;
2829 amending s. 1004.013, F.S.; creating the Strategic
2830 Efforts to Achieve Self-Sufficiency consisting of the
2831 workforce opportunity portal, the Open Door Grant
2832 Program, and the Money-Back Guarantee Program;
2833 amending s. 1004.015, F.S.; providing responsibilities
2834 of the Florida Talent Development Council relating to
2835 the health care workforce in this state; providing
2836 responsibilities of the Board of Governors and the
2837 State Board of Education; requiring a specified gap
2838 analysis; requiring specified entities to provide
2839 certain data; requiring a survey to collect certain
2840 data; amending s. 1004.02, F.S.; revising the
2841 definitions of the terms "continuing workforce
2842 education" and "workforce education"; creating s.
2843 1006.75, F.S.; requiring specified educational centers
2844 and institutions to ensure that certain services and
2845 resources prepare students for employment; requiring
2846 student career service centers to use specified
2847 resources to assist students with certain activities;
2848 amending s. 1007.25, F.S.; requiring specified
2849 students to complete certain courses before a certain
2850 degree is awarded; requiring the chairs of the State
2851 Board of Education and the Board of Governors, or
2852 their designees, to jointly appoint faculty committees



2853 to identify competencies that will result in a digital
2854 credential; requiring specified institutions to grant
2855 and accept such credential; requiring the Department
2856 of Education to identify certain courses in which such
2857 credential may be earned; authorizing certain courses
2858 to use specified resources and provide students with
2859 the opportunity to create a digital resume; amending
2860 s. 1008.39, F.S.; conforming provisions to changes
2861 made by the act; amending s. 1008.40, F.S.; providing
2862 requirements for design specifications for the
2863 Workforce Development Information System; requiring
2864 the Department of Education to work with certain
2865 entities to develop certain metrics; providing
2866 requirements for a workforce development metrics
2867 dashboard; amending s. 1008.41, F.S.; conforming
2868 provisions to changes made by the act; amending s.
2869 1008.44, F.S.; removing the CAPE Postsecondary
2870 Industry Certification Funding List; requiring the
2871 State Board of Education to annually adopt, based on
2872 recommendations by the Commissioner of Education, the
2873 CAPE Industry Certification Funding List; providing
2874 that certain full-time equivalent membership funding
2875 may only be earned in certain areas; providing
2876 certificates, certifications, and courses that may be
2877 included on the list; requiring the Commissioner of
2878 Education to conduct a certain review and make
2879 recommendations; requiring that the recommendations be
2880 provided to the Governor and Legislature by specified
2881 date; requiring the CAPE Industry Certification



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2882 Funding List to be used to determine certain funding
2883 distributions; conforming provisions to changes made
2884 by the act; creating s. 1009.895, F.S.; defining
2885 terms; creating the Open Door Grant Program; providing
2886 the purpose of the program; requiring the Department
2887 of Education to provide certain grants; providing for
2888 the prioritization of grant funding; requiring a
2889 student to complete a specified application to be
2890 eligible for the grant; providing for the distribution
2891 of the grant to a student based on whether the student
2892 receives other types of financial aid; providing for
2893 reimbursement to an institution; providing
2894 requirements for the Department of Education in
2895 administering the grant program; requiring the
2896 Department of Education to report certain information
2897 to the State Board of Education annually; requiring
2898 the Department of Education to adopt rules; amending
2899 s. 1011.80, F.S.; requiring approval by the State
2900 Board of Education to conduct workforce education
2901 programs; requiring the State Board of Education to
2902 establish criteria for the review and approval of new
2903 workforce education programs; prohibiting certain
2904 funding to a school district or Florida College System
2905 institution until new workforce education programs are
2906 reviewed and approved; providing requirements for the
2907 criteria; exempting preapprenticeship and
2908 apprenticeship programs from continuing workforce
2909 education requirements relating to state funding and
2910 fees; requiring the Credentials Review Committee to



2911 develop a returned-value funding formula beginning in
2912 a certain fiscal year; conforming provisions to
2913 changes made by the act; requiring the State Board of
2914 Education to phase out certain program offerings;
2915 amending s. 1011.801, F.S.; conforming a provision to
2916 changes made by the act; amending s. 1011.802, F.S.;
2917 requiring the Department of Education to award grants
2918 for preapprenticeship programs, in addition to
2919 apprenticeship programs, that meet certain criteria;
2920 authorizing grant funds to be used for instructional
2921 personnel; requiring the Department of Education to
2922 report certain information annually on its website;
2923 authorizing the Department of Education to use certain
2924 funds to administer the grant program; requiring,
2925 rather than authorizing, the State Board of Education
2926 to adopt rules; creating s. 1011.803, F.S.; creating
2927 the Money-Back Guarantee Program to help individuals
2928 achieve self-sufficiency; beginning in a specified
2929 academic year, requiring each school district and
2930 Florida College System institution to offer a money-
2931 back guarantee on certain programs and to establish
2932 student eligibility criteria; requiring each school
2933 district and Florida College System institution to
2934 notify the State Board of Education of its program by
2935 a specified date; requiring information about the
2936 program to be posted on certain websites; requiring
2937 the Department of Education to annually report
2938 specified information to the Governor and Legislature
2939 by a specified date; amending s. 1011.81, F.S.;



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2940 requiring the Credentials Review Committee to develop
2941 a returned-value funding formula beginning with a
2942 specified fiscal year; conforming provisions to
2943 changes made by the act; amending ss. 443.151,
2944 445.010, and 445.045, F.S.; conforming provisions to
2945 changes made by the act; amending ss. 943.22 and
2946 1001.64, F.S.; conforming cross-references; providing
2947 an effective date.



960408

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment to Amendment (151258) (with title amendment)

Delete lines 1391 - 1393

and insert:

Section 16. Section 446.0915, Florida Statutes, is created to read:

446.0915 Work-based learning opportunities.-

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



960408

11 And the title is amended as follows:
12 Delete line 2789
13 and insert:
14 preapprenticeship programs; creating s. 446.0915,
15 F.S.;

By Senator Albritton

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1 A bill to be entitled
 2 An act relating to workforce related programs and
 3 services; amending s. 216.136, F.S.; renaming the
 4 Workforce Estimating Conference as the Labor Market
 5 Estimating Conference; removing requirements for the
 6 Workforce Estimating Conference; providing
 7 requirements for the Labor Market Estimating
 8 Conference; amending s. 445.002, F.S.; redefining the
 9 term "for cause"; amending s. 445.004, F.S.; expanding
 10 the membership of the state workforce development
 11 board; specifying entities that can authorize certain
 12 expenditures; providing and revising requirements for
 13 the state board in order to achieve certain purposes;
 14 requiring the state board, in consultation with the
 15 department, to submit a report to the Governor and
 16 Legislature; providing and revising reporting
 17 requirements; requiring the state board to assign
 18 letter grades to local workforce development boards;
 19 requiring local performance accountability measures to
 20 be based on identified local area needs; amending s.
 21 445.007, F.S.; removing authority for a local board to
 22 review a decision by the department to deny a
 23 contract; requiring a local board to disclose certain
 24 compensation information to the department; providing
 25 term limits for local board members; providing an
 26 exception; requiring actions of the local board to be
 27 consistent with federal and state law; providing
 28 requirements for certain contracts between a local
 29 board and certain entities; providing an exception;

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30 requiring the department to review certain
 31 documentation when considering whether to approve a
 32 contract; removing authority for a local board to
 33 review a decision by the department to deny a
 34 contract; requiring a local board to disclose certain
 35 compensation information to the department; requiring
 36 local boards to publish specified information;
 37 requiring the department to review certain information
 38 provided by a local board in reviewing contracts;
 39 amending s. 445.009, F.S.; requiring a certain final
 40 payment amount to Individual Training Accounts;
 41 conforming provisions to changes made by the act;
 42 amending s. 445.038, F.S.; conforming provisions to
 43 changes made by the act; amending s. 446.021, F.S.;
 44 revising the definition of the term "uniform minimum
 45 preapprenticeship standards"; expanding the definition
 46 to include apprenticeship programs; amending s.
 47 446.032, F.S.; requiring certain standards and
 48 policies established by the Department of Education to
 49 include a specified requirement for training
 50 providers; requiring, rather than authorizing, the
 51 department to adopt rules; providing requirements for
 52 a certain annual report; requiring the department to
 53 provide data from certain resources to specified
 54 persons and entities; amending s. 446.045, F.S.;
 55 specifying that the Governor shall fill vacancies on
 56 the State Apprenticeship Advisory Council for the
 57 remainder of a term; amending s. 1003.4156, F.S.;
 58 requiring a career and education planning course to

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59 include certain resources; amending s. 1003.4203,
 60 F.S.; specifying the sections under which the
 61 Department of Education must identify certain CAPE
 62 Digital Tool certificates; removing the deadline for
 63 such identification; removing specified skills that
 64 must be mastered; authorizing courses identified in
 65 the CAPE Industry Certification Funding List to
 66 articulate for college credit; removing the course
 67 limit; amending s. 1003.491, F.S.; requiring certain
 68 strategic plans to use labor projections identified by
 69 the Labor Market Estimating Conference; amending s.
 70 1003.4935, F.S.; requiring that middle grades career
 71 and professional academies and career-themed courses
 72 lead to careers in occupations aligned with the CAPE
 73 Industry Certification Funding List; amending s.
 74 1008.41, F.S.; adding the Labor Market Estimating
 75 Conference as a source of workforce data; amending s.
 76 1008.44, F.S.; requiring the Commissioner of Education
 77 to conduct a review of the methodology used to
 78 determine certain full-time equivalent membership
 79 weights and, if necessary, recommend revised weights;
 80 requiring that the recommendations be provided to the
 81 Governor and the Legislature by a specified date;
 82 amending s. 1011.801, F.S.; conforming a provision to
 83 changes made by the act; amending s. 1011.802, F.S.;
 84 requiring the department to prioritize programs
 85 identified by the Labor Market Estimating Conference;
 86 providing requirements for awards under the Florida
 87 Pathways to Career Opportunities Grant Program;

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88 amending s. 445.011, F.S.; conforming a cross-
 89 reference; amending s. 1011.80, F.S.; conforming a
 90 provision to changes made by the act; providing an
 91 effective date.
 92

93 Be It Enacted by the Legislature of the State of Florida:
 94

95 Section 1. Subsection (7) of section 216.136, Florida
 96 Statutes, is amended to read:

97 216.136 Consensus estimating conferences; duties and
 98 principals.—

99 (7) LABOR MARKET WORKFORCE ESTIMATING CONFERENCE.—

100 (a) The Labor Market Workforce Estimating Conference shall
 101 develop such official information with respect to real-time
 102 supply and demand in Florida's statewide, regional, and local
 103 labor markets on the workforce development system planning
 104 process as it relates to the personnel needs of current, new,
 105 and emerging industries as the conference determines is needed
 106 by the state planning and budgeting system. Such information
 107 must include labor supply by education level, analyses of labor
 108 demand by occupational groups and occupations compared to labor
 109 supply, a ranking of critical areas of concern, and
 110 identification of in-demand, high-skill, high-wage occupations.
 111 The Office of Economic and Demographic Research is designated as
 112 the official lead for the United States Census Bureau's State
 113 Data Center Program or its successor. All state agencies must
 114 provide the Office of Economic and Demographic Research with the
 115 necessary data to accomplish the goals of the conference. In
 116 accordance with s. 216.135, state agencies shall ensure that any

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117 work product regarding labor demand and supply is consistent
 118 with the official information developed by the Labor Market
 119 Estimating Conference, using quantitative and qualitative
 120 research methods, must include at least: short-term and long-
 121 term forecasts of employment demand for jobs by occupation and
 122 industry; entry and average wage forecasts among those
 123 occupations; and estimates of the supply of trained and
 124 qualified individuals available or potentially available for
 125 employment in those occupations, with special focus upon those
 126 occupations and industries which require high skills and have
 127 high entry wages and experienced wage levels. In the development
 128 of workforce estimates, the conference shall use, to the fullest
 129 extent possible, local occupational and workforce forecasts and
 130 estimates.

131 (b) The Workforce Estimating Conference shall review data
 132 concerning local and regional demands for short-term and long-
 133 term employment in High-Skills/High-Wage Program jobs, as well
 134 as other jobs, which data is generated through surveys conducted
 135 as part of the state's Internet-based job matching and labor
 136 market information system authorized under s. 445.011. The
 137 conference shall consider this data in developing its forecasts
 138 for statewide employment demand, including reviewing local and
 139 regional data for common trends and conditions among localities
 140 or regions which may warrant inclusion of a particular
 141 occupation on the statewide occupational forecasting list
 142 developed by the conference. Based upon its review of such
 143 survey data, the conference shall also make recommendations
 144 semiannually to CareerSource Florida, Inc., on additions or
 145 deletions to lists of locally targeted occupations approved by

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146 ~~CareerSource Florida, Inc.~~
 147 ~~(e) The Labor Market Workforce Estimating Conference, for~~
 148 ~~the purposes described in paragraph (a), shall meet at least~~
 149 ~~twice a year for the purposes described in paragraph (a) no less~~
 150 ~~than 2 times in a calendar year. The first meeting shall be held~~
 151 ~~in February, and the second meeting shall be held in August.~~
 152 ~~Other meetings may be scheduled as needed.~~

153 Section 2. Subsection (2) of section 445.002, Florida
 154 Statutes, is amended to read:

155 445.002 Definitions.—As used in this chapter, the term:

156 (2) "For cause" includes, but is not limited to, engaging
 157 in fraud or other criminal acts, incapacity, unfitness, neglect
 158 of duty, official incompetence and irresponsibility,
 159 misfeasance, malfeasance, nonfeasance, gross mismanagement, or
 160 lack of performance.

161 Section 3. Present subsections (8) through (13) of section
 162 445.004, Florida Statutes, are redesignated as subsections (9)
 163 through (14), respectively, a new subsection (8) is added to
 164 that section, and paragraph (d) of subsection (3), subsections
 165 (6) and (7), paragraph (b) of present subsection (9), and
 166 present subsection (11) of that section are amended, to read:

167 445.004 CareerSource Florida, Inc., and the state board;
 168 creation; purpose; membership; duties and powers.—

169 (3)

170 (d) The state board must include the vice chairperson of
 171 the board of directors of Enterprise Florida, Inc., and one
 172 member representing each of the Workforce Innovation and
 173 Opportunity Act partners, including the Division of Career and
 174 Adult Education, the Division of Vocational Rehabilitation, the

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175 Department of Children and Families, and other entities
 176 representing programs identified in the Workforce Innovation and
 177 Opportunity Act, as determined necessary.

178 (6) The state board ~~shall may take action that it deems~~
 179 ~~necessary to~~ achieve the purposes of this section by, including,
 180 ~~but not limited to:~~

181 (a) Creating a state employment, education, and training
 182 policy that ensures that workforce-related programs ~~to prepare~~
 183 ~~workers~~ are responsive to present and future business and
 184 industry needs and complement the initiatives of Enterprise
 185 Florida, Inc.

186 (b) Establishing policy direction for a uniform funding
 187 system that prioritizes evidence-based, results-driven solutions
 188 by providing ~~provides~~ incentives to improve the outcomes of
 189 career education, registered apprenticeship, and work-based
 190 learning programs and that focuses resources on occupations
 191 related to new or emerging industries that add greatly to the
 192 value of the state's economy.

193 (c) Establishing a comprehensive policy related to the
 194 education and training of target populations such as those who
 195 have disabilities, are economically disadvantaged, receive
 196 public assistance, are not proficient in English, or are
 197 dislocated workers. This approach should ensure the effective
 198 use of federal, state, local, and private resources in reducing
 199 the need for public assistance by combining two or more sources
 200 of funding to support workforce-related programs or activities
 201 for vulnerable populations when appropriate or authorized.

202 (d) Identifying barriers to coordination and alignment
 203 among workforce-related programs and activities and developing

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204 ~~solutions to remove such barriers~~ Designating Institutes of
 205 ~~Applied Technology composed of public and private postsecondary~~
 206 ~~institutions working together with business and industry to~~
 207 ~~ensure that career education programs use the most advanced~~
 208 ~~technology and instructional methods available and respond to~~
 209 ~~the changing needs of business and industry.~~

210 (e) Providing policy direction for a system to project and
 211 evaluate labor market supply and demand using the results of the
 212 Labor Market Workforce Estimating Conference created in s.
 213 216.136 and the career education performance standards
 214 identified under s. 1008.43.

215 (f) Reviewing the performance of public programs that are
 216 responsible for economic development, education, employment, and
 217 training. The review must include an analysis of the return on
 218 investment of these programs.

219 (g) Expanding the occupations identified by the Labor
 220 Market Workforce Estimating Conference to meet needs created by
 221 local emergencies or plant closings or to capture occupations
 222 within emerging industries.

223 (7) By December 1 of each year, the state board, in
 224 consultation with the department, shall submit to the Governor,
 225 the President of the Senate, the Speaker of the House of
 226 Representatives, the Senate Minority Leader, and the House
 227 Minority Leader a complete and detailed annual report setting
 228 forth:

229 (a) All audits and investigations, including any audit or
 230 investigation conducted under subsection (9) ~~(8)~~.

231 (b) The operations and accomplishments of the state board,
 232 including the programs or entities specified in subsection (6).

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233 (c) The number of mandatory partners located within one-
 234 stop centers.

235 (d) The amount of progress made toward implementing
 236 solutions to address barriers to coordination and alignment
 237 among programs and activities identified under paragraph (6) (d).

238 (8) Beginning July 1, 2022, the state board shall annually
 239 assign a letter grade for each local workforce development
 240 board.

241 (10)(9) The state board, in collaboration with the local
 242 workforce development boards and appropriate state agencies and
 243 local public and private service providers, shall establish
 244 uniform performance accountability measures that apply across
 245 the core programs to gauge the performance of the state and
 246 local workforce development boards in achieving the workforce
 247 development strategy.

248 (b) The performance accountability measures for each local
 249 area consist of the primary indicators of performance, any
 250 additional indicators of performance, and a local level of
 251 performance for each indicator pursuant to Pub. L. No. 113-128.
 252 The local level of performance is determined by the local board,
 253 the chief elected official, and the Governor pursuant to Pub. L.
 254 No. 113-128, Title I, s. 116(c). Any local performance
 255 accountability measures that are established must be based on
 256 identified local area needs.

257 (12)(11) The workforce development system must use local
 258 design and control of service delivery and targeted activities.
 259 The state board, in consultation with the department, is
 260 responsible for ensuring that local workforce development boards
 261 have a membership consistent with the requirements of federal

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262 and state law and have developed a plan consistent with the
 263 state's workforce development strategy. The plan must specify
 264 methods for allocating the resources and programs in a manner
 265 that eliminates unwarranted duplication, minimizes
 266 administrative costs, meets the existing job market demands and
 267 the job market demands resulting from successful economic
 268 development activities, ensures access to quality workforce
 269 development services for all Floridians, allows for pro rata or
 270 partial distribution of benefits and services, prohibits the
 271 creation of a waiting list or other indication of an unserved
 272 population, serves as many individuals as possible within
 273 available resources, and maximizes successful outcomes. The
 274 state board shall establish incentives for effective alignment
 275 ~~coordination~~ of federal and state programs, outline rewards for
 276 achieving the long-term self-sufficiency of participants
 277 ~~successful job placements~~, and institute collaborative
 278 approaches among local service providers.

279 Section 4. Subsection (1), paragraph (a) of subsection (2),
 280 and subsections (6), (11), and (12) of section 445.007, Florida
 281 Statutes, are amended, and subsections (13) and (14) are added
 282 to that section, to read:

283 445.007 Local workforce development boards.—

284 (1) One local workforce development board shall be
 285 appointed in each designated service delivery area and shall
 286 serve as the local workforce development board pursuant to Pub.
 287 L. No. 113-128. The membership of the local board must be
 288 consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a
 289 public education or training provider is represented on the
 290 local board, a representative of a private education provider

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291 must also be appointed to the local board. The state board may
 292 waive this requirement if requested by a local workforce
 293 development board if it is demonstrated that such
 294 representatives do not exist in the region. The importance of
 295 minority and gender representation shall be considered when
 296 making appointments to the local board. The local board, its
 297 committees, subcommittees, and subdivisions, and other units of
 298 the workforce system, including units that may consist in whole
 299 or in part of local governmental units, may use any method of
 300 telecommunications to conduct meetings, including establishing a
 301 quorum through telecommunications, provided that the public is
 302 given proper notice of the telecommunications meeting and
 303 reasonable access to observe and, when appropriate, participate.
 304 Local workforce development boards are subject to chapters 119
 305 and 286 and s. 24, Art. I of the State Constitution. ~~If the~~
 306 ~~local workforce development board enters into a contract with an~~
 307 ~~organization or individual represented on the local board, the~~
 308 ~~contract must be approved by a two-thirds vote of the local~~
 309 ~~board, a quorum having been established, and the local board~~
 310 ~~member who could benefit financially from the transaction must~~
 311 ~~abstain from voting on the contract. A local board member must~~
 312 ~~disclose any such conflict in a manner that is consistent with~~
 313 ~~the procedures outlined in s. 112.3143. Each member of a local~~
 314 workforce development board who is not otherwise required to
 315 file a full and public disclosure of financial interests under
 316 s. 8, Art. II of the State Constitution or s. 112.3144 shall
 317 file a statement of financial interests under s. 112.3145. The
 318 executive director or designated person responsible for the
 319 operational and administrative functions of the local workforce

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320 development board who is not otherwise required to file a full
 321 and public disclosure of financial interests under s. 8, Art. II
 322 of the State Constitution or s. 112.3144 shall file a statement
 323 of financial interests under s. 112.3145. The local workforce
 324 development board's website, or the department's website if the
 325 local board does not maintain a website, must inform the public
 326 that each disclosure or statement has been filed with the
 327 Commission on Ethics and provide information as to how each
 328 disclosure or statement may be reviewed. The notice to the
 329 public must remain on the website throughout the term of office
 330 or employment of the filer and until 1 year after his or her
 331 term on the local board or employment, as applicable, ends.
 332 (2) (a) The local workforce development board shall elect a
 333 chair from among the representatives described in Pub. L. No.
 334 113-128, Title I, s. 107(b)(2)(A) to serve for a term of no more
 335 than 2 years and may not shall serve no more than two terms as
 336 chair. A member of a local workforce development board may not
 337 serve as a member of the board for more than 6 consecutive
 338 years, unless such member is a representative of a governmental
 339 entity.
 340 (6) Consistent with federal and state law, the local
 341 workforce development board shall designate all local service
 342 providers and may not transfer this authority to a third party.
 343 Consistent with the intent of the Workforce Innovation and
 344 Opportunity Act, local workforce development boards should
 345 provide the greatest possible choice of training providers to
 346 those who qualify for training services. A local ~~workforce~~
 347 ~~development~~ board may not restrict the choice of training
 348 providers based upon cost, location, or historical training

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349 arrangements. However, a local board may restrict the amount of
 350 training resources available to any one client. Such
 351 restrictions may vary based upon the cost of training in the
 352 client's chosen occupational area. The local workforce
 353 development board may be designated as a one-stop operator and
 354 direct provider of intake, assessment, eligibility
 355 determinations, or other direct provider services except
 356 training services. Such designation may occur only with the
 357 agreement of the chief elected official and the Governor as
 358 specified in 29 U.S.C. s. 2832(f)(2). The state board shall
 359 establish procedures by which a local workforce development
 360 board may request permission to operate under this section and
 361 the criteria under which such permission may be granted. The
 362 criteria shall include, but need not be limited to, a reduction
 363 in the cost of providing the permitted services. Such permission
 364 shall be granted for a period not to exceed 3 years for any
 365 single request submitted by the local workforce development
 366 board.

367 (11)(a) To increase transparency and accountability, a
 368 local workforce development board must comply with the
 369 requirements of this section before contracting with a member of
 370 the local board; ~~or~~ a relative, as defined in s. 112.3143(1)(c),
 371 of a local board member; an organization or individual
 372 represented on the local board; or of an employee of the local
 373 board. Such contracts may not be executed before or without the
 374 prior approval of the department. Such contracts, as well as
 375 documentation demonstrating adherence to this section as
 376 specified by the department, must be submitted to the department
 377 for review and approval. Such a contract must be approved by a

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378 two-thirds vote of the local board, a quorum having been
 379 established; all conflicts of interest must be disclosed before
 380 the vote in a manner that is consistent with the procedures
 381 outlined in s. 112.3143(4); and any member who may benefit from
 382 the contract, or whose organization or relative may benefit from
 383 the contract, must abstain from the vote. A contract subject to
 384 the requirements of this subsection may not be included on a
 385 consent agenda.

386 (b) A contract under \$10,000 ~~\$25,000~~ between a local
 387 workforce development board and ~~a member of that board or~~
 388 ~~between~~ a relative, as defined in s. 112.3143(1)(c), of a local
 389 board member or of an employee of the local board is not
 390 required to have the prior approval of the department, but must
 391 be approved by a two-thirds vote of the local board, a quorum
 392 having been established, and must be reported to the department
 393 and the state board within 30 days after approval.

394 (c) All contracts between a local board and a member of the
 395 local board; a relative, as defined in s. 112.3143(1)(c), of a
 396 local board member; an organization or individual represented on
 397 the local board; or an employee of the local board, approved on
 398 or after July 1, 2021, also must be published on the local
 399 board's website, or on the department's website if the local
 400 board does not maintain a website, within 10 days after approval
 401 by the local board or department, whichever is later. Such
 402 contracts must remain published on the website for at least 1
 403 year after termination of the contract.

404 (d) In considering whether to approve a contract under this
 405 subsection, the department shall review and consider all
 406 documentation provided to the department by the local board,

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407 including the performance rating of the entity with which the
 408 local board is proposing to contract, if applicable, and the
 409 nature, size, and makeup of the business community served by the
 410 local board, including whether the entity with which the local
 411 board is proposing to contract is the only provider of the
 412 desired goods or services within the area served by the local
 413 board ~~If a contract cannot be approved by the department, a~~
 414 ~~review of the decision to disapprove the contract may be~~
 415 ~~requested by the local workforce development board or other~~
 416 ~~parties to the disapproved contract.~~

417 (12) Each local workforce development board shall develop a
 418 budget for the purpose of carrying out the duties of the local
 419 board under this section, subject to the approval of the chief
 420 elected official. Each local workforce development board shall
 421 submit its annual budget for review to the department no later
 422 than 2 weeks after the chair approves the budget. The local
 423 board shall publish the budget on its website, or the
 424 department's website if the local board does not maintain a
 425 website, within 10 days after approval by the department. The
 426 budget shall remain published on the website for the duration of
 427 the fiscal year for which it accounts for the expenditure of
 428 funds.

429 (13) Each local workforce development board annually,
 430 within 30 days after the end of the fiscal year, shall disclose
 431 to the department, in a manner determined by the department, the
 432 amount and nature of compensation paid to all executives,
 433 officers, directors, trustees, key employees, and highest
 434 compensated employees, as defined for purposes of the Internal
 435 Revenue Service Form 990, Return of Organization Exempt from

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436 Income Tax, including salary, bonuses, present value of vested
 437 benefits, including, but not limited to, retirement, accrued
 438 leave and paid time off, cashed-in leave, cash equivalents,
 439 severance pay, pension plan accruals and contributions, deferred
 440 compensation, real property gifts, and any other liability owed
 441 to such persons. The disclosure must be accompanied by a written
 442 declaration, as provided for under s. 92.525(2), from the Chief
 443 Financial Officer, or his or her designee, stating that he or
 444 she has read the foregoing document and the facts stated in it
 445 are true. Such information also must be published on the local
 446 board's website, or the department's website if the local board
 447 does not maintain a website, for a period of 3 years after it is
 448 first published.

449 (14) Each local workforce development board shall annually
 450 publish its most recent Internal Revenue Service Form 990,
 451 Return of Organization Exempt from Income Tax, on its website,
 452 or the department's website if the local board does not maintain
 453 a website. The form must be posted on the local board's website
 454 within 60 calendar days after it is filed with the Internal
 455 Revenue Service and remain posted for 3 years after it is filed.

456 Section 5. Paragraphs (a) and (e) of subsection (8) of
 457 section 445.009, Florida Statutes, are amended to read:

458 445.009 One-stop delivery system.—

459 (8) (a) Individual Training Accounts must be expended on
 460 programs that prepare people to enter ~~high-wage~~ occupations
 461 identified by the Labor Market Workforce Estimating Conference
 462 created by s. 216.136, and on other programs recommended and
 463 approved by the state board following a review by the department
 464 to determine the program's compliance with federal law.

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465 (e) Training services provided through Individual Training
 466 Accounts must be performance-based, with successful job
 467 placement triggering final full payment of at least 10 percent.

468 Section 6. Section 445.038, Florida Statutes, is amended to
 469 read:

470 445.038 Digital media; job training.—CareerSource Florida,
 471 Inc., through the Department of Economic Opportunity, may use
 472 funds dedicated for incumbent worker training for the digital
 473 media industry. Training may be provided by public or private
 474 training providers for broadband digital media jobs listed on
 475 the ~~targeted~~ occupations list developed by the Labor Market
 476 ~~Workforce Estimating Conference or CareerSource Florida, Inc.~~
 477 Programs that operate outside the normal semester time periods
 478 and coordinate the use of industry and public resources should
 479 be given priority status for funding.

480 Section 7. Subsection (8) of section 446.021, Florida
 481 Statutes, is amended to read:

482 446.021 Definitions of terms used in ss. 446.011-446.092.—
 483 As used in ss. 446.011-446.092, the term:

484 (8) "~~Uniform minimum preapprenticeship~~ Standards" means the
 485 minimum requirements established uniformly for each occupation
 486 ~~craft~~ under which an apprenticeship or a preapprenticeship
 487 program is administered. ~~The term and~~ includes standards of
 488 admission, training goals, training objectives, curriculum
 489 outlines, objective standards to measure successful completion
 490 of the apprenticeship or preapprenticeship program, and the
 491 percentage of credit which may be given to an apprentice or a
 492 preapprentice ~~preapprenticeship graduates upon acceptance into~~
 493 ~~the apprenticeship program.~~

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494 Section 8. Subsections (1), (2), and (3) of section
 495 446.032, Florida Statutes, are amended to read:

496 446.032 General duties of the department for apprenticeship
 497 training.—The department shall:

498 (1) Establish uniform minimum standards and policies
 499 governing apprenticeship ~~apprentice~~ programs and agreements
 500 which must require training providers to submit data necessary
 501 to determine program performance consistent with state and
 502 federal law. The standards and policies shall govern the terms
 503 and conditions of the apprentice's employment and training,
 504 including the quality training of the apprentice for, but not
 505 limited to, such matters as ratios of apprentices to
 506 journeyworkers, safety, related instruction, and on-the-job
 507 training; but these standards and policies may not include
 508 rules, standards, or guidelines that require the use of
 509 apprentices and job trainees on state, county, or municipal
 510 contracts. The department shall ~~may~~ adopt rules necessary to
 511 administer the standards and policies.

512 (2) By September 1 of each year, publish an annual report
 513 on apprenticeship and preapprenticeship programs. The report
 514 must be published on the department's website and, at a minimum,
 515 include all of the following:

516 (a) A list of registered apprenticeship and
 517 preapprenticeship programs, sorted by local educational agency,
 518 as defined in s. 1004.02(18), and apprenticeship sponsor, under
 519 s. 446.071.

520 (b) A detailed summary of each local educational agency's
 521 expenditure of funds for apprenticeship and preapprenticeship
 522 programs, including:

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- 523 1. The total amount of funds received for apprenticeship
524 and preapprenticeship programs;
- 525 2. The total amount of funds allocated by training
526 provider, program, and to each trade or occupation;
- 527 3. The total amount of funds expended for administrative
528 costs by training provider, program, and per trade or
529 occupation; and
- 530 4. The total amount of funds expended for instructional
531 costs by training provider, program, per trade and occupation.
- 532 (c) The number of apprentices and preapprentices per trade
533 and occupation.
- 534 (d) The percentage of apprentices and preapprentices who
535 complete their respective programs in the appropriate timeframe.
- 536 (e) Information and resources related to applications for
537 new apprenticeship programs and technical assistance and
538 requirements for potential applicants.
- 539 (f) Documentation of activities conducted by the department
540 to promote apprenticeship and preapprenticeship programs through
541 public engagement, community-based partnerships, and other
542 initiatives and the outcomes of such activities and their impact
543 on establishing or expanding apprenticeship and
544 preapprenticeship programs.
- 545 (g) Retention and completion rates of participants
546 aggregated by training provider, program, and occupation.
- 547 (h) Wage progression of participants as demonstrated by
548 starting, exit, and postapprenticeship wages.
- 549 (3) Provide assistance to district school boards, Florida
550 College System institution boards of trustees, program sponsors,
551 and local workforce development boards in notifying students,

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- 552 parents, and members of the community of the availability of
553 apprenticeship and preapprenticeship opportunities, including
554 data provided in the economic security report ~~under pursuant to~~
555 s. 445.07 and other state career planning resources.
- 556 Section 9. Paragraph (b) of subsection (2) of section
557 446.045, Florida Statutes, is amended to read:
558 446.045 State Apprenticeship Advisory Council.—
559 (2)
- 560 (b) The Commissioner of Education or the commissioner's
561 designee shall serve ex officio as chair of the State
562 Apprenticeship Advisory Council, but may not vote. The state
563 director of the Office of Apprenticeship of the United States
564 Department of Labor shall serve ex officio as a nonvoting member
565 of the council. The Governor shall appoint to the council four
566 members representing employee organizations and four members
567 representing employer organizations. Each of these eight members
568 shall represent industries that have registered apprenticeship
569 programs. The Governor shall also appoint two public members who
570 are knowledgeable about registered apprenticeship and
571 apprenticeable occupations and who are independent of any joint
572 or nonjoint organization. Members shall be appointed for 4-year
573 staggered terms. The Governor A vacancy shall fill any vacancy
574 ~~be filled~~ for the remainder of the unexpired term.
- 575 Section 10. Paragraph (e) of subsection (1) of section
576 1003.4156, Florida Statutes, is amended to read:
577 1003.4156 General requirements for middle grades
578 promotion.—
- 579 (1) In order for a student to be promoted to high school
580 from a school that includes middle grades 6, 7, and 8, the

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581 student must successfully complete the following courses:
 582 (e) One course in career and education planning to be
 583 completed in grades 6, 7, or 8, which may be taught by any
 584 member of the instructional staff. The course must be Internet-
 585 based, customizable to each student, and include research-based
 586 assessments to assist students in determining educational and
 587 career options and goals. In addition, the course must result in
 588 a completed personalized academic and career plan for the
 589 student that may be revised as the student progresses through
 590 middle school and high school; must emphasize the importance of
 591 entrepreneurship and employability skills; and must include
 592 information from the Department of Economic Opportunity's
 593 economic security report under s. 445.07 and other state career
 594 planning resources. The required personalized academic and
 595 career plan must inform students of high school graduation
 596 requirements, including a detailed explanation of the
 597 requirements for earning a high school diploma designation under
 598 s. 1003.4285; the requirements for each scholarship in the
 599 Florida Bright Futures Scholarship Program; state university and
 600 Florida College System institution admission requirements;
 601 available opportunities to earn college credit in high school,
 602 including Advanced Placement courses; the International
 603 Baccalaureate Program; the Advanced International Certificate of
 604 Education Program; dual enrollment, including career dual
 605 enrollment; and career education courses, including career-
 606 themed courses, preapprenticeship and apprenticeship programs,
 607 and course sequences that lead to industry certification
 608 pursuant to s. 1003.492 or s. 1008.44. The course may be
 609 implemented as a stand-alone course or integrated into another

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610 course or courses.
 611 Section 11. Subsections (3) and (5) of section 1003.4203,
 612 Florida Statutes, are amended to read:
 613 1003.4203 Digital materials, CAPE Digital Tool
 614 certificates, and technical assistance.—
 615 (3) CAPE DIGITAL TOOL CERTIFICATES.—The department shall
 616 identify, in the CAPE Industry Certification Funding List under
 617 ss. 1003.492 and 1008.44 by June 15 of each year, CAPE Digital
 618 Tool certificates that indicate a student's digital skills. The
 619 department shall notify each school district when the
 620 certificates are available. The certificates shall be made
 621 available to all public elementary and middle grades students.
 622 (a) Targeted skills to be mastered for the certificate
 623 include digital skills that are necessary to the student's
 624 academic work and skills the student may need in future
 625 employment. ~~The skills must include, but are not limited to,~~
 626 ~~word processing; spreadsheets; presentations, including sound,~~
 627 ~~motion, and color presentations; digital arts; cybersecurity;~~
 628 ~~and coding consistent with CAPE industry certifications that are~~
 629 ~~listed on the CAPE Industry Certification Funding List, pursuant~~
 630 ~~to ss. 1003.492 and 1008.44.~~ CAPE Digital Tool certificates
 631 earned by students are eligible for additional full-time
 632 equivalent membership under pursuant to s. 1011.62(1)(o)1.a.
 633 (b) The school district shall notify each middle school
 634 advisory council of the methods of delivery of the open-access
 635 content and assessments for the certificates. If there is no
 636 middle school advisory council, notification must be provided to
 637 the district advisory council.
 638 (c) The Legislature intends that by July 1, 2018, on an

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639 annual basis, at least 75 percent of public middle grades
640 students earn at least one CAPE Digital Tool certificate.

641 (5) CAPE INNOVATION AND CAPE ACCELERATION.—

642 (a) ~~CAPE Innovation.—Up to five Courses, identified in the~~
643 ~~CAPE Industry Certification Funding List, which annually~~
644 ~~approved by the commissioner that~~ combine academic and career
645 content, and performance outcome expectations that, if achieved
646 by a student, must shall articulate for college credit and be
647 eligible for additional full-time equivalent membership under
648 ~~pursuant to~~ s. 1011.62(1)(o)1.c. Such approved courses must
649 incorporate at least two third-party assessments that, if
650 successfully completed by a student, must shall articulate for
651 college credit. At least one of the two third-party assessments
652 must be associated with an industry certification that is
653 identified on the CAPE Industry Certification Funding List. Each
654 course that is approved by the commissioner must be specifically
655 identified in the Course Code Directory as a CAPE Innovation
656 Course.

657 (b) ~~CAPE Acceleration.—Industry certifications, annually~~
658 ~~approved by the commissioner,~~ that articulate for 15 or more
659 college credit hours ~~and~~, if successfully completed, are shall
660 ~~be~~ eligible for additional full-time equivalent membership under
661 ~~pursuant to~~ s. 1011.62(1)(o)1.d. Each approved industry
662 certification must be specifically identified in the CAPE
663 Industry Certification Funding List as a CAPE Acceleration
664 Industry Certification.

665 Section 12. Subsection (3) and paragraph (b) of subsection
666 (5) of section 1003.491, Florida Statutes, are amended to read:
667 1003.491 Florida Career and Professional Education Act.—The

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668 Florida Career and Professional Education Act is created to
669 provide a statewide planning partnership between the business
670 and education communities in order to attract, expand, and
671 retain targeted, high-value industry and to sustain a strong,
672 knowledge-based economy.

673 (3) The strategic 3-year plan developed jointly by the
674 local school district, local workforce development boards,
675 economic development agencies, and state-approved postsecondary
676 institutions shall be constructed and based on:

677 (a) Research conducted to objectively determine local and
678 regional workforce needs for the ensuing 3 years, using labor
679 projections as identified by the Labor Market Estimating
680 Conference created in s. 216.136 of the United States Department
681 of Labor and the Department of Economic Opportunity;

682 (b) Strategies to develop and implement career academies or
683 career-themed courses based on occupations identified by the
684 Labor Market Estimating Conference created in s. 216.136 ~~those~~
685 ~~careers determined to be high-wage, high-skill, and high-demand;~~

686 (c) Strategies to provide shared, maximum use of private
687 sector facilities and personnel;

688 (d) Strategies that ensure instruction by industry-
689 certified faculty and standards and strategies to maintain
690 current industry credentials and for recruiting and retaining
691 faculty to meet those standards;

692 (e) Strategies to provide personalized student advisement,
693 including a parent-participation component, and coordination
694 with middle grades to promote and support career-themed courses
695 and education planning;

696 (f) Alignment of requirements for middle school career

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697 planning, middle and high school career and professional
698 academies or career-themed courses leading to industry
699 certification or postsecondary credit, and high school
700 graduation requirements;

701 (g) Provisions to ensure that career-themed courses and
702 courses offered through career and professional academies are
703 academically rigorous, meet or exceed appropriate state-adopted
704 subject area standards, result in attainment of industry
705 certification, and, when appropriate, result in postsecondary
706 credit;

707 (h) Plans to sustain and improve career-themed courses and
708 career and professional academies;

709 (i) Strategies to improve the passage rate for industry
710 certification examinations if the rate falls below 50 percent;

711 (j) Strategies to recruit students into career-themed
712 courses and career and professional academies which include
713 opportunities for students who have been unsuccessful in
714 traditional classrooms but who are interested in enrolling in
715 career-themed courses or a career and professional academy.
716 School boards shall provide opportunities for students who may
717 be deemed as potential dropouts or whose cumulative grade point
718 average drops below a 2.0 to enroll in career-themed courses or
719 participate in career and professional academies. Such students
720 must be provided in-person academic advising that includes
721 information on career education programs by a certified school
722 counselor or the school principal or his or her designee during
723 any semester the students are at risk of dropping out or have a
724 cumulative grade point average below a 2.0;

725 (k) Strategies to provide sufficient space within academies

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726 to meet workforce needs and to provide access to all interested
727 and qualified students;

728 (l) Strategies to implement career-themed courses or career
729 and professional academy training that lead to industry
730 certification in juvenile justice education programs;

731 (m) Opportunities for high school students to earn weighted
732 or dual enrollment credit for higher-level career and technical
733 courses;

734 (n) Promotion of the benefits of the Gold Seal Bright
735 Futures Scholarship;

736 (o) Strategies to ensure the review of district pupil-
737 progression plans and to amend such plans to include career-
738 themed courses and career and professional academy courses and
739 to include courses that may qualify as substitute courses for
740 core graduation requirements and those that may be counted as
741 elective courses;

742 (p) Strategies to provide professional development for
743 secondary certified school counselors on the benefits of career
744 and professional academies and career-themed courses that lead
745 to industry certification; and

746 (q) Strategies to redirect appropriated career funding in
747 secondary and postsecondary institutions to support career
748 academies and career-themed courses that lead to industry
749 certification.

750 (5) (b) Using the findings from the annual review required
751 in paragraph (a), the commissioner shall phase out career and
752 technical education offerings that are not aligned with the
753 needs of the state employers ~~or do not provide program~~
754 ~~completers with a middle-wage or high-wage occupation and~~

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755 encourage school districts and Florida College System
 756 institutions to offer programs that are not ~~offered~~ currently
 757 offered.

758 Section 13. Subsections (2) and (3) of section 1003.4935,
 759 Florida Statutes, are amended to read:

760 1003.4935 Middle grades career and professional academy
 761 courses and career-themed courses.—

762 (2) Each middle grades career and professional academy or
 763 career-themed course must be aligned with at least one high
 764 school career and professional academy or career-themed course
 765 offered in the district and maintain partnerships with local
 766 business and industry and economic development boards. Middle
 767 grades career and professional academies and career-themed
 768 courses must:

769 (a) Lead to careers in occupations aligned with designated
 770 ~~as high-skill, high-wage, and high-demand~~ in the CAPE Industry
 771 Certification Funding List approved under rules adopted by the
 772 State Board of Education;

773 (b) Integrate content from core subject areas;

774 (c) Integrate career and professional academy or career-
 775 themed course content with intensive reading, English Language
 776 Arts, and mathematics pursuant to s. 1003.4282;

777 (d) Coordinate with high schools to maximize opportunities
 778 for middle grades students to earn high school credit;

779 (e) Provide access to virtual instruction courses provided
 780 by virtual education providers legislatively authorized to
 781 provide part-time instruction to middle grades students. The
 782 virtual instruction courses must be aligned to state curriculum
 783 standards for middle grades career and professional academy

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784 courses or career-themed courses, with priority given to
 785 students who have required course deficits;

786 (f) Provide instruction from highly skilled professionals
 787 who hold industry certificates in the career area in which they
 788 teach;

789 (g) Offer externships; and

790 (h) Provide personalized student advisement that includes a
 791 parent-participation component.

792 (3) Beginning with the 2012-2013 school year, if a school
 793 district implements a middle school career and professional
 794 academy or a career-themed course, the Department of Education
 795 shall collect and report student achievement data pursuant to
 796 performance factors identified under s. 1003.492(3) ~~or~~
 797 ~~1003.492(5)~~ for students enrolled in an academy or a career-
 798 themed course.

799 Section 14. Subsection (3) of section 1008.41, Florida
 800 Statutes, is amended to read:

801 1008.41 Workforce education; management information
 802 system.—

803 (3) Planning and evaluation of job-preparatory programs
 804 shall be based on standard sources of data and use standard
 805 occupational definitions and coding structures, including, but
 806 not limited to:

807 (a) The Florida Occupational Information System ;
 808 (b) The Florida Education and Training Placement
 809 Information Program ;
 810 (c) The Department of Economic Opportunity ;
 811 (d) The United States Department of Labor ; ~~and~~
 812 (e) The Labor Market Estimating Conference created under s.

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813 216.136.

814 (f) Other sources of data developed using statistically
815 valid procedures.

816 Section 15. Paragraph (f) is added to subsection (1) of
817 section 1008.44, Florida Statutes, to read:

818 1008.44 CAPE Industry Certification Funding List and CAPE
819 Postsecondary Industry Certification Funding List.—

820 (1) Pursuant to ss. 1003.4203 and 1003.492, the Department
821 of Education shall, at least annually, identify, under rules
822 adopted by the State Board of Education, and the Commissioner of
823 Education may at any time recommend adding the following
824 certificates, certifications, and courses:

825 (f) The Commissioner of Education shall conduct a review of
826 the methodology used to determine additional full-time
827 equivalent membership weights assigned in s. 1011.62(1)(o) and,
828 if necessary, recommend revised weights. The results of the
829 review and the commissioner's recommendations must be submitted
830 to the Governor, the President of the Senate, and the Speaker of
831 the House of Representatives no later than December 31, 2021.

832 Section 16. Subsection (3) of section 1011.801, Florida
833 Statutes, is amended to read:

834 1011.801 Workforce Development Capitalization Incentive
835 Grant Program.—The Legislature recognizes that the need for
836 school districts and Florida College System institutions to be
837 able to respond to emerging local or statewide economic
838 development needs is critical to the workforce development
839 system. The Workforce Development Capitalization Incentive Grant
840 Program is created to provide grants to school districts and
841 Florida College System institutions on a competitive basis to

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842 fund some or all of the costs associated with the creation or
843 expansion of workforce development programs that serve specific
844 employment workforce needs.

845 (3) The State Board of Education shall give highest
846 priority to programs that train people to enter high-skill,
847 high-wage occupations identified by the Labor Market Workforce
848 Estimating Conference and other programs approved by the state
849 board as defined in s. 445.002, programs that train people to
850 enter occupations under the welfare transition program, or
851 programs that train for the workforce adults who are eligible
852 for public assistance, economically disadvantaged, disabled, not
853 proficient in English, or dislocated workers. The State Board of
854 Education shall consider the statewide geographic dispersion of
855 grant funds in ranking the applications and shall give priority
856 to applications from education agencies that are making maximum
857 use of their workforce development funding by offering high-
858 performing, high-demand programs.

859 Section 17. Subsection (3) of section 1011.802, Florida
860 Statutes, is amended to read:

861 1011.802 Florida Pathways to Career Opportunities Grant
862 Program.—

863 (3) The department shall give priority to apprenticeship
864 programs with demonstrated regional demand identified by the
865 Labor Market Estimating Conference, such as health care
866 programs. Grant funds may be used for instructional equipment,
867 supplies, personnel, student services, and other expenses
868 associated with the creation or expansion of an apprenticeship
869 program. The department may award grants to expand only those
870 existing programs that exceed the median completion rate and

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871 employment rate 1 year after completion for similar programs in
 872 the region, or in the state if there are no similar programs in
 873 the region. Grant funds may not be used for recurring
 874 instructional costs or for indirect costs. Grant recipients must
 875 submit quarterly reports in a format prescribed by the
 876 department.

877 Section 18. Paragraph (a) of subsection (1) of section
 878 445.011, Florida Statutes, is amended to read:

879 445.011 Workforce information systems.—

880 (1) The department, in consultation with the state board,
 881 shall implement, subject to legislative appropriation, automated
 882 information systems that are necessary for the efficient and
 883 effective operation and management of the workforce development
 884 system. These information systems shall include, but need not be
 885 limited to, the following:

886 (a) An integrated management system for the one-stop
 887 service delivery system, which includes, at a minimum, common
 888 registration and intake, screening for needs and benefits, case
 889 planning and tracking, training benefits management, service and
 890 training provider management, performance reporting, executive
 891 information and reporting, and customer-satisfaction tracking
 892 and reporting.

893 1. The system should report current budgeting, expenditure,
 894 and performance information for assessing performance related to
 895 outcomes, service delivery, and financial administration for
 896 workforce programs pursuant to s. 445.004(5) and (10) ~~(9)~~.

897 2. The information system should include auditable systems
 898 and controls to ensure financial integrity and valid and
 899 reliable performance information.

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900 3. The system should support service integration and case
 901 management by providing for case tracking for participants in
 902 welfare transition programs.

903 Section 19. Paragraph (a) of subsection (9) of section
 904 1011.80, Florida Statutes, is amended to read:

905 1011.80 Funds for operation of workforce education
 906 programs.—

907 (9) The State Board of Education and the state board as
 908 defined in s. 445.002 shall provide the Legislature with
 909 recommended formulas, criteria, timeframes, and mechanisms for
 910 distributing performance funds. The commissioner shall
 911 consolidate the recommendations and develop a consensus proposal
 912 for funding. The Legislature shall adopt a formula and
 913 distribute the performance funds to the State Board of Education
 914 for Florida College System institutions and school districts
 915 through the General Appropriations Act. These recommendations
 916 shall be based on formulas that would discourage low-performing
 917 or low-demand programs and encourage through performance-funding
 918 awards:

919 (a) Programs that prepare people to enter high-wage
 920 occupations identified by the Labor Market Workforce Estimating
 921 Conference created by s. 216.136 and other programs as approved
 922 by the state board as defined in s. 445.002. At a minimum,
 923 performance incentives shall be calculated for adults who reach
 924 completion points or complete programs that lead to specified
 925 high-wage employment and to their placement in that employment.

926 Section 20. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 9, 2021

I respectfully request that **Senate Bill #98**, relating to Workforce Related Programs and Services, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

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

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

April 14, 2021

Meeting Date

98

Bill Number (if applicable)

Topic Workforce Development

Amendment Barcode (if applicable)

Name Chris Carmody

Job Title Attorney

Address 301 E. Pine St., Suite 1400

Phone 407-843-8880

Street

Orlando

FL

32801

Email chris.carmody@gray-robinson.com

City

State

Zip

Speaking: For Against Information

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

Representing CareerSources of Central Florida, Tampa Bay and Pinellas

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

4/15/2021

Meeting Date

98

Bill Number (if applicable)

Topic Workforce Related Programs and Services

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Florida Advocacy Director

Address 215 S Monroe Street, Suite 420

Phone 850-391-4090

Street

Tallahassee

FL

32301

Email Debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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

April 15, 2021

Meeting Date

98

Bill Number (if applicable)

Topic Workforce Related Programs and Services

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title _____

Address 537 East Park Ave.

Phone 8502102525

Street

Tallahassee

FL

32301

Email eric@teamjb.com

City

State

Zip

Speaking: For Against Information

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

Representing Alarm Association 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.

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 Appropriations

BILL: CS/SB 102

INTRODUCER: Community Affairs Committee and Senator Burgess

SUBJECT: Matters of Great Governmental Concern

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 102 creates section 16.65, Florida Statutes, which establishes a system wherein the Attorney General, as the state’s chief legal officer, is responsible for the prosecution, management, and coordination of any civil proceedings brought by governmental entities in matters of great governmental concern. The bill defines a “matter of great governmental concern” as any fact, circumstance, or conduct that has caused substantial economic loss or other harm of a similar nature to governmental entities in fifteen or more counties in this state.

The bill endows the Legislature with authority to declare a matter to be a matter of great governmental concern by concurrent resolution. The Legislature also has the authority to amend or rescind such resolution. A declaration of a matter of great governmental concern provides the Attorney General with the sole authority to file a civil proceeding on behalf of the affected governmental entities in the state unless and until that declaration is rescinded by the Legislature.

Under the bill, the Attorney General may take any legal action he or she determines is in the public interest as long as such action is not inconsistent with the terms or provisions of the Legislature’s resolution declaring the matter to be a matter of great governmental concern. When a matter is declared a matter of great governmental concern, the Attorney General is expressly provided the following procedural rights in state or federal court civil litigation:

- May institute or intervene in any legal proceeding, including any pending appeal;
- May consolidate, dismiss, release, settle, or take action that he or she believes to be in the public interest;

- A declaration operates to abate or stay any relevant civil proceeding filed by a governmental entity unless and until the Attorney General takes action in such proceeding; and
- Any statute of limitations under Florida law affecting a claim by a governmental entity is tolled for the declaration's pendency or one year, whichever is shorter.

The bill provides that public officials and employees involved in a matter of great governmental concern have to furnish relevant assistance and information to the Attorney General, including notice of any pending civil proceeding related to a matter of great governmental concern.

The bill requires that any award for damages or monetary payment from a settlement arising from a matter of great governmental concern is subject to full appropriation by the Legislature and may not be appropriated, expended, or encumbered by the Attorney General or the terms of a settlement agreement. Also, any settlement or resolution of a civil proceeding by a governmental entity taken after a declaration without the Attorney General's consent is void.

The bill states that the Department of Legal Affairs is exempt from section 120.57(3), Florida Statutes, for purposes relevant to a matter of great governmental concern.

The bill also provides a procedure for an attorney to receive from any recovery reasonable attorney fees and costs incurred in connection with representing a governmental entity before the Attorney General issues a declaration. The bill describes the various criteria a court must consider when calculating the amount of any reasonable attorney fees.

The bill takes effect upon becoming law.

II. Present Situation:

The Florida Executive Branch and Cabinet

Like the federal system, Florida's state government is divided into three branches: the executive branch, the legislative branch, and the judicial branch. The governor of Florida is the chief executive of Florida and the State's chief administrative officer responsible for the planning and budgeting for the State and serves as chair when the governor and the Florida Cabinet sit as a decision-making body in various constitutional roles. The governor has the power to execute Florida's laws and to call out the state militia to preserve the public peace, being commander-in-chief of the State's military forces that are not in active service of the United States.¹

Florida is unique among U.S. states in its cabinet-style government. Members of the Florida Cabinet are independently elected and have equal footing with the governor on issues under the Cabinet's jurisdiction. The Cabinet consists of the attorney general, the commissioner of agriculture, and the chief financial officer. Along with the governor, each member carries one vote in the cabinet decision-making process. In the event of a tie, the side of the governor is the prevailing side. Cabinet elections are held every four years, on even-numbered years not divisible by four (such as 2018, 2022, etc.).²

¹ Article IV, Sections 1 and 4, of the Florida Constitution.

² Article IV, Sections 1 and 4, of the Florida Constitution.

The State Attorney General

The Florida attorney general is the State's chief legal officer. The attorney general is responsible for and the head of the Department of Legal Affairs.³ As with other elected statewide offices in Florida, the attorney general is limited to serving two consecutive four-year terms. The attorney general is second (behind the lieutenant governor) in the line of succession to the Governor of Florida's office.⁴

Roles and Functions of the Attorney General

The Attorney General has various roles and functions within Florida's government and legal system. These responsibilities are outlined in the Florida Constitution and state statute. The Attorney General performs the following responsibilities:⁵

- Defends the constitutionality of statutes duly enacted by the Legislature;
- Issues formal legal opinions at the request of various public officials on questions relating to the application of state law;
- Is responsible for protecting Florida consumers from various types of fraud and enforcing the state's antitrust laws;
- Protects Floridians in Medicaid fraud cases;
- Defends the state in civil litigation cases;
- Represents the people of Florida when criminals appeal their convictions in state and federal courts; and
- Administers programs to assist victims of crime.

The Office of the Attorney General also houses and oversees other officials and departments. The Solicitor General is a position within the Office of the Attorney General. The Solicitor General is appointed by and serves at the pleasure of the Attorney General. The Solicitor General oversees civil and criminal appeals involving the State and has the authority to decide whether the State should appeal a case to the Florida Supreme Court, United States Supreme Court, or the Eleventh Circuit Court of Appeal, as well as the authority to decide whether the State should file or join an amicus brief in state or federal court.⁶

Furthermore, the Attorney General appoints the Statewide Prosecution from a list of nominees selected by the Florida Supreme Court Judicial Nominating Commission. The Statewide Prosecutor serves four years terms and acts as the agency head for eight offices throughout the state that targets widespread criminal activities throughout Florida, including identity theft, drug trafficking, and gang activity.⁷

³ Article IV, Sections 10, of the Florida Constitution.

⁴ Article IV, Sections 4, of the Florida Constitution.

⁵ See generally Office of Attorney General Ashley Moody Website, available at: <http://www.myfloridalegal.com/> (last visited Mar. 27, 2021).

⁶ Office of Attorney General, Role of Solicitor General, available at: <http://myfloridalegal.com/pages.nsf/main/a0cb91c5c403a0f385256cc6007a3808!OpenDocument> (last visited Mar. 27, 2021).

⁷ Office of Attorney General, Office of Statewide Prosecution, available at: <http://www.myfloridalegal.com/pages.nsf/Main/D243EF87774E965185256CC600785693> (last visited Mar. 27, 2021).

The Office of the Attorney General also houses the Florida Commission on the Status of Women, the Council on the Social Status of Black Men and Boys, and the Office of Civil Rights, which investigates and takes legal action against civil rights violations.⁸

Attorney General Common Law Powers

In addition to the Attorney General's variety of constitutional and statutory powers, courts have ruled that state attorney generals have broad legal powers under common law. The common law provides the Attorney General with authority to intervene in matters of compelling public interest. Under common law, the Attorney General has the power and duty to prosecute all actions necessary to protect and defend the state's property and revenue.⁹ Moreover, in Florida, the attorney general is in many respects judicial in character and is clothed with considerable discretion. This considerable discretion includes the Attorney General's power to institute litigation on his or her own initiative.¹⁰

In the case of *State of Fla. ex rel. Shevin v. Exxon Corp.*, the U.S. Court of Appeals for the Fifth Circuit ruled that the Attorney General of Florida retains common-law powers, and in the absence of an express legislative provision to the contrary, the Attorney General's common law powers prevail.¹¹

The Doctrine of Parens Patriae¹²

The sovereign role of states and the exercise of police power is to promote the people's health, safety, and welfare. In service of this sovereign responsibility, states may vindicate their interest in the citizenships' welfare through a legal action referred to as *parens patriae*. The Latin phrase *Parens patriae* means "parent of the country." Under this legal action, states may recover costs or damages incurred because of behavior that threatens the state's citizenry's health, safety, and welfare.¹³

American courts have uniformly recognized a state's authority to sue as *parens patriae*. In this legal action, the state alleges that a defendant's misbehavior harmed the state's interest in protecting its citizens and its interest in enforcing civil and criminal law. More specifically, *parens patriae* actions have been ruled appropriate for suits seeking to abate public nuisances, maintain access to energy sources, halt price-fixing, and enforce state anti-trust laws. In the United States, *parens patriae* actions were greatly expanded over the 1900s and have been described as an increasingly popular vehicle for state attorneys general to vindicate their constituents' rights.¹⁴

⁸ Office of Attorney General Ashley Moody Website, *available at*: <http://www.myfloridalegal.com/> (last visited Mar. 27, 2021).

⁹ *See Thompson v. Wainwright*, 714 F.2d 1495, 1500–1501 (11th Cir.1983)

¹⁰ *See State of Fla. ex rel. Shevin v. Exxon Corp.*, 526 F.2d 266 (5th Cir. 1976).

¹¹ *See id.*

¹² *See generally* Richard P. Ieyoub & Theodore Eisenberg, *State Attorney General Actions, the Tobacco Litigation, and the Doctrine of Parens Patriae*, 74 Tul. L.Rev. 1859 (2000).

¹³ *Mississippi ex rel. Hood v. AU Optronics Corp.*, 876 F.Supp.2d 758 (S.D.Miss. 2014).

¹⁴ *See Mississippi ex rel. Hood*, 876 F.Supp.2d 758 (S.D.Miss. 2014).

A *parens patriae* action by a state is typically reserved for breaches of duty or inflictions of damages on a statewide scale, warranting civil state involvement in litigation. A state is not permitted to enter a controversy as a nominal party to forward individual citizens' claims. But it may act as the representative of its citizens in original actions where the injury alleged affects the general population of a state in a substantial way.¹⁵ *Parens patriae* actions are disfavored where the injury falls “on a small group of citizens who are likely to challenge” the harm directly. But where “a great many citizens ... are faced with increased costs aggregating millions of dollars per year” and “cannot be expected to litigate [the issue] given that the amounts paid by each consumer are likely to be relatively small, *parens patriae* suits are appropriate. *Parens patriae* statutes are most common in the antitrust and consumer protection contexts.¹⁶

Procedural Limits to Attorney General Common Law Powers in Litigation

Although the Attorney General has broad authority to litigate matters in the public interest, courts have ruled that the Attorney General must still abide by relevant judicial procedures and rules. In the case of *Bondi v. Tucker*, Florida’s First District Court of Appeal ruled that when the Attorney General does appear in court as a party litigant, he or she is subject to the same rules of judicial procedure which other litigants must observe. In this case, Attorney General Bondi failed to participate as a party in the lower tribunal proceedings and was denied the ability to invoke appellate proceedings individually. In its decision, the court expressly recognizes that courts maintain discretion to enforce judicial procedure even when the Attorney General is involved.¹⁷

Instances of State Involvement in Civil Litigation

Petroleum Products Overcharges

In *Hawaii v. Standard Oil*, the state of Hawaii brought a complaint against companies involved in the petroleum industry, alleging defendants violated the Sherman Act, 26 Stat. 209, 15 U.S.C. s 1, by entering into unlawful contracts; by conspiring and combining to restrain trade and commerce in the sale, marketing, and distribution of refined petroleum products; and by attempting to monopolize and actually monopolizing trade and commerce in the petroleum industry.¹⁸

The State sought to recover damages in three distinct capacities. First, the state claimed it suffered damages in its proprietary capacity for overcharges for petroleum products sold to the State itself. Second, as *parens patriae*, Hawaii sought similar damages for overcharges paid by the State's citizens. Third, the state looked to recover damages as the representative of all purchasers in Hawaii for the overcharges.¹⁹

In this case, the Supreme Court held that the State of Hawaii could seek damages for its citizens via a *parens patriae* suit alleging antitrust violations.²⁰

¹⁵ *Maryland v. Louisiana*, 451 U.S. 725, 737, 101 S.Ct. 2114, 68 L.Ed.2d 576 (1981)

¹⁶ *See id.*

¹⁷ *Bondi v. Tucker*, 93 So.3d 1106 (Fla. 1st DCA 2012).

¹⁸ *Hawaii v. Standard Oil Co. of Cal.*, 405 U.S. 251 (1972).

¹⁹ *Id.*

²⁰ *Hawaii*, 405 U.S. 251 (1972).

Liquid Crystal Display Price-fixing

In the case of *Mississippi ex rel. Hood v. AU Optronics Corp.*, the Attorney General of Mississippi filed a state court *parens patriae* suit on behalf of the State of Mississippi against manufacturers, marketers, sellers, and distributors of liquid crystal display (LCD) panels, alleging that defendants engaged in a price-fixing scheme in violation of Mississippi Consumer Protection Act (MCPA) and Mississippi Antitrust Act (MAA).²¹

The State sought the following relief: (1) a permanent injunction prohibiting the defendants from continuing to engage in anti-competitive behavior; (2) civil penalties of \$10,000 per LCD panel product sold in Mississippi during the relevant time period, pursuant to the MCPA; (3) civil penalties of up to \$2,000 per month, per defendant for violations of the MAA during the relevant time period; (4) restitution to the State for its own losses caused by purchasing LCD panel products during the relevant time period; (5) restitution to the State on behalf of its citizens and local governments who suffered losses by purchasing LCD panel products during the relevant time period; (6) punitive damages; and (7) other relief including costs of court, pre- and post-judgment interest, and attorney's fees.²²

The ruling in this case mainly involved whether Mississippi's claims were subject to the Class Action Fairness Act provisions and must be brought in federal court or could be brought in state court. The court in this case ultimately ruled that Mississippi's Attorney General may maintain a *parens patriae* suit in state court, to enforce Mississippi's consumer protection and antitrust laws, for the economic well-being of Mississippi's consumers and governmental entities, and that the general public exception to Class Action Fairness Act applied to prevent removal to federal court.²³

2010 Deepwater Horizon Oil Spill

On April 20, 2010, the Transocean offshore oil rig, Deepwater Horizon, under the operation of BP, exploded in the Gulf of Mexico, causing an estimated 4.9 million barrels of crude oil to spill into the ocean approximately 45 miles south of the Louisiana coast. Florida Governor Charlie Crist issued a state of emergency as a result of the spreading oil spill.²⁴

On April 4, 2016, Florida, the four other affected Gulf States, the federal government, and BP entered into a Consent Decree, "In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010" (no. 2179, M.D.L, document no. 15), that awarded civil and criminal penalties in the amount of \$20.8 billion to the United States and the five Gulf States to be paid by parties responsible for the oil spill. In a separate agreement, BP agreed to pay a total of \$4.9 billion to the five Gulf States and up to \$1 billion to local government entities for

²¹ *Mississippi ex rel. Hood v. AU Optronics Corp.*, 876 F.Supp.2d 758 (S.D.Miss. 2012).

²² *Id.*

²³ *Id.*

²⁴ Triumph Gulf Coast, Inc. Website, *Triumph Timeline*, available at: <https://www.myfloridatriumph.com/about/triumph-timeline/> (last visited Mar. 29, 2021).

economic damage claims related to the Deepwater Horizon incident.²⁵ In July of 2016, Attorney General Pam Bondi received the first settlement payment from BP for \$400 million.²⁶

To administer the settlement funds paid by BP, the Florida Legislature established the Triumph Gulf Coast, Inc., a nonprofit corporation created pursuant to s. 288.8013, F.S. Under s. 288.8013(2), F.S., seventy-five percent of all payments to the state pursuant to the settlement agreement with BP are transferred immediately by the Chief Financial Officer from the General Revenue Fund to the Triumph Gulf Coast Trust Fund. Triumph Gulf Coast, Inc. is responsible for allocating settlement funds by providing awards for public and private projects within each disproportionately affected county's geographic boundaries.²⁷

Opioid Epidemic

From 1999 to 2016, it is estimated 453,300 Americans have died from opioids.²⁸ The opioid epidemic was initially caused by the over-prescription of opioids in the 1990s, which led to them becoming the most prescribed class of medications in the United States. The U.S. Department of Justice has found that civil and criminal violations by opioid manufacturers substantially contributed to the opioid epidemic.²⁹

In the aftermath of this epidemic, numerous state, county, and city governments have brought civil claims against opioid manufacturers to recoup damages related to the opioid epidemic. In 2019, opioid distributors McKesson Corp., AmerisourceBergen, Cardinal Health, and drug manufacturer Teva Pharmaceuticals agreed to a \$260 million settlement with Cuyahoga and Summit counties in Ohio.³⁰ Also in 2019, an Oklahoma judge ruled that Johnson and Johnson must pay the state of Oklahoma \$572 million as damages for actions that contributed to the opioid epidemic.³¹

In Florida, Broward County, Broward Health Hospital District, and 26 other governmental entities and institutions across the state have also joined civil litigation against Purdue Pharma, Johnson & Johnson, Abbott Laboratories, and others in the prescription opioid industry. The

²⁵ Triumph Gulf Coast, Inc. Website, *Triumph Timeline*, available at: <https://www.myfloridatriumph.com/about/triumph-timeline/> (last visited Mar. 29, 2021).

²⁶ *Id.*

²⁷ Section 288.8013, F.S.

²⁸ "The Opioid Epidemic Might Be Much Worse Than We Thought". The Atlantic, February 27, 2020, available at: <https://www.theatlantic.com/health/archive/2020/02/more-people-have-died-opioids-us-thought/607165/> (last visited Mar. 29, 2021); Mohamadi A, Chan JJ, Lian J, Wright CL, Marin AM, Rodriguez EK, von Keudell A, Nazarian A (August 2018), "Risk Factors and Pooled Rate of Prolonged Opioid Use Following Trauma or Surgery: A Systematic Review and Meta-Regression) Analysis". The Journal of Bone and Joint Surgery. American Volume. 100 (15): 1332–1340.

²⁹ Justice Department Announces Global Resolution of Criminal and Civil Investigations with Opioid Manufacturer Purdue Pharma and Civil Settlement with Members of the Sackler Family, Oct. 21, 2020, available at: <https://www.justice.gov/opa/pr/justice-department-announces-global-resolution-criminal-and-civil-investigations-opioid> (last visited Mar. 29, 2021).

³⁰ Government Lawsuits Against Opioid Distributors & Manufacturers, available at: <https://www.levinlaw.com/government-opioid-lawsuit> (last visited Mar. 29, 2021).

³¹ "Oklahoma wins case against drugmaker in historic opioid trial," CNN, Aug. 27, 2019, available at: <https://www.cnn.com/2019/08/26/health/oklahoma-opioid-trial-verdict-bn/index.html> (last visited Mar. 29, 2021).

suits allege negligence, fraud, and civil conspiracy, seek millions of dollars in damages, and demand a jury trial.³²

On February 4, 2021, Attorney General Ashley Moody announced that her office secured millions of dollars for Florida through efforts to hold accountable corporations responsible for helping fuel the deadly opioid epidemic. Florida joined a coalition of 47 states, the District of Columbia, and five U.S. territories in the \$573 million action with one of the world's largest consulting firms, McKinsey & Company. The multistate action resolved investigations into the company's role in working for opioid companies to promote products that fueled the opioid epidemic. As a result, Florida will receive more than \$40 million—a majority of which will be made available for allocation by Florida lawmakers.³³

Similarly, on March 16, 2021, Attorney General Moody announced that her office secured additional funding for Florida communities from Purdue Pharma's bankruptcy plan, which is worth approximately \$7 billion in total.³⁴

III. Effect of Proposed Changes:

The bill creates s. 16.65, F.S., which establishes a system wherein the Attorney General, as the state's chief legal officer, is responsible for the prosecution, management, and coordination of any civil proceedings brought by governmental entities in matters of great governmental concern.

The bill includes legislative findings that a single official representing governmental entities in civil proceedings in matters of great governmental concern will maximize recoveries and minimize costs. The bill states it is the intent of the Legislature to establish a procedure for use by the Attorney General in addressing matters of great governmental concern, and that the act is not intended to expand or change existing law with respect to the power and authority of the Attorney General.

The bill defines "governmental entity" to mean the state and any department, agency, political subdivision, unit of government, or school district thereof. A "matter of great governmental concern" is defined as any fact, circumstance, or conduct that has caused substantial economic loss or other harm of a similar nature to governmental entities in fifteen or more counties in this state.

The bill endows the Legislature with authority to declare a matter to be a matter of great governmental concern by concurrent resolution. The Legislature also has the authority to amend or rescind such resolution. A declaration of a matter of great governmental concern provides the

³² "South Florida hospitals among 27 in state suing opioid makers and sellers, Broward lawsuit says," SunSentinel, Sep. 19, 2019, available at: <https://www.sun-sentinel.com/local/broward/fl-ne-hospitals-florida-suing-opioid-makers-sellers-20190920-z6eefkmghrdshctc34xb3yngyy-story.html> (last visited Mar. 29, 2021).

³³ Attorney General Moody Secures \$40 Million for Florida from Company Marketing Opioid Medications, available at: <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/BB37C4F6FABF771D85258672005079E1> (last visited Mar. 29, 2021).

³⁴ Attorney General Moody Secures Billions for Opioid Abatement Funds from Purdue Pharma Bankruptcy Plan, available at: <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/D6A7FC7B1D9774808525869A004BCDE5> (last visited Mar. 29, 2021).

Attorney General with the sole authority to file a civil proceeding on behalf of the affected governmental entities in the state unless and until that declaration is rescinded by the Legislature. Under the bill, when a matter is declared a matter of great governmental concern, the Attorney General may institute or intervene in any governmental entity legal proceeding, including any pending appeal, and may consolidate, dismiss, release, settle, or take action that he or she believes to be in the public interest, as long as such action is not inconsistent with the terms of the Legislature's resolution. The Legislature's declaration operates to abate or stay any relevant civil proceeding filed by a governmental entity unless and until the Attorney General takes action in such proceeding. A declaration by the Legislature also tolls any statute of limitations under Florida law affecting a claim by a governmental entity for the declaration's pendency or 1 year, whichever is shorter.

The bill provides that public officials and employees involved in a matter of great governmental concern have to furnish relevant assistance and information to the Attorney General, including notice of any pending civil proceeding related to a matter of great governmental concern.

The bill requires that any award for damages or monetary payment from a settlement arising from a matter of great governmental concern is subject to full appropriation by the Legislature and may not be appropriated, expended, or encumbered by the Attorney General or the terms of a settlement agreement. Also, any settlement or resolution of a civil proceeding by a governmental entity taken after a declaration without the Attorney General's consent is void.

The bill states that the Department of Legal Affairs is exempt from s. 120.57(3), F.S., for purposes relevant to a matter of great governmental concern.

The bill also provides a procedure for an attorney to receive from any recovery reasonable attorney fees and costs incurred in connection with representing a governmental entity before the Attorney General issues a declaration. The bill describes the various criteria a court must consider when calculating the amount of any reasonable attorney fees to include the following:

- The time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the legal service properly;
- The likelihood, if apparent, that the acceptance of the particular employment will preclude other employment by the attorney;
- The fee customarily charged in the locality for similar legal services;
- The amount involved and the results obtained;
- The time limitation imposed by the governmental entity or the circumstances;
- The nature and length of the professional relationship with the governmental entity;
- The experience, reputation, and ability of the attorney performing the legal services; and
- Whether the fee is fixed or contingent.

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:

Article V, s. 2(a) of the Florida Constitution, grants the Florida Supreme Court the exclusive authority to adopt rules of judicial practice and procedure for actions filed in Florida.³⁵ Generally, the Legislature is empowered to enact substantive law while the Florida Supreme Court has the authority to enact procedural law.³⁶ Accordingly, a statute that creates or modifies a procedural rule of the Florida Supreme Court violates Art. II, s. 3 of the Florida Constitution, which prohibits one branch of government from exercising any powers appertaining to either of the other branches unless expressly permitted by the constitution.³⁷

The bill may implicate these constitutional provisions by containing procedural dictates that fall exclusively within the Florida Supreme Court's constitutional powers and, thus, violate the constitutional separation of powers. The bill's constitutionality likely depends on whether a court considers the bill's provisions "clearly substantive" with "incidental" procedural aspects. If so, the bill may be constitutional.³⁸

The bill also may implicate Art. I, s. 10 of the United States Constitution and Art. I, s. 10 of the Florida Constitution. Both of these constitutional provisions prohibit any law that impairs the obligation of contracts. The bill may violate these constitutional restrictions by impairing existing contractual relationships between governmental entities and private attorneys that may be affected if the Attorney General declares that a matter is a great governmental concern.³⁹

³⁵ See *Se. Floating Docks, Inc. v. Auto-Owners Ins. Co.*, 82 So.3d 73, 78 (Fla.2012).

³⁶ *Massey v. David*, 979 So.2d 931, 936 (Fla.2008)

³⁷ See *State v. Raymond*, 906 So.2d 1045, 1048 (Fla.2005)

³⁸ "If a statute is clearly substantive and operates in an area of legitimate legislative concern, this Court will not hold that it constitutes an unconstitutional encroachment on the judicial branch. However, where a statute does not basically convey substantive rights, the procedural aspects of the statute cannot be deemed incidental, and that statute is unconstitutional. Moreover, where this Court has promulgated rules that relate to practice and procedure, and a statute provides a contrary practice or procedure, the statute is unconstitutional to the extent of the conflict. Finally, where a statute has some substantive aspects, but the procedural requirements of the statute conflict with or interfere with the procedural mechanisms of the court system, those requirements are unconstitutional." *Massey v. David*, 979 So.2d 931, 937 (Fla.2008)(citation and quotations omitted).

³⁹ See *Searcy, Denney, Scarola, Barnhart & Shipley, etc. v. State*, 209 So.3d 118 (Fla.2017)(claims bill's limitation on payment of attorney fees impermissibly impaired family's preexisting contingency fee contract with law firm).

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

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

The bill may increase state revenue as it would direct all recovery obtained in litigation on a matter of great governmental concern, with the exception of local government attorney fees in specified circumstances, to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill's current definition of a "matter of great governmental concern" appears to only apply to situations where a governmental entity suffers substantial economic loss or harm. This definition may exclude certain *parens patriae* legal actions related to the economic loss or harm suffered by the citizenry of a governmental entity and not the governmental entity itself.

VIII. Statutes Affected:

This bill creates section 16.65 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 Community Affairs on March 30, 2021:

The committee substitute makes the following revisions:

- Redefines "matter of great governmental concern" to mean situations where 15 or more counties suffer economic loss or other harm, as opposed to 5 or more counties;
- Provides that the Legislature has the authority to declare, amend, or rescind a declaration for a matter of great governmental concern by concurrent resolution, as opposed to the Attorney General;
- Provides that the Attorney General may take legal action in the public interest as long as such action is not inconsistent with the terms or provisions of the Legislature's resolution declaring the matter to be a matter of great governmental concern;

- Requires that any award for damages or monetary payment from a settlement arising from a matter of great governmental concern be subject to full appropriation by the Legislature; and
- Removes the statement that a declaration of a matter is a matter of great governmental concern does not constitute final agency action subject to review pursuant to ss. 120.569 and 120.57, F.S.

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 Community Affairs; and Senator Burgess

578-03605-21

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1 A bill to be entitled
 2 An act relating to matters of great governmental
 3 concern; creating s. 16.65, F.S.; providing
 4 legislative findings; defining terms; authorizing the
 5 Legislature to declare, by concurrent resolution, that
 6 a circumstance or conduct that has caused substantial
 7 economic loss or other similar harm to governmental
 8 entities in at least a specified number of counties is
 9 a matter of great governmental concern; providing that
 10 the Attorney General has the sole authority to file
 11 certain civil proceedings; authorizing the Attorney
 12 General to investigate certain matters; authorizing
 13 the Attorney General to institute or intervene in
 14 certain civil proceedings; authorizing the Attorney
 15 General to take certain actions in certain civil
 16 proceedings; providing that any award, excluding
 17 attorney fees, are subject to full appropriation by
 18 the Legislature; prohibiting such award to be
 19 appropriated, expended, or encumbered by the Attorney
 20 General or any settlement agreement; providing that a
 21 declaration by the Legislature that a matter is a
 22 matter of great governmental concern abates or stays
 23 certain civil proceedings; providing for the tolling
 24 of certain statutes of limitations; requiring certain
 25 entities to provide notice to the Attorney General;
 26 providing that certain settlements and resolutions are
 27 void; providing that the Department of Legal Affairs
 28 is exempt from certain requirements related to
 29 protests to contract solicitation or award;

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30 authorizing a governmental entity or its attorneys to
 31 apply to a court for recovery of attorney fees and
 32 costs; requiring a court to consider certain factors
 33 in calculating the amount of attorney fees; providing
 34 an effective date.
 35

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

37
 38 Section 1. Section 16.65, Florida Statutes, is created to
 39 read:

40 16.65 Matters of great governmental concern.—

41 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

42 (a) Several events have led to extensive litigation by
 43 multiple governmental entities in this state arising from the
 44 same facts, circumstances, or conduct or similar causes of
 45 action. This litigation has been difficult to resolve in a
 46 timely and expeditious manner because of the number and
 47 different types of governmental entities involved.

48 (b) It is in the interest of this state that a single
 49 official represent governmental entities in civil proceedings in
 50 matters of great governmental concern to maximize recoveries and
 51 minimize costs.

52 (c) The Attorney General is the state's chief legal officer
 53 and is the official who should be responsible for the
 54 prosecution, management, and coordination of any civil
 55 proceedings brought by governmental entities in matters of great
 56 governmental concern.

57 (d) The failure to have a single official responsible in
 58 matters of great governmental concern undermines fairness and

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59 efficiency and risks inconsistent or incongruent results, which
 60 will delay recovery and undermine governmental entities' ability
 61 to respond to such matters of great governmental concern.

62 (2) DEFINITIONS.—As used in this section, unless the
 63 context otherwise requires, the term:

64 (a) "Governmental entity" means the state and any
 65 department, agency, political subdivision, unit of government,
 66 or school district thereof.

67 (b) "Matter of great governmental concern" means any fact,
 68 circumstance, or conduct that has caused substantial economic
 69 loss or other harm of a similar nature to governmental entities
 70 in 15 or more counties in this state.

71 (3) AUTHORITY.—

72 (a) The Legislature by concurrent resolution may declare a
 73 matter to be a matter of great governmental concern. Upon such
 74 declaration, the Attorney General has the sole authority to file
 75 a civil proceeding on behalf of the affected governmental
 76 entities in this state until the Legislature by concurrent
 77 resolution invalidates, rescinds, or amends that declaration.

78 (b) The Attorney General may investigate a matter before
 79 and after the Legislature declares that the matter is a matter
 80 of great governmental concern. In any investigation and civil
 81 proceeding commenced pursuant to this section, it is the duty of
 82 all public officers and their deputies, assistants, clerks,
 83 subordinates, and employees to render and furnish to the
 84 Attorney General, when so requested, assistance and all
 85 information available in their official capacity.

86 (c) The Attorney General may institute or intervene in any
 87 civil proceeding in state or federal court, including any

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88 pending appeal, on behalf of a governmental entity to seek any
 89 relief afforded at law or in equity, under state or federal law,
 90 pertaining to a matter of great governmental concern.

91 (d) The Attorney General may consolidate, dismiss, release,
 92 settle, or take action that he or she believes to be in the
 93 public interest in any civil proceeding in state or federal
 94 court pertaining to a matter of great governmental concern,
 95 provided that such action is not inconsistent with the terms or
 96 provisions of the Legislature's resolution declaring the matter
 97 to be a matter of great governmental concern.

98 (e) Any award for damages or monetary payment arising from
 99 a civil proceeding, compromise, or settlement of any claim or
 100 litigation pertaining to a matter of great governmental concern,
 101 excluding attorney fees described in subsection (4), is subject
 102 to full appropriation by the Legislature and may not be
 103 appropriated, expended, or encumbered by the Attorney General or
 104 the terms or provisions of any settlement agreement.

105 (f) A declaration by the Legislature that a matter is a
 106 matter of great governmental concern operates to abate or stay
 107 any civil proceeding in state or federal court pertaining to the
 108 matter of great governmental concern filed by a governmental
 109 entity until the Attorney General takes an action in such
 110 proceeding.

111 (g) Any statute of limitations under the laws of this state
 112 affecting a claim by a governmental entity is tolled for the
 113 pendency of a declaration that a matter is a matter of great
 114 governmental concern or for 1 year, whichever is earlier.

115 (h) Upon learning of a declaration that a matter is a
 116 matter of great governmental concern, all governmental entities

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117 then a party to any affected civil proceeding shall provide
 118 notice to the Attorney General of the existence of any such
 119 civil proceeding, including the style of the action, the case
 120 number, and the court where such proceeding is pending. Any
 121 settlement or resolution of the civil proceeding by a
 122 governmental entity taken after a declaration without the
 123 consent of the Attorney General is void.

124 (i) For purposes of this subsection, the Department of
 125 Legal Affairs is exempt from s. 120.57(3).

126 (4) ATTORNEY FEES.—

127 (a) If a governmental entity retains attorneys to represent
 128 it before a matter is declared to be a matter of great
 129 governmental concern, the governmental entity or its attorneys
 130 may apply to the court where the civil proceeding is being
 131 prosecuted by the Attorney General or, if no such proceeding
 132 exists, in the circuit court in and for Leon County to receive
 133 from any recovery its reasonable attorney fees and costs
 134 incurred in connection with such representation.

135 (b) In calculating the amount of any reasonable attorney
 136 fees, the court shall consider all of the following factors:

137 1. The time and labor required, the novelty and difficulty
 138 of the question involved, and the skill requisite to perform the
 139 legal service properly.

140 2. The likelihood, if apparent, that the acceptance of the
 141 particular employment will preclude other employment by the
 142 attorney.

143 3. The fee customarily charged in the locality for similar
 144 legal services.

145 4. The amount involved and the results obtained.

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146 5. The time limitation imposed by the governmental entity
 147 or the circumstances.

148 6. The nature and length of the professional relationship
 149 with the governmental entity.

150 7. The experience, reputation, and ability of the attorney
 151 performing the legal services.

152 8. Whether the fee is fixed or contingent.

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

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 130 (154204)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Rouson and others

SUBJECT: Mental Health and Substance Use Disorders

DATE: April 14, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2. <u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3. <u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 130 promotes the use of peer specialists to assist an individual's recovery from substance use disorder (SUD) or mental illness. Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness.

Specifically, the bill:

- Adds the use of peer specialists as an essential element of a coordinated system of care;
- Provides legislative findings and intent related to the use of peer specialists in the provision of behavioral health care;
- Requires the Department of Children and Families (the DCF) to develop a training program for peer specialists, giving preference to trainers who are certified peer specialists;
- Requires the DCF to certify peer specialists, directly or through the use of a third-party credentialing entity;
- Revises background screening requirements and codifies existing training and certification requirements for peer specialists;
- Adds offenses for which individuals seeking certification as a peer specialist may seek an exemption from eligibility disqualification;

- Allows peer specialists to work with adults with mental health disorders, in addition to SUDs and co-occurring disorders, while a request for an exemption from a background check disqualification is pending.
- Expands the statutory limit for the number of days during which a service provider can work while a request for exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Allows for recovery support services to be reimbursed as a recovery service through the DCF, a behavioral health managing entity, or the Medicaid program.
- Provides that individuals certified as peer specialists by July 1, 2021, will be deemed to have met the requirements for certification under the bill.

The bill is expected to have an insignificant negative fiscal impact on state government.

The bill is effective July 1, 2021.

II. Present Situation:

Substance Abuse

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs. Substance use disorder (SUD) is determined based on specified criteria included in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).¹ According to the DSM-5, a diagnosis of SUD is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2018, approximately 20.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 14.8 million people diagnosed with alcohol use disorder and 8.1 million people diagnosed with drug use disorder.⁶ The most

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 21, 2021).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited February 21, 2021).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <https://www.samhsa.gov/disorders/substance-use> (last visited February 21, 2021).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited February 21, 2021).

⁵ *Id.*

⁶ The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf> (last visited February 23, 2021).

common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.⁷

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.⁸ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.⁹ Each of these laws governed different aspects of addiction, and thus had different rules adopted by the state to fully implement the respective pieces of legislation.¹⁰ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹¹ In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹²

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹³ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁴ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁵

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.¹⁶ The DCF provides treatment for SUD through a community-based provider system offering detoxification,¹⁷ treatment

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited February 23, 2021).

⁸ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Chapter 93-39, s. 2, Laws of Fla., codifying current ch. 397, F.S.

¹³ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁴ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited February 23, 2021).

¹⁵ *Id.*

¹⁶ See chs. 394 and 397, F.S.

¹⁷ Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.

services¹⁸ and recovery support¹⁹ for individuals affected by substance misuse, abuse or dependence.²⁰

Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.²¹ Section 397.311, F.S., defines a peer specialist as “a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under ch. 394 or ch. 397.”²²

There are four primary types of social support provided by peers:

- Emotional: where a peer demonstrates empathy, caring or concern to bolster a person’s self-esteem. (i.e., peer mentoring or peer-led support groups).
- Informational: where a peer shares knowledge and information to provide life or vocational skills training. (i.e., parenting classes, job readiness training, or wellness seminars).
- Instrumental: where a peer provides concrete assistance to help others accomplish tasks. (i.e., child care, transportation, and help accessing health and human services).
- Affiliational: where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).²³

In Florida, DCF and Medicaid both allow reimbursement for peer support services, but only if provided by certified peer specialists.²⁴

An individual seeking to become a certified peer specialist must have either been in recovery from a SUD or mental illness for at least two years, or must have at least two years of experience as a family member or caregiver of an individual suffering from a substance use disorder or mental illness.²⁵ The DCF must approve one or more third-party credentialing entities for the

¹⁸ Treatment services include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.

¹⁹ Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.

²⁰ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited February 21, 2021).

²¹ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited February 23, 2021).

²² Section 397.311(30), F.S.

²³ The DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/peer-services/DCF-Peer-Guidance.pdf> (last visited February 23, 2021).

²⁴ The DCF, *Agency Analysis for 2019 HB 369*, p. 2 February 8, 2019 (on file with the Senate Children, Families, and Elder Affairs Committee staff). Florida’s Medicaid program currently covers peer recovery services; the DCF allows the state’s behavioral health managing entities to reimburse for peer recovery services.

²⁵ Section 397.417(1), F.S.

purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification.²⁶ To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.²⁷ All individuals providing DCF-funded recovery support services as a peer specialist must be certified, however an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are supervised by a qualified professional or by a certified peer specialist with at least three years of full-time experience as a peer specialist at a licensed behavioral health organization.²⁸

The Florida Certification Board (FCB) is currently the only credentialing entity approved by the DCF for certifying peer specialists in the state.²⁹ The FCB credentials Certified Recovery Peer Specialist (CRPS), which assist in providing client directed care by helping individuals develop skills, and relationships that will allow them to achieve and maintain recovery from SUDs and mental illness.³⁰ CRPS applicants must attest to having been in recovery for a minimum of two years.³¹ The CRPS must also have demonstrated competency through training and experience in the performance domains of: Recovery Support, Advocacy, Mentoring and Professional Responsibilities.³² As of June 2020, 630 individuals maintain active CRPS certifications statewide.³³

Individuals seeking certification must adhere to the CRPS credentialing standards and requirements, complete a background screening, and have completed all court-ordered sanctions related to any prior crimes committed for at least three years.³⁴ Prospective CRPS must also successfully complete training and a competency exam demonstrating proficiency in certain educational areas.³⁵

Background Screening

Substance Use Disorder and Criminal History

Certain individuals receiving substance abuse treatment may have a criminal or violent history: about 54 percent of state prisoners and 61 percent of sentenced jail inmates incarcerated for violent offenses met the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, (DSM-IV) criteria for drug dependence or abuse.³⁶ Additionally, individuals who use illicit drugs

²⁶ Section 397.417(2), F.S.

²⁷ *Id.*

²⁸ Section 397.417(3), F.S.

²⁹ The DCF, *Agency Analysis for SB 130*, p. 2, December 10, 2020 (on file with the Senate Children, Families, and Elder Affairs Committee staff) (hereinafter cited as, “The DCF Analysis”).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Jennifer Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at p. 1, June 2017, available at <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf> (last visited February 23, 2021).

are more likely to commit crimes, and it is common for many offenses, including violent crimes, to be committed by individuals who had used drugs or alcohol prior to committing the crime, or who were using at the time of the offense.³⁷ As a result, individuals who have recovered from a SUD or mental illness often have a criminal history that may disqualify them from employment in the substance abuse treatment industry due to Florida's background screening process.

Background Screening Process

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,³⁸ and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.³⁹

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.⁴⁰ Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.⁴¹

For both level 1 and 2 screenings, an employer must submit the information necessary for screening to the FDLE within five working days after receiving it.⁴² Additionally, for both levels of screening, the FDLE must perform a criminal history record check of its records.⁴³ For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.⁴⁴ For level 2 screening, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.⁴⁵

The person undergoing screening must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.⁴⁶

³⁷ National Institute on Drug Abuse, *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at p. 12, available at https://d14rmgtrwzf5a.cloudfront.net/sites/default/files/txcriminaljustice_0.pdf (last visited February 23, 2021).

³⁸ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, available at <https://www.nsopw.gov/> (last visited February 23, 2021).

³⁹ Section 435.04, F.S.

⁴⁰ Section 435.05(1)(a), F.S.

⁴¹ Sections 435.03(1) and 435.04(1)(a), F.S.

⁴² Section 435.05(1)(b)-(c), F.S.

⁴³ *Id.*

⁴⁴ Section 435.05(1)(b), F.S.

⁴⁵ Section 435.05(1)(c), F.S.

⁴⁶ Section 435.05(1)(d), F.S.

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.

- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.⁴⁷

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency (in the case of substance abuse treatment, the DCF) to exempt applicants from disqualification under certain circumstances.⁴⁸

⁴⁷ Section 435.04(2), F.S.

⁴⁸ See Section 435.07(1), F.S.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,⁴⁹ career offender,⁵⁰ or sexual offender (unless not required to register)⁵¹ cannot ever be exempted from disqualification.⁵²

Additionally, individuals (including peer specialists) employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period.⁵³ These crimes include certain offenses related to:

- Prostitution;
- Unarmed burglary of a structure;
- Third degree felony grand theft;
- Sale of imitation controlled substance;
- Forgery;
- Uttering or publishing a forged instrument;
- Sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver controlled substances (excluding drug trafficking);
- Use, possession, manufacture, delivery, transportation, advertisement, or sale of drug paraphernalia; and
- Any related criminal attempt, solicitation, or conspiracy.⁵⁴

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification, and the DCF must grant or deny the application within 60 days of the receipt of a completed application.⁵⁵

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.⁵⁶ Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.⁵⁷ This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion.⁵⁸ This evidence must create a firm belief and conviction of the truth of the facts presented and,

⁴⁹ Section 775.261, F.S.

⁵⁰ Section 775.261, F.S.

⁵¹ Section 943.0435, F.S.

⁵² Section 435.07(4)(b), F.S.

⁵³ Section 435.07(2), F.S.

⁵⁴ *Id.*

⁵⁵ Section 397.4073(1)(f), F.S.

⁵⁶ Section 435.07(3)(a), F.S.

⁵⁷ The DCF, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification*, at p. 1, (Aug. 1, 2010), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20060-xx%20Human%20Resources/CFOP%2060-18,%20Exemption%20from%20Disqualification.pdf> (last visited February 23, 2021) (hereinafter, "The DCF Operating Procedure").

⁵⁸ *Id.*

considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.⁵⁹ Evidence that may support an exemption includes, but is not limited to:

- Personal references.
- Letters from employers or other professionals.
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- Evidence of further education or training.
- Evidence of community involvement.
- Evidence of special awards or recognition.
- Evidence of military service.
- Parenting or other caregiver experiences.⁶⁰

After the DCF receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.⁶¹ These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.⁶²

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor and, after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted.⁶³ The regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency. The criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.⁶⁴

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the DCF Secretary to grant or deny the exemption.⁶⁵ After an exemption request decision is final, the background screener provides a written response to the applicant as to whether the request is granted or denied.⁶⁶

If the DCF grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail.⁶⁷ However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address

⁵⁹ *Id.*

⁶⁰ *Id.* at 3-4.

⁶¹ *Id.* at 5.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at 5.

⁶⁷ *Id.* at 6.

and a separate letter of denial is sent by regular mail to the facility or employer.⁶⁸ If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request.⁶⁹ It must also inform the denied applicant of the availability of an administrative review⁷⁰ pursuant to ch. 120, F.S.⁷¹

Individuals Requiring Background Screening Under Ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires peer specialists who have direct contact⁷² with individuals receiving services must undergo a level 2 background screening as provided under s. 408.809 and ch. 435.⁷³ Applicant peer specialists are required to pay the costs associated with such screenings.⁷⁴ Similarly, all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services must also undergo level 2 background screening.

Other statutory provisions are tailored to facilitate individuals in recovery who have disqualifying offenses being able to work in substance abuse treatment. The DCF may grant exemptions from disqualification for an individual seeking certification as a peer specialist if at least three years have passed since the individual has completed, or been lawfully released from, any confinement, supervision, or nonmonetary condition imposed by a court for the individual's most recent disqualifying offense.⁷⁵ Similar to the conditional employment granted to other select applicants in s. 397.4073, certified peer specialists may work with adults with SUD for up to 90 days after being notified of his or her disqualification or until the DCF makes a final determination regarding the request for an exemption from disqualification if three years or more have elapsed since the most recent disqualifying offense, whichever is earlier.⁷⁶

III. Effect of Proposed Changes:

Coordinated System of Care

The bill amends s. 394.4573, F.S., relating to coordinated systems of care, to add the use of peer specialists to assist in an individual's recovery from a substance use disorder or mental illness to the list of essential elements of a coordinated system of behavioral health care.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.

⁷¹ The DCF Operating Procedure at 6.

⁷² Direct contact is not defined in ch. 397, F.S.

⁷³ Section 397.4073(a)3., F.S.

⁷⁴ Section 408.809(5), F.S.

⁷⁵ Section 397.4073(4)(b)1.a., F.S.

⁷⁶ Section 397.4073(1)(g), F.S.

Legislative Findings and Intent

The bill provides legislative findings and intent, as follows:

- The Legislature finds that the ability to provide adequate behavioral health services is limited by a shortage of professionals and paraprofessionals.
- The Legislature finds that the state is experiencing an increase in opioid addictions, many of which prove fatal.
- The Legislature finds that peer specialists provide effective support services because they share common life experiences with the persons they assist.
- The Legislature finds that peer specialists promote a sense of community among those in recovery.
- The Legislature finds that research has shown that peer support facilitates recovery and reduces health care costs.
- The Legislature finds that persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.
- It is the intent of the Legislature that the use of peer specialists be expanded as a cost-effective means of providing services.
- It is the intent of the Legislature to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

Criteria for Becoming a Certified Peer Specialist

The bill codifies a number of criteria currently used by the Florida Certification Board (FCB) in the process of certifying peer specialists. Specifically, the bill requires that persons seeking certification as peer specialists:

- Be in recovery from a substance use disorder (SUD) or mental illness for the past two years, or be a family member or caregiver of an individual with a history of SUD or mental illness;
- Pass a competency exam developed under the bill by the Department of Children and Families (DCF); and
- Undergo background screening as provided under the bill.

Duties of the Department of Children and Families (DCF)

Currently, the FCB provides training and administers a competency exam for peer specialists seeking certification. Under the bill, the DCF is made statutorily responsible for:

- Creating a training program for peer specialists, giving preference to trainers who are certified peer specialists. The training program must coincide with a competency exam and be based on current practice standards; and
- Mandating that all individuals providing recovery support services become certified.

Individuals may practice as a peer specialist prior to becoming certified for up to one year if the individual is actively working toward certification and is supervised by a qualified professional⁷⁷

⁷⁷ Section 397.311(35) defines “qualified professional” to mean “a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse licensed

or a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.

Background Screening

The bill specifies revised background screening requirements, requiring applicants to submit a full set of fingerprints to the DCF, or to a vendor, entity, or agency⁷⁸ that has entered into an agreement with the Florida Department of Law Enforcement (FDLE). Fingerprints must then be forwarded to the FDLE for state processing and retention, and to the FBI for national processing and retention. This will enable the FDLE to conduct ongoing, fingerprint-based, state and national background checks on certified peer specialists. The bill mandates any arrest record discovered be reported to the DCF. The bill requires the DCF to screen results in order to ensure an applicant meets the requirements of certification, and it provides that the applicant peer specialist is to pay all fees charged in connection with state and federal fingerprint processing and retention.⁷⁹

The bill authorizes the DCF or the Agency for Health Care Administration (the AHCA) to contract with vendors for electronic fingerprinting, provided that such contracts ensure the integrity and security of all personal identifying information obtained. Vendors who submit fingerprints on behalf of employees must:

- Meet the requirements of s. 943.053, F.S.;⁸⁰
- Be capable of communicating electronically with the state agency accepting screening results from the FDLE; and
- Be capable of providing the applicant's:
 - Full first name, middle initial, and last name;
 - Social security number or individual taxpayer identification number;
 - Date of birth;
 - Mailing address;
 - Sex; and
 - Race.

The bill provides that a background screening of a peer specialist must ensure that a prospective peer specialist has not been arrested for and awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony within the past three

under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree." A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

⁷⁸ Section 943.053(13), F.S., provides criteria which must be followed in order for the FDLE to accept fingerprint submissions from private vendors, entities, or agencies.

⁷⁹ This cost is already borne by the applicant under current law requiring level 2 background screening for certified peer specialists. See ss. 397.4073(1)(a)3. and 408.809(5), F.S.

⁸⁰ Section 943.053, F.S., provides, among other things, standards for vendors meant to ensure that all persons having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and will ensure the integrity and security of all personal information gathered from the persons whose fingerprints are submitted.

years. The bill also requires that background screening ensure the applicant has not, at any time, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, the following laws or similar laws of other jurisdictions:

- Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.
- Any offense that constitutes domestic violence as defined in s. 741.28, F.S.
- Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, relating to murder.
- Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, relating to vehicular homicide.
- Section 782.09, relating to killing an unborn child by injury to the mother.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, relating to kidnapping.
- Section 787.02, relating to false imprisonment.
- Section 787.025, relating to luring or enticing a child.
- Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
- Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, relating to sexual battery.
- Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, relating to unlawful sexual activity with certain minors.
- Section 794.08, relating to female genital mutilation.
- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary, if the offense was a felony of the first degree.
- Section 810.14, relating to voyeurism, if the offense was a felony.
- Section 810.145, relating to video voyeurism, if the offense was a felony.

- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.
- Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.
- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to sale, manufacture, delivery, possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

- Section 944.47, relating to introduction of contraband into a correctional institution.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to introduction of contraband into a detention facility.

The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.).
- Prostitution (Ch. 796, F.S.), with the exception of those offenses listed in s. 796.07, F.S., which have not been expunged.
- Lower level burglary offenses (s. 810.02, F.S.).
- Lower level theft and robbery offenses (Ch. 812, F.S.).
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.).
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.).
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

The bill allows individuals who wish to become peer specialists, but have a disqualifying offense in their background, to request an exemption from disqualification pursuant to s. 435.07, F.S., from the DCF or the AHCA, as applicable.

The bill also allows service provider personnel, including peer specialists, to work with adults with mental health disorders (in addition to the current allowance to work with adults suffering from SUDs or co-occurring disorders) while an exemption request is pending, and extends the time limit for such work from 90 days to 180 days.

The bill grandfathers in all peer specialists certified as of July 1, 2021, by stating they are recognized as having met the requirements of the bill.

Deleted Provisions of s. 397.417, F.S.

The bill eliminates and replaces all of the current provisions of s. 397.417, F.S. Specifically, the bill:

- Eliminates the requirement that a family member or caregiver of an individual with a SUD or mental illness have at least two years of experience in order to attain certification as a peer specialist;
- Requires the DCF to develop a peer specialist training program rather than a third-party credentialing entity;
- Allows the DCF the option of certifying peer specialists directly or approving third party credentialing entities to do so;
- Permits an individual with two years of full-time experience as a peer specialist to supervise an individual providing recovery support services and working toward certification (supervisory certified peer specialists currently must have at least three years of experience).

Effective Date

The bill is effective 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/CS/SB 130 eliminates several disqualifying criminal offenses that often result in disqualification from certification eligibility, and as a result the DCF predicts that there may be additional revenues generated for certification providers from fees paid by a greater number of individuals seeking certification.⁸¹

C. Government Sector Impact:

The DCF estimates there may be a negative impact to state government due to a potential increase in background screenings being conducted, and a possible increase in the number of exemptions from disqualification requested, leading to a heavier workload for the department's Background Screening Office.⁸² However, any additional workload will likely be absorbed within existing department resources.

VI. Technical Deficiencies:

None.

⁸¹ The DCF Analysis at p. 6.

⁸² *Id* at p. 5.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4573, 397.4073, and 397.417.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on March 17, 2021:

The committee substitute clarifies that third party credentialing entities are prohibited from conducting background screenings of peer specialists.

CS by Children, Families, and Elder Affairs on March 2, 2021:

The committee substitute:

- Amends s. 397.4073, F.S., to allow peer specialists to work with adults with mental health disorders while a request for an exemption from a background check disqualification is pending.
- Expands the statutory limit for the number of days during which a peer specialist can work while a request for an exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Requires the DCF to screen results of applicant peer specialist background checks in order to ensure each applicant meets the requirements of certification.
- Requires state agencies, rather than vendors under contract with the DCF or the AHCA, to accept screening results from the FDLE.
- Provides that vendors under contract with the DCF or the AHCA must be capable of communicating electronically with state agencies that receive screening results.
- Clarifies that offenses related to domestic violence, as defined in s. 741.28, F.S., are added to the list of disqualifying offenses for applicant peer specialists, rather than offenses delineated in s. 741.28, F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment (with title amendment)

Between lines 102 and 103

insert:

Section 2. Based on recommendations in the Third Interim Report of the 20th Statewide Grand Jury, submitted December 10, 2020, regarding the state's mental health system, it is the intent of the Legislature to establish a commission to examine the state's current policies and procedures for providing mental health and substance abuse services and to make recommendations



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11 to improve and facilitate the delivery of mental health and
12 substance abuse services throughout the state.

13 Section 3. Section 394.9086, Florida Statutes, is created
14 to read:

15 394.9086 Commission on Mental Health and Substance Abuse.-

16 (1) CREATION.-The Commission on Mental Health and Substance
17 Abuse, a commission as defined in s. 20.03(10), is created
18 adjunct to the Department of Children and Families. The
19 department shall provide administrative and staff support
20 services relating to the functions of the commission.

21 (2) PURPOSES.-The purposes of the commission are to examine
22 the current methods of providing mental health and substance
23 abuse services in the state and to improve the effectiveness of
24 current practices, procedures, programs, and initiatives in
25 providing such services; identify any barriers or deficiencies
26 in the delivery of such services; and recommend changes to
27 existing laws, rules, and policies necessary to implement the
28 commission's recommendations.

29 (3) MEMBERSHIP; TERM LIMITS; MEETINGS.-

30 (a) The commission shall be composed of 19 members as
31 follows:

32 1. A member of the Senate, appointed by the President of
33 the Senate.

34 2. A member of the House of Representatives, appointed by
35 the Speaker of the House of Representatives.

36 3. The Secretary of Children and Families or his or her
37 designee.

38 4. The Secretary of the Agency for Health Care
39 Administration or his or her designee.



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- 40 5. A person living with a mental health disorder appointed
41 by the President of the Senate.
- 42 6. A family member of a consumer of publicly funded mental
43 health, appointed by the President of the Senate.
- 44 7. A representative of the Louis de la Parte Florida Mental
45 Health Institute within the University of South Florida,
46 appointed by the President of the Senate.
- 47 8. A representative of a county school district, appointed
48 by the President of the Senate.
- 49 9. A representative of mental health courts, appointed by
50 the Governor.
- 51 10. A representative of a treatment facility, as defined in
52 s. 394.455, appointed by the Speaker of the House of
53 Representatives.
- 54 11. A representative of a managing entity as defined in s.
55 394.9082(2), appointed by the Speaker of the House of
56 Representatives.
- 57 12. A representative of a community substance abuse
58 provider, appointed by the Speaker of the House of
59 Representatives.
- 60 13. A psychiatrist licensed under chapter 458 or chapter
61 459 practicing within the mental health delivery system,
62 appointed by the Speaker of the House of Representatives.
- 63 14. A psychologist licensed under chapter 490 practicing
64 within the mental health delivery system, appointed by the
65 Governor.
- 66 15. A mental health professional licensed under chapter
67 491, appointed by the Governor.
- 68 16. An emergency room physician, appointed by the Governor.



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69 17. A representative from the field of law enforcement,
70 appointed by the Governor.

71 18. A representative from the criminal justice system,
72 appointed by the Governor.

73 19. A representative of a child welfare agency involved in
74 the delivery of behavioral health services, appointed by the
75 Governor.

76 (b) The Governor shall appoint the chair from the members
77 of the commission. Appointments to the commission must be made
78 by August 1, 2021. Members shall be appointed to serve at the
79 pleasure of the officer who appointed the member. A vacancy on
80 the commission shall be filled in the same manner as the
81 original appointment.

82 (c) The commission shall convene no later than September 1,
83 2021. The commission shall meet quarterly or upon the call of
84 the chair. The commission shall hold its meetings via
85 teleconference or other electronic means.

86 (4) DUTIES.—

87 (a) The duties of the Commission on Mental Health and
88 Substance Abuse include the following:

89 1. Conducting a review and evaluation of the management and
90 functioning of the existing publicly supported mental health and
91 substance abuse systems and services in the Department of
92 Children and Families, the Agency for Health Care
93 Administration, and all other departments which administer
94 mental health and substance abuse services. Such review shall
95 include, at a minimum, a review of current goals and objectives,
96 current planning, services strategies, coordination management,
97 purchasing, contracting, financing, local government funding



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98 responsibility, and accountability mechanisms.

99 2. Considering the unique needs of persons who are dually
100 diagnosed.

101 3. Addressing access to, and financing of, and scope of
102 responsibility in the delivery of emergency behavioral health
103 care services.

104 4. Addressing the quality and effectiveness of current
105 mental health and substance abuse services delivery systems, and
106 professional staffing and clinical structure of services, roles,
107 and responsibilities of public and private providers, such as
108 community mental health centers, community substance abuse
109 agencies, hospitals, including emergency services departments,
110 law enforcement agencies, and the judicial system.

111 5. Addressing priority population groups for publicly
112 funded mental health and substance abuse services, identifying
113 the comprehensive mental health and substance abuse services
114 delivery systems, mental health and substance abuse needs
115 assessment and planning activities, and local government funding
116 responsibilities for mental health and substance abuse services.

117 6. Reviewing the implementation of chapter 2020-107, Laws
118 of Florida.

119 7. Identifying any gaps in the provision of mental health
120 and substance use disorder services.

121 8. Providing recommendations on how behavioral health
122 managing entities may fulfill their purpose of promoting service
123 continuity.

124 9. Making recommendations regarding the mission and
125 objectives of state-supported mental health and substance abuse
126 services and the planning, management, staffing, financing,



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127 contracting, coordination, and accountability mechanisms which
128 will best foster the recommended mission and objectives.

129 10. Evaluating and making recommendations regarding the
130 establishment of a permanent, agency-level entity to manage
131 mental health, substance abuse, and related services statewide.

132 At a minimum, the evaluation must consider and describe the:

133 a. Specific duties and organizational structure proposed
134 for the entity;

135 b. Resource needs of the entity and possible sources of
136 funding;

137 c. Estimated impact on access to and quality of services;

138 d. Impact on individuals with behavioral health needs and
139 their families, both those currently served through the affected
140 systems providing behavioral health services and those in need
141 of services; and

142 e. Relation to, integration with, and impact on providers,
143 managing entities, communities, state agencies, and systems
144 which provide mental health and substance abuse services in this
145 state. Such recommendations must ensure that the ability of such
146 other agencies and systems to carry out their missions and
147 responsibilities is not impaired.

148 (b) The commission may call upon appropriate departments
149 and agencies of state government for such professional
150 assistance as may be needed in the discharge of its duties, and
151 such departments and agencies shall provide such assistance in a
152 timely manner.

153 (5) REPORTS.—By September 1, 2022, the commission shall
154 submit an interim report to the President of the Senate, the
155 Speaker of the House of Representatives, and the Governor



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156 containing its findings and recommendations on how to best
157 provide and facilitate mental health and substance abuse
158 services in the state. The commission shall submit its final
159 report by September 1, 2023.

160 (6) REPEAL.—This section is repealed September 1, 2023,
161 unless saved from repeal through reenactment by the Legislature.

162
163 ===== T I T L E A M E N D M E N T =====

164 And the title is amended as follows:

165 Delete line 7

166 and insert:

167 technical change; providing legislative intent;
168 creating s. 394.9086, F.S.; creating the Commission on
169 Mental Health and Substance Abuse adjunct to the
170 Department of Children and Families; requiring the
171 department to provide administrative and staff support
172 services to the commission; providing purposes of the
173 commission; providing for membership, term limits,
174 meetings, and duties of the commission; requiring the
175 commission to submit reports of its findings and
176 recommendations to the Legislature and Governor by a
177 specified date; providing for future repeal unless
178 saved by the Legislature through reenactment; amending
179 s. 397.4073, F.S.; revising



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to mental health and substance use disorders; amending s. 394.4573, F.S.; providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; making a technical change; amending s. 397.4073, F.S.; revising background screening requirements for certain peer specialists; revising authorizations relating to work by applicants who have committed disqualifying offenses; amending s. 397.417, F.S.; providing legislative findings and intent; revising requirements for certification as a peer specialist; requiring the Department of Children and Families to develop a training program for peer specialists and to give preference to trainers who are certified peer specialists; requiring the training program to coincide with a competency exam and to be based on current practice standards; requiring the department to certify peer specialists, either directly or by approving a third-party credentialing entity; prohibiting third-party credentialing entities from conducting background screenings for peer specialists; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certified peer specialist; authorizing the department, a



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behavioral health managing entity, or the Medicaid program to reimburse a peer specialist service as a recovery service; encouraging Medicaid managed care plans to use peer specialists in providing recovery services; requiring peer specialists and certain persons to meet the requirements of a background screening as a condition of employment and continued employment; requiring certain entities to forward fingerprints to specified entities; requiring the department to screen results to determine if the peer specialist meets the certification requirements; requiring that fees for state and federal fingerprint processing be borne by the peer specialist applying for employment; requiring that any arrest record identified through background screening be reported to the department; authorizing the department or certain other agencies to contract with certain vendors for fingerprinting; specifying requirements for vendors; specifying disqualifying offenses for a peer specialist who applies for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department or the agency; providing that a peer specialist certified as of the effective date of this act is deemed to satisfy the requirements of this act; providing an effective date.

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



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57 Section 1. Paragraph (1) of subsection (2) and subsection
58 (3) of section 394.4573, Florida Statutes, are amended to read:
59 394.4573 Coordinated system of care; annual assessment;
60 essential elements; measures of performance; system improvement
61 grants; reports.—On or before December 1 of each year, the
62 department shall submit to the Governor, the President of the
63 Senate, and the Speaker of the House of Representatives an
64 assessment of the behavioral health services in this state. The
65 assessment shall consider, at a minimum, the extent to which
66 designated receiving systems function as no-wrong-door models,
67 the availability of treatment and recovery services that use
68 recovery-oriented and peer-involved approaches, the availability
69 of less-restrictive services, and the use of evidence-informed
70 practices. The assessment shall also consider the availability
71 of and access to coordinated specialty care programs and
72 identify any gaps in the availability of and access to such
73 programs in the state. The department's assessment shall
74 consider, at a minimum, the needs assessments conducted by the
75 managing entities pursuant to s. 394.9082(5). Beginning in 2017,
76 the department shall compile and include in the report all plans
77 submitted by managing entities pursuant to s. 394.9082(8) and
78 the department's evaluation of each plan.
79 (2) The essential elements of a coordinated system of care
80 include:
81 (1) Recovery support, including, but not limited to, the
82 use of peer specialists to assist in the individual's recovery
83 from a substance use disorder or mental illness; support for
84 competitive employment, educational attainment, independent
85 living skills development, family support and education,



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86 wellness management, and self-care; and assistance in obtaining
87 housing that meets the individual's needs. Such housing may
88 include mental health residential treatment facilities, limited
89 mental health assisted living facilities, adult family care
90 homes, and supportive housing. Housing provided using state
91 funds must provide a safe and decent environment free from abuse
92 and neglect.
93 (3) ~~SYSTEM IMPROVEMENT GRANTS.~~—Subject to a specific
94 appropriation by the Legislature, the department may award
95 system improvement grants to managing entities based on a
96 detailed plan to enhance services in accordance with the no-
97 wrong-door model as defined in subsection (1) and to address
98 specific needs identified in the assessment prepared by the
99 department pursuant to this section. Such a grant must be
100 awarded through a performance-based contract that links payments
101 to the documented and measurable achievement of system
102 improvements.
103 Section 2. Paragraphs (a) and (g) of subsection (1) of
104 section 397.4073, Florida Statutes, are amended to read:
105 397.4073 Background checks of service provider personnel.—
106 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
107 EXCEPTIONS.—
108 (a) For all individuals screened on or after July 1, 2021
109 2019, background checks shall apply as follows:
110 1. All owners, directors, chief financial officers, and
111 clinical supervisors of service providers are subject to level 2
112 background screening as provided under s. 408.809 and chapter
113 435. Inmate substance abuse programs operated directly or under
114 contract with the Department of Corrections are exempt from this



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115 requirement.

116 2. All service provider personnel who have direct contact
117 with children receiving services or with adults who are
118 developmentally disabled receiving services are subject to level
119 2 background screening as provided under s. 408.809 and chapter
120 435.

121 3. All peer specialists who have direct contact with
122 individuals receiving services are subject to a background
123 screening as provided in s. 397.417(5) level 2 background
124 screening as provided under s. 408.809 and chapter 435.

125 (g) If 5 years or more, or 3 years or more in the case of a
126 certified peer specialist or an individual seeking certification
127 as a peer specialist pursuant to s. 397.417, have elapsed since
128 an applicant for an exemption from disqualification has
129 completed or has been lawfully released from confinement,
130 supervision, or a nonmonetary condition imposed by a court for
131 the applicant's most recent disqualifying offense, the applicant
132 may work with adults with substance use disorders, mental health
133 disorders, or co-occurring disorders under the supervision of
134 persons who meet all personnel requirements of this chapter for
135 up to 180 ~~90~~ days after being notified of his or her
136 disqualification or until the department makes a final
137 determination regarding his or her request for an exemption from
138 disqualification, whichever is earlier.

139 Section 3. Section 397.417, Florida Statutes, is amended to
140 read:

141 397.417 Peer specialists.—

142 (1) LEGISLATIVE FINDINGS AND INTENT.—

143 (a) The Legislature finds that:



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144 1. The ability to provide adequate behavioral health
145 services is limited by a shortage of professionals and
146 paraprofessionals.

147 2. The state is experiencing an increase in opioid
148 addictions, many of which prove fatal.

149 3. Peer specialists provide effective support services
150 because they share common life experiences with the persons they
151 assist.

152 4. Peer specialists promote a sense of community among
153 those in recovery.

154 5. Research has shown that peer support facilitates
155 recovery and reduces health care costs.

156 6. Persons who are otherwise qualified to serve as peer
157 specialists may have a criminal history that prevents them from
158 meeting background screening requirements.

159 (b) The Legislature intends to expand the use of peer
160 specialists as a cost-effective means of providing services. The
161 Legislature also intends to ensure that peer specialists meet
162 specified qualifications and modified background screening
163 requirements and are adequately reimbursed for their services.

164 (2) QUALIFICATIONS.—

165 (a) A person may seek certification as a peer specialist if
166 he or she has been in recovery from a substance use disorder or
167 mental illness for the past 2 years or if he or she is a family
168 member or caregiver of a person with a substance use disorder or
169 mental illness.

170 (b) To obtain certification as a peer specialist, a person
171 must complete the training program developed under subsection
172 (3), achieve a passing score on the competency exam described in



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173 paragraph (3) (a), and meet the background screening requirements
174 specified in subsection (5).

175 (3) DUTIES OF THE DEPARTMENT.—

176 (a) The department shall develop a training program for
177 persons seeking certification as peer specialists. The
178 department must give preference to trainers who are certified
179 peer specialists. The training program must coincide with a
180 competency exam and be based on current practice standards.

181 (b) The department may certify peer specialists directly or
182 may approve one or more third-party credentialing entities for
183 the purposes of certifying peer specialists, approving training
184 programs for individuals seeking certification as peer
185 specialists, approving continuing education programs, and
186 establishing the minimum requirements and standards applicants
187 must meet to maintain certification. Background screening
188 required for achieving certification must be conducted as
189 provided in subsection (5) and may not be conducted by third-
190 party credentialing entities.

191 (c) The department shall require that a person providing
192 recovery support services be certified; however, an individual
193 who is not certified may provide recovery support services as a
194 peer specialist for up to 1 year if he or she is working toward
195 certification and is supervised by a qualified professional or
196 by a certified peer specialist who has at least 2 years of full-
197 time experience as a peer specialist at a licensed behavioral
198 health organization.

199 (4) PAYMENT.—Recovery support services may be reimbursed as
200 a recovery service through the department, a behavioral health
201 managing entity, or the Medicaid program. Medicaid managed care



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202 plans are encouraged to use peer specialists in providing
203 recovery services.

204 (5) BACKGROUND SCREENING.—

205 (a) A peer specialist, or an individual who is working
206 toward certification and providing recovery support services as
207 provided in subsection (3), must have completed or have been
208 lawfully released from confinement, supervision, or any
209 nonmonetary condition imposed by the court for any felony and
210 must undergo a background screening as a condition of initial
211 and continued employment. The applicant must submit a full set
212 of fingerprints to the department or to a vendor, an entity, or
213 an agency that enters into an agreement with the Department of
214 Law Enforcement as provided in s. 943.053(13). The department,
215 vendor, entity, or agency shall forward the fingerprints to the
216 Department of Law Enforcement for state processing and the
217 Department of Law Enforcement shall forward the fingerprints to
218 the Federal Bureau of Investigation for national processing. The
219 department shall screen the results to determine if a peer
220 specialist meets certification requirements. The applicant is
221 responsible for all fees charged in connection with state and
222 federal fingerprint processing and retention. The state cost for
223 fingerprint processing shall be as provided in s. 943.053(3) (e)
224 for records provided to persons or entities other than those
225 specified as exceptions therein. Fingerprints submitted to the
226 Department of Law Enforcement pursuant to this paragraph shall
227 be retained as provided in s. 435.12 and, when the Department of
228 Law Enforcement begins participation in the program, enrolled in
229 the Federal Bureau of Investigation's national retained
230 fingerprint arrest notification program, as provided in s.



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231 943.05(4). Any arrest record identified must be reported to the
232 department.

233 (b) The department or the Agency for Health Care
234 Administration, as applicable, may contract with one or more
235 vendors to perform all or part of the electronic fingerprinting
236 pursuant to this section. Such contracts must ensure that the
237 owners and personnel of the vendor performing the electronic
238 fingerprinting are qualified and will ensure the integrity and
239 security of all personal identifying information.

240 (c) Vendors who submit fingerprints on behalf of employers
241 must:

- 242 1. Meet the requirements of s. 943.053; and
243 2. Have the ability to communicate electronically with the
244 state agency accepting screening results from the Department of
245 Law Enforcement and provide the applicant's full first name,
246 middle initial, and last name; social security number or
247 individual taxpayer identification number; date of birth;
248 mailing address; sex; and race.

249 (d) The background screening conducted under this
250 subsection must ensure that a peer specialist has not, during
251 the previous 3 years, been arrested for and is awaiting final
252 disposition of, been found guilty of, regardless of
253 adjudication, or entered a plea of nolo contendere or guilty to,
254 or been adjudicated delinquent and the record has not been
255 sealed or expunged for, any felony.

256 (e) The background screening conducted under this
257 subsection must ensure that a peer specialist has not been found
258 guilty of, regardless of adjudication, or entered a plea of nolo
259 contendere or guilty to, or been adjudicated delinquent and the



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260 record has not been sealed or expunged for, any offense
261 prohibited under any of the following state laws or similar laws
262 of another jurisdiction:

263 1. Section 393.135, relating to sexual misconduct with
264 certain developmentally disabled clients and reporting of such
265 sexual misconduct.

266 2. Section 394.4593, relating to sexual misconduct with
267 certain mental health patients and reporting of such sexual
268 misconduct.

269 3. Section 409.920, relating to Medicaid provider fraud, if
270 the offense was a felony of the first or second degree.

271 4. Section 415.111, relating to abuse, neglect, or
272 exploitation of vulnerable adults.

273 5. Any offense that constitutes domestic violence as
274 defined in s. 741.28.

275 6. Section 777.04, relating to attempts, solicitation, and
276 conspiracy to commit an offense listed in this paragraph.

277 7. Section 782.04, relating to murder.

278 8. Section 782.07, relating to manslaughter, aggravated
279 manslaughter of an elderly person or a disabled adult,
280 aggravated manslaughter of a child, or aggravated manslaughter
281 of an officer, a firefighter, an emergency medical technician,
282 or a paramedic.

283 9. Section 782.071, relating to vehicular homicide.

284 10. Section 782.09, relating to killing an unborn child by
285 injury to the mother.

286 11. Chapter 784, relating to assault, battery, and culpable
287 negligence, if the offense was a felony.

288 12. Section 787.01, relating to kidnapping.



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- 289 13. Section 787.02, relating to false imprisonment.
290 14. Section 787.025, relating to luring or enticing a
291 child.
292 15. Section 787.04(2), relating to leading, taking,
293 enticing, or removing a minor beyond state limits, or concealing
294 the location of a minor, with criminal intent pending custody
295 proceedings.
296 16. Section 787.04(3), relating to leading, taking,
297 enticing, or removing a minor beyond state limits, or concealing
298 the location of a minor, with criminal intent pending dependency
299 proceedings or proceedings concerning alleged abuse or neglect
300 of a minor.
301 17. Section 790.115(1), relating to exhibiting firearms or
302 weapons within 1,000 feet of a school.
303 18. Section 790.115(2)(b), relating to possessing an
304 electric weapon or device, a destructive device, or any other
305 weapon on school property.
306 19. Section 794.011, relating to sexual battery.
307 20. Former s. 794.041, relating to prohibited acts of
308 persons in familial or custodial authority.
309 21. Section 794.05, relating to unlawful sexual activity
310 with certain minors.
311 22. Section 794.08, relating to female genital mutilation.
312 23. Section 796.07, relating to procuring another to commit
313 prostitution, except for those offenses expunged pursuant to s.
314 943.0583.
315 24. Section 798.02, relating to lewd and lascivious
316 behavior.
317 25. Chapter 800, relating to lewdness and indecent



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- 318 exposure.
319 26. Section 806.01, relating to arson.
320 27. Section 810.02, relating to burglary, if the offense
321 was a felony of the first degree.
322 28. Section 810.14, relating to voyeurism, if the offense
323 was a felony.
324 29. Section 810.145, relating to video voyeurism, if the
325 offense was a felony.
326 30. Section 812.13, relating to robbery.
327 31. Section 812.131, relating to robbery by sudden
328 snatching.
329 32. Section 812.133, relating to carjacking.
330 33. Section 812.135, relating to home-invasion robbery.
331 34. Section 817.034, relating to communications fraud, if
332 the offense was a felony of the first degree.
333 35. Section 817.234, relating to false and fraudulent
334 insurance claims, if the offense was a felony of the first or
335 second degree.
336 36. Section 817.50, relating to fraudulently obtaining
337 goods or services from a health care provider and false reports
338 of a communicable disease.
339 37. Section 817.505, relating to patient brokering.
340 38. Section 817.568, relating to fraudulent use of personal
341 identification, if the offense was a felony of the first or
342 second degree.
343 39. Section 825.102, relating to abuse, aggravated abuse,
344 or neglect of an elderly person or a disabled adult.
345 40. Section 825.1025, relating to lewd or lascivious
346 offenses committed upon or in the presence of an elderly person



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347 or a disabled person.
348 41. Section 825.103, relating to exploitation of an elderly
349 person or a disabled adult, if the offense was a felony.
350 42. Section 826.04, relating to incest.
351 43. Section 827.03, relating to child abuse, aggravated
352 child abuse, or neglect of a child.
353 44. Section 827.04, relating to contributing to the
354 delinquency or dependency of a child.
355 45. Former s. 827.05, relating to negligent treatment of
356 children.
357 46. Section 827.071, relating to sexual performance by a
358 child.
359 47. Section 831.30, relating to fraud in obtaining
360 medicinal drugs.
361 48. Section 831.31, relating to sale, manufacture,
362 delivery, possession with intent to sell, manufacture, or
363 deliver of any counterfeit controlled substance, if the offense
364 was a felony.
365 49. Section 843.01, relating to resisting arrest with
366 violence.
367 50. Section 843.025, relating to depriving a law
368 enforcement, correctional, or correctional probation officer of
369 the means of protection or communication.
370 51. Section 843.12, relating to aiding in an escape.
371 52. Section 843.13, relating to aiding in the escape of
372 juvenile inmates of correctional institutions.
373 53. Chapter 847, relating to obscenity.
374 54. Section 874.05, relating to encouraging or recruiting
375 another to join a criminal gang.



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376 55. Chapter 893, relating to drug abuse prevention and
377 control, if the offense was a felony of the second degree or
378 greater severity.
379 56. Section 895.03, relating to racketeering and collection
380 of unlawful debts.
381 57. Section 896.101, relating to the Florida Money
382 Laundering Act.
383 58. Section 916.1075, relating to sexual misconduct with
384 certain forensic clients and reporting of such sexual
385 misconduct.
386 59. Section 944.35(3), relating to inflicting cruel or
387 inhuman treatment on an inmate resulting in great bodily harm.
388 60. Section 944.40, relating to escape.
389 61. Section 944.46, relating to harboring, concealing, or
390 aiding an escaped prisoner.
391 62. Section 944.47, relating to introduction of contraband
392 into a correctional institution.
393 63. Section 985.701, relating to sexual misconduct in
394 juvenile justice programs.
395 64. Section 985.711, relating to introduction of contraband
396 into a detention facility.
397 (6) EXEMPTION REQUESTS.-A person who wishes to become a
398 peer specialist and is disqualified under subsection (5) may
399 request an exemption from disqualification pursuant to s. 435.07
400 from the department or the Agency for Health Care
401 Administration, as applicable.
402 (7) GRANDFATHER CLAUSE.-A peer specialist certified as of
403 the effective date of this act is deemed to satisfy the
404 requirements of this act



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405 ~~(1) An individual may seek certification as a peer~~
406 ~~specialist if he or she has been in recovery from a substance~~
407 ~~use disorder or mental illness for at least 2 years, or if he or~~
408 ~~she has at least 2 years of experience as a family member or~~
409 ~~caregiver of a person with a substance use disorder or mental~~
410 ~~illness.~~

411 ~~(2) The department shall approve one or more third-party~~
412 ~~credentialing entities for the purposes of certifying peer~~
413 ~~specialists, approving training programs for individuals seeking~~
414 ~~certification as peer specialists, approving continuing~~
415 ~~education programs, and establishing the minimum requirements~~
416 ~~and standards that applicants must achieve to maintain~~
417 ~~certification. To obtain approval, the third-party credentialing~~
418 ~~entity must demonstrate compliance with nationally recognized~~
419 ~~standards for developing and administering professional~~
420 ~~certification programs to certify peer specialists.~~

421 ~~(3) An individual providing department-funded recovery~~
422 ~~support services as a peer specialist shall be certified~~
423 ~~pursuant to subsection (2). An individual who is not certified~~
424 ~~may provide recovery support services as a peer specialist for~~
425 ~~up to 1 year if he or she is working toward certification and is~~
426 ~~supervised by a qualified professional or by a certified peer~~
427 ~~specialist who has at least 3 years of full-time experience as a~~
428 ~~peer specialist at a licensed behavioral health organization.~~

429 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 Appropriations

BILL: CS/CS/SB 130

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Rouson and others

SUBJECT: Mental Health and Substance Use Disorders

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 130 promotes the use of peer specialists to assist an individual's recovery from substance use disorder (SUD) or mental illness. Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness.

Specifically, the bill:

- Adds the use of peer specialists as an essential element of a coordinated system of care;
- Provides legislative findings and intent related to the use of peer specialists in the provision of behavioral health care;
- Requires the Department of Children and Families (the DCF) to develop a training program for peer specialists, giving preference to trainers who are certified peer specialists;
- Requires the DCF to certify peer specialists, directly or through the use of a third-party credentialing entity;
- Revises background screening requirements and codifies existing training and certification requirements for peer specialists;
- Adds offenses for which individuals seeking certification as a peer specialist may seek an exemption from eligibility disqualification;

- Allows peer specialists to work with adults with mental health disorders, in addition to SUDs and co-occurring disorders, while a request for an exemption from a background check disqualification is pending.
- Expands the statutory limit for the number of days during which a service provider can work while a request for exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Allows for recovery support services to be reimbursed as a recovery service through the DCF, a behavioral health managing entity, or the Medicaid program.
- Provides that individuals certified as peer specialists by July 1, 2021, will be deemed to have met the requirements for certification under the bill.

The bill is expected to have an insignificant negative fiscal impact on state government.

The bill is effective July 1, 2021.

II. Present Situation:

Substance Abuse

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs. Substance use disorder (SUD) is determined based on specified criteria included in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).¹ According to the DSM-5, a diagnosis of SUD is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2018, approximately 20.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 14.8 million people diagnosed with alcohol use disorder and 8.1 million people diagnosed with drug use disorder.⁶ The most

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 21, 2021).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited February 21, 2021).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <https://www.samhsa.gov/disorders/substance-use> (last visited February 21, 2021).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited February 21, 2021).

⁵ *Id.*

⁶ The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHNationalFindingsReport2018/NSDUHNationalFindingsReport2018.pdf> (last visited February 23, 2021).

common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.⁷

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.⁸ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.⁹ Each of these laws governed different aspects of addiction, and thus had different rules adopted by the state to fully implement the respective pieces of legislation.¹⁰ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹¹ In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹²

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹³ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁴ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁵

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.¹⁶ The DCF provides treatment for SUD through a community-based provider system offering detoxification,¹⁷ treatment

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited February 23, 2021).

⁸ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Chapter 93-39, s. 2, Laws of Fla., codifying current ch. 397, F.S.

¹³ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁴ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited February 23, 2021).

¹⁵ *Id.*

¹⁶ See chs. 394 and 397, F.S.

¹⁷ Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.

services¹⁸ and recovery support¹⁹ for individuals affected by substance misuse, abuse or dependence.²⁰

Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.²¹ Section 397.311, F.S., defines a peer specialist as “a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under ch. 394 or ch. 397.”²²

There are four primary types of social support provided by peers:

- Emotional: where a peer demonstrates empathy, caring or concern to bolster a person’s self-esteem. (i.e., peer mentoring or peer-led support groups).
- Informational: where a peer shares knowledge and information to provide life or vocational skills training. (i.e., parenting classes, job readiness training, or wellness seminars).
- Instrumental: where a peer provides concrete assistance to help others accomplish tasks. (i.e., child care, transportation, and help accessing health and human services).
- Affiliational: where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).²³

In Florida, DCF and Medicaid both allow reimbursement for peer support services, but only if provided by certified peer specialists.²⁴

An individual seeking to become a certified peer specialist either must have been in recovery from a SUD or mental illness for at least two years, or must have at least two years of experience as a family member or caregiver of an individual suffering from a substance use disorder or mental illness.²⁵ The DCF must approve one or more third-party credentialing entities for the

¹⁸ Treatment services include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.

¹⁹ Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.

²⁰ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited February 21, 2021).

²¹ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited February 23, 2021).

²² Section 397.311(30), F.S.

²³ The DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/peer-services/DCF-Peer-Guidance.pdf> (last visited February 23, 2021).

²⁴ The DCF, *Agency Analysis for 2019 HB 369*, p. 2 February 8, 2019 (on file with the Senate Children, Families, and Elder Affairs Committee staff). Florida’s Medicaid program currently covers peer recovery services; the DCF allows the state’s behavioral health managing entities to reimburse for peer recovery services.

²⁵ Section 397.417(1), F.S.

purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification.²⁶ To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.²⁷ All individuals providing DCF-funded recovery support services as a peer specialist must be certified, however an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are supervised by a qualified professional or by a certified peer specialist with at least three years of full-time experience as a peer specialist at a licensed behavioral health organization.²⁸

The Florida Certification Board (FCB) is currently the only credentialing entity approved by the DCF for certifying peer specialists in the state.²⁹ The FCB credentials Certified Recovery Peer Specialist (CRPS), which assist in providing client directed care by helping individuals develop skills, and relationships that will allow them to achieve and maintain recovery from SUDs and mental illness.³⁰ CRPS applicants must attest to having been in recovery for a minimum of two years.³¹ The CRPS must also have demonstrated competency through training and experience in the performance domains of: Recovery Support, Advocacy, Mentoring and Professional Responsibilities.³² As of June 2020, 630 individuals maintain active CRPS certifications statewide.³³

Individuals seeking certification must adhere to the CRPS credentialing standards and requirements, complete a background screening, and have completed all court-ordered sanctions related to any prior crimes committed for at least three years.³⁴ Prospective CRPS must also successfully complete training and a competency exam demonstrating proficiency in certain educational areas.³⁵

Background Screening

Substance Use Disorder and Criminal History

Certain individuals receiving substance abuse treatment may have a criminal or violent history: about 54 percent of state prisoners and 61 percent of sentenced jail inmates incarcerated for violent offenses met the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, (DSM-IV) criteria for drug dependence or abuse.³⁶ Additionally, individuals who use illicit drugs

²⁶ Section 397.417(2), F.S.

²⁷ *Id.*

²⁸ Section 397.417(3), F.S.

²⁹ The DCF, *Agency Analysis for SB 130*, p. 2, December 10, 2020 (on file with the Senate Children, Families, and Elder Affairs Committee staff) (hereinafter cited as, “The DCF Analysis”).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Jennifer Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at p. 1, June 2017, available at <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf> (last visited February 23, 2021).

are more likely to commit crimes, and it is common for many offenses, including violent crimes, to be committed by individuals who had used drugs or alcohol prior to committing the crime, or who were using at the time of the offense.³⁷ As a result, individuals who have recovered from a SUD or mental illness often have a criminal history that may disqualify them from employment in the substance abuse treatment industry due to Florida's background screening process.

Background Screening Process

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,³⁸ and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.³⁹

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.⁴⁰ Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.⁴¹

For both level 1 and 2 screenings, an employer must submit the information necessary for screening to the FDLE within five working days after receiving it.⁴² Additionally, for both levels of screening, the FDLE must perform a criminal history record check of its records.⁴³ For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.⁴⁴ For level 2 screening, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.⁴⁵

The person undergoing screening must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.⁴⁶

³⁷ National Institute on Drug Abuse, *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at p. 12, available at https://d14rmgtrwzf5a.cloudfront.net/sites/default/files/txcriminaljustice_0.pdf (last visited February 23, 2021).

³⁸ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, available at <https://www.nsopw.gov/> (last visited February 23, 2021).

³⁹ Section 435.04, F.S.

⁴⁰ Section 435.05(1)(a), F.S.

⁴¹ Sections 435.03(1) and 435.04(1)(a), F.S.

⁴² Section 435.05(1)(b)-(c), F.S.

⁴³ *Id.*

⁴⁴ Section 435.05(1)(b), F.S.

⁴⁵ Section 435.05(1)(c), F.S.

⁴⁶ Section 435.05(1)(d), F.S.

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.

- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.⁴⁷

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency (in the case of substance abuse treatment, the DCF) to exempt applicants from disqualification under certain circumstances.⁴⁸

⁴⁷ Section 435.04(2), F.S.

⁴⁸ See Section 435.07(1), F.S.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,⁴⁹ career offender,⁵⁰ or sexual offender (unless not required to register)⁵¹ cannot ever be exempted from disqualification.⁵²

Additionally, individuals (including peer specialists) employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period.⁵³ These crimes include certain offenses related to:

- Prostitution;
- Unarmed burglary of a structure;
- Third degree felony grand theft;
- Sale of imitation controlled substance;
- Forgery;
- Uttering or publishing a forged instrument;
- Sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver controlled substances (excluding drug trafficking);
- Use, possession, manufacture, delivery, transportation, advertisement, or sale of drug paraphernalia; and
- Any related criminal attempt, solicitation, or conspiracy.⁵⁴

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification, and the DCF must grant or deny the application within 60 days of the receipt of a completed application.⁵⁵

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.⁵⁶ Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.⁵⁷ This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion.⁵⁸ This evidence must create a firm belief and conviction of the truth of the facts presented and,

⁴⁹ Section 775.261, F.S.

⁵⁰ Section 775.261, F.S.

⁵¹ Section 943.0435, F.S.

⁵² Section 435.07(4)(b), F.S.

⁵³ Section 435.07(2), F.S.

⁵⁴ *Id.*

⁵⁵ Section 397.4073(1)(f), F.S.

⁵⁶ Section 435.07(3)(a), F.S.

⁵⁷ The DCF, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification*, at p. 1, (Aug. 1, 2010), available at <https://www.myflfamilies.com/admin/publications/cfops/CFOP%20060-xx%20Human%20Resources/CFOP%2060-18,%20Exemption%20from%20Disqualification.pdf> (last visited February 23, 2021) (hereinafter, "The DCF Operating Procedure").

⁵⁸ *Id.*

considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.⁵⁹ Evidence that may support an exemption includes, but is not limited to:

- Personal references.
- Letters from employers or other professionals.
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- Evidence of further education or training.
- Evidence of community involvement.
- Evidence of special awards or recognition.
- Evidence of military service.
- Parenting or other caregiver experiences.⁶⁰

After the DCF receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.⁶¹ These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.⁶²

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor and, after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted.⁶³ The regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency. The criminal justice coordinator in the region in which the background screening coordinator is located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.⁶⁴

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the DCF Secretary to grant or deny the exemption.⁶⁵ After an exemption request decision is final, the background screener provides a written response to the applicant as to whether the request is granted or denied.⁶⁶

If the DCF grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail.⁶⁷ However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address

⁵⁹ *Id.*

⁶⁰ *Id.* at 3-4.

⁶¹ *Id.* at 5.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at 5.

⁶⁷ *Id.* at 6.

and a separate letter of denial is sent by regular mail to the facility or employer.⁶⁸ If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request.⁶⁹ It must also inform the denied applicant of the availability of an administrative review⁷⁰ pursuant to ch. 120, F.S.⁷¹

Individuals Requiring Background Screening Under Ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires peer specialists who have direct contact⁷² with individuals receiving services must undergo a level 2 background screening as provided under s. 408.809 and ch. 435.⁷³ Applicant peer specialists are required to pay the costs associated with such screenings.⁷⁴ Similarly, all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services must also undergo level 2 background screening.

Other statutory provisions are tailored to facilitate individuals in recovery who have disqualifying offenses being able to work in substance abuse treatment. The DCF may grant exemptions from disqualification for an individual seeking certification as a peer specialist if at least three years have passed since the individual has completed, or been lawfully released from, any confinement, supervision, or nonmonetary condition imposed by a court for the individual's most recent disqualifying offense.⁷⁵ Similar to the conditional employment granted to other select applicants in s. 397.4073, certified peer specialists may work with adults with SUD for up to 90 days after being notified of his or her disqualification or until the DCF makes a final determination regarding the request for an exemption from disqualification if three years or more have elapsed since the most recent disqualifying offense, whichever is earlier.⁷⁶

III. Effect of Proposed Changes:

Coordinated System of Care

The bill amends s. 394.4573, F.S., relating to coordinated systems of care, to add the use of peer specialists to assist in an individual's recovery from a substance use disorder or mental illness to the list of essential elements of a coordinated system of behavioral health care.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.

⁷¹ The DCF Operating Procedure at 6.

⁷² Direct contact is not defined in ch. 397, F.S.

⁷³ Section 397.4073(a)3., F.S.

⁷⁴ Section 408.809(5), F.S.

⁷⁵ Section 397.4073(4)(b)1.a., F.S.

⁷⁶ Section 397.4073(1)(g), F.S.

Legislative Findings and Intent

The bill provides legislative findings and intent, as follows:

- The Legislature finds that the ability to provide adequate behavioral health services is limited by a shortage of professionals and paraprofessionals.
- The Legislature finds that the state is experiencing an increase in opioid addictions, many of which prove fatal.
- The Legislature finds that peer specialists provide effective support services because they share common life experiences with the persons they assist.
- The Legislature finds that peer specialists promote a sense of community among those in recovery.
- The Legislature finds that research has shown that peer support facilitates recovery and reduces health care costs.
- The Legislature finds that persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.
- It is the intent of the Legislature that the use of peer specialists be expanded as a cost-effective means of providing services.
- It is the intent of the Legislature to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

Criteria for Becoming a Certified Peer Specialist

The bill codifies a number of criteria currently used by the Florida Certification Board (FCB) in the process of certifying peer specialists. Specifically, the bill requires that persons seeking certification as peer specialists:

- Be in recovery from a substance use disorder (SUD) or mental illness for the past two years, or be a family member or caregiver of an individual with a history of SUD or mental illness;
- Pass a competency exam developed under the bill by the Department of Children and Families (DCF); and
- Undergo background screening as provided under the bill.

Duties of the Department of Children and Families (DCF)

Currently, the FCB provides training and administers a competency exam for peer specialists seeking certification. Under the bill, the DCF is made statutorily responsible for:

- Creating a training program for peer specialists, giving preference to trainers who are certified peer specialists. The training program must coincide with a competency exam and be based on current practice standards; and
- Mandating that all individuals providing recovery support services become certified.

Individuals may practice as a peer specialist prior to becoming certified for up to one year if the individual is actively working toward certification and is supervised by a qualified professional⁷⁷

⁷⁷ Section 397.311(35) defines “qualified professional” to mean “a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse licensed

or a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.

Background Screening

The bill specifies revised background screening requirements, requiring applicants to submit a full set of fingerprints to the DCF, or to a vendor, entity, or agency⁷⁸ that has entered into an agreement with the Florida Department of Law Enforcement (FDLE). Fingerprints must then be forwarded to the FDLE for state processing and retention, and to the FBI for national processing and retention. This will enable the FDLE to conduct ongoing, fingerprint-based, state and national background checks on certified peer specialists. The bill mandates any arrest record discovered be reported to the DCF. The bill requires the DCF to screen results in order to ensure an applicant meets the requirements of certification, and it provides that the applicant peer specialist is to pay all fees charged in connection with state and federal fingerprint processing and retention.⁷⁹

The bill authorizes the DCF or the Agency for Health Care Administration (the AHCA) to contract with vendors for electronic fingerprinting, provided that such contracts ensure the integrity and security of all personal identifying information obtained. Vendors who submit fingerprints on behalf of employees must:

- Meet the requirements of s. 943.053, F.S.;⁸⁰
- Be capable of communicating electronically with the state agency accepting screening results from the FDLE; and
- Be capable of providing the applicant's:
 - Full first name, middle initial, and last name;
 - Social security number or individual taxpayer identification number;
 - Date of birth;
 - Mailing address;
 - Sex; and
 - Race.

The bill provides that a background screening of a peer specialist must ensure that a prospective peer specialist has not been arrested for and awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony within the past three

under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree." A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

⁷⁸ Section 943.053(13), F.S., provides criteria which must be followed in order for the FDLE to accept fingerprint submissions from private vendors, entities, or agencies.

⁷⁹ This cost is already borne by the applicant under current law requiring level 2 background screening for certified peer specialists. See ss. 397.4073(1)(a)3. and 408.809(5), F.S.

⁸⁰ Section 943.053, F.S., provides, among other things, standards for vendors meant to ensure that all persons having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and will ensure the integrity and security of all personal information gathered from the persons whose fingerprints are submitted.

years. The bill also requires that background screening ensure the applicant has not, at any time, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, the following laws or similar laws of other jurisdictions:

- Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.
- Any offense that constitutes domestic violence as defined in s. 741.28, F.S.
- Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, relating to murder.
- Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, relating to vehicular homicide.
- Section 782.09, relating to killing an unborn child by injury to the mother.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, relating to kidnapping.
- Section 787.02, relating to false imprisonment.
- Section 787.025, relating to luring or enticing a child.
- Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
- Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, relating to sexual battery.
- Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, relating to unlawful sexual activity with certain minors.
- Section 794.08, relating to female genital mutilation.
- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary, if the offense was a felony of the first degree.
- Section 810.14, relating to voyeurism, if the offense was a felony.
- Section 810.145, relating to video voyeurism, if the offense was a felony.

- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.
- Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.
- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to sale, manufacture, delivery, possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

- Section 944.47, relating to introduction of contraband into a correctional institution.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to introduction of contraband into a detention facility.

The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.).
- Prostitution (Ch. 796, F.S.), with the exception of those offenses listed in s. 796.07, F.S., which have not been expunged.
- Lower level burglary offenses (s. 810.02, F.S.).
- Lower level theft and robbery offenses (Ch. 812, F.S.).
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.).
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.).
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

The bill allows individuals who wish to become peer specialists, but have a disqualifying offense in their background, to request an exemption from disqualification pursuant to s. 435.07, F.S., from the DCF or the AHCA, as applicable.

The bill also allows service provider personnel, including peer specialists, to work with adults with mental health disorders (in addition to the current allowance to work with adults suffering from SUDs or co-occurring disorders) while an exemption request is pending, and extends the time limit for such work from 90 days to 180 days.

The bill grandfathers in all peer specialists certified as of July 1, 2021, by stating they are recognized as having met the requirements of the bill.

Deleted Provisions of s. 397.417, F.S.

The bill eliminates and replaces all of the current provisions of s. 397.417, F.S. Specifically, the bill:

- Eliminates the requirement that a family member or caregiver of an individual with a SUD or mental illness have at least two years of experience in order to attain certification as a peer specialist;
- Requires the DCF to develop a peer specialist training program rather than a third-party credentialing entity;
- Allows the DCF the option of certifying peer specialists directly or approving third party credentialing entities to do so;
- Permits an individual with two years of full-time experience as a peer specialist to supervise an individual providing recovery support services and working toward certification (supervisory certified peer specialists currently must have at least three years of experience).

Effective Date

The bill is effective 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 130 eliminates several disqualifying criminal offenses that often result in disqualification from certification eligibility, and as a result the DCF predicts that there may be additional revenues generated for certification providers from fees paid by a greater number of individuals seeking certification.⁸¹

C. Government Sector Impact:

The DCF estimates there may be a negative impact to state government due to a potential increase in background screenings being conducted, and a possible increase in the number of exemptions from disqualification requested, leading to a heavier workload for the department's Background Screening Office.⁸² However, any additional workload will likely be absorbed within existing department resources.

VI. Technical Deficiencies:

None.

⁸¹ The DCF Analysis at p. 6.

⁸² *Id* at p. 5.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4573, 397.4073, and 397.417.

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 April 15, 2021:

The committee substitute clarifies that third party credentialing entities are prohibited from conducting background screenings of peer specialists.

CS by Children, Families, and Elder Affairs on March 2, 2021:

The committee substitute:

- Amends s. 397.4073, F.S., to allow peer specialists to work with adults with mental health disorders while a request for an exemption from a background check disqualification is pending.
- Expands the statutory limit for the number of days during which a peer specialist can work while a request for an exemption from a background check disqualification is pending to 180 days from the current 90 days.
- Requires the DCF to screen results of applicant peer specialist background checks in order to ensure each applicant meets the requirements of certification.
- Requires state agencies, rather than vendors under contract with the DCF or the AHCA, to accept screening results from the FDLE.
- Provides that vendors under contract with the DCF or the AHCA must be capable of communicating electronically with state agencies that receive screening results.
- Clarifies that offenses related to domestic violence, as defined in s. 741.28, F.S., are added to the list of disqualifying offenses for applicant peer specialists, rather than offenses delineated in s. 741.28, F.S.

- B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senators Rouson and Harrell

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1 A bill to be entitled
2 An act relating to mental health and substance use
3 disorders; amending s. 394.4573, F.S.; providing that
4 the use of peer specialists is an essential element of
5 a coordinated system of care in recovery from a
6 substance use disorder or mental illness; making a
7 technical change; amending s. 397.4073, F.S.; revising
8 background screening requirements for certain peer
9 specialists; revising authorizations relating to work
10 by applicants who have committed disqualifying
11 offenses; amending s. 397.417, F.S.; providing
12 legislative findings and intent; revising requirements
13 for certification as a peer specialist; requiring the
14 Department of Children and Families to develop a
15 training program for peer specialists and to give
16 preference to trainers who are certified peer
17 specialists; requiring the training program to
18 coincide with a competency exam and to be based on
19 current practice standards; requiring the department
20 to certify peer specialists, either directly or by
21 approving a third-party credentialing entity;
22 requiring that a person providing recovery support
23 services be certified or be supervised by a licensed
24 behavioral health care professional or a certified
25 peer specialist; authorizing the department, a
26 behavioral health managing entity, or the Medicaid
27 program to reimburse a peer specialist service as a
28 recovery service; encouraging Medicaid managed care
29 plans to use peer specialists in providing recovery

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30 services; requiring peer specialists and certain
31 persons to meet the requirements of a background
32 screening as a condition of employment and continued
33 employment; requiring certain entities to forward
34 fingerprints to specified entities; requiring the
35 department to screen results to determine if the peer
36 specialist meets the certification requirements;
37 requiring that fees for state and federal fingerprint
38 processing be borne by the peer specialist applying
39 for employment; requiring that any arrest record
40 identified through background screening be reported to
41 the department; authorizing the department or certain
42 other agencies to contract with certain vendors for
43 fingerprinting; specifying requirements for vendors;
44 specifying disqualifying offenses for a peer
45 specialist who applies for certification; authorizing
46 a person who does not meet background screening
47 requirements to request an exemption from
48 disqualification from the department or the agency;
49 providing that a peer specialist certified as of the
50 effective date of this act is deemed to satisfy the
51 requirements of this act; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraph (1) of subsection (2) and subsection
56 (3) of section 394.4573, Florida Statutes, are amended to read:
57 394.4573 Coordinated system of care; annual assessment;
58 essential elements; measures of performance; system improvement

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59 grants; reports.—On or before December 1 of each year, the
 60 department shall submit to the Governor, the President of the
 61 Senate, and the Speaker of the House of Representatives an
 62 assessment of the behavioral health services in this state. The
 63 assessment shall consider, at a minimum, the extent to which
 64 designated receiving systems function as no-wrong-door models,
 65 the availability of treatment and recovery services that use
 66 recovery-oriented and peer-involved approaches, the availability
 67 of less-restrictive services, and the use of evidence-informed
 68 practices. The assessment shall also consider the availability
 69 of and access to coordinated specialty care programs and
 70 identify any gaps in the availability of and access to such
 71 programs in the state. The department's assessment shall
 72 consider, at a minimum, the needs assessments conducted by the
 73 managing entities pursuant to s. 394.9082(5). Beginning in 2017,
 74 the department shall compile and include in the report all plans
 75 submitted by managing entities pursuant to s. 394.9082(8) and
 76 the department's evaluation of each plan.

77 (2) The essential elements of a coordinated system of care
 78 include:

79 (1) Recovery support, including, but not limited to, the
 80 use of peer specialists to assist in the individual's recovery
 81 from a substance use disorder or mental illness; support for
 82 competitive employment, educational attainment, independent
 83 living skills development, family support and education,
 84 wellness management, and self-care; ~~and~~ assistance in obtaining
 85 housing that meets the individual's needs. Such housing may
 86 include mental health residential treatment facilities, limited
 87 mental health assisted living facilities, adult family care

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88 homes, and supportive housing. Housing provided using state
 89 funds must provide a safe and decent environment free from abuse
 90 and neglect.

91 (3) ~~SYSTEM IMPROVEMENT GRANTS.~~—Subject to a specific
 92 appropriation by the Legislature, the department may award
 93 system improvement grants to managing entities based on a
 94 detailed plan to enhance services in accordance with the no-
 95 wrong-door model as defined in subsection (1) and to address
 96 specific needs identified in the assessment prepared by the
 97 department pursuant to this section. Such a grant must be
 98 awarded through a performance-based contract that links payments
 99 to the documented and measurable achievement of system
 100 improvements.

101 Section 2. Paragraphs (a) and (g) of subsection (1) of
 102 section 397.4073, Florida Statutes, are amended to read:

103 397.4073 Background checks of service provider personnel.—

104 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 105 EXCEPTIONS.—

106 (a) For all individuals screened on or after July 1, 2021
 107 ~~2019~~, background checks shall apply as follows:

108 1. All owners, directors, chief financial officers, and
 109 clinical supervisors of service providers are subject to level 2
 110 background screening as provided under s. 408.809 and chapter
 111 435. Inmate substance abuse programs operated directly or under
 112 contract with the Department of Corrections are exempt from this
 113 requirement.

114 2. All service provider personnel who have direct contact
 115 with children receiving services or with adults who are
 116 developmentally disabled receiving services are subject to level

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117 2 background screening as provided under s. 408.809 and chapter
118 435.

119 3. All peer specialists who have direct contact with
120 individuals receiving services are subject to a background
121 screening as provided in s. 397.417(5) level 2 background
122 screening as provided under s. 408.809 and chapter 435.

123 (g) If 5 years or more, or 3 years or more in the case of a
124 certified peer specialist or an individual seeking certification
125 as a peer specialist pursuant to s. 397.417, have elapsed since
126 an applicant for an exemption from disqualification has
127 completed or has been lawfully released from confinement,
128 supervision, or a nonmonetary condition imposed by a court for
129 the applicant's most recent disqualifying offense, the applicant
130 may work with adults with substance use disorders, mental health
131 disorders, or co-occurring disorders under the supervision of
132 persons who meet all personnel requirements of this chapter for
133 up to 180 ~~90~~ days after being notified of his or her
134 disqualification or until the department makes a final
135 determination regarding his or her request for an exemption from
136 disqualification, whichever is earlier.

137 Section 3. Section 397.417, Florida Statutes, is amended to
138 read:

139 397.417 Peer specialists.—

140 (1) LEGISLATIVE FINDINGS AND INTENT.—

141 (a) The Legislature finds that:

142 1. The ability to provide adequate behavioral health
143 services is limited by a shortage of professionals and
144 paraprofessionals.

145 2. The state is experiencing an increase in opioid

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146 addictions, many of which prove fatal.

147 3. Peer specialists provide effective support services
148 because they share common life experiences with the persons they
149 assist.

150 4. Peer specialists promote a sense of community among
151 those in recovery.

152 5. Research has shown that peer support facilitates
153 recovery and reduces health care costs.

154 6. Persons who are otherwise qualified to serve as peer
155 specialists may have a criminal history that prevents them from
156 meeting background screening requirements.

157 (b) The Legislature intends to expand the use of peer
158 specialists as a cost-effective means of providing services. The
159 Legislature also intends to ensure that peer specialists meet
160 specified qualifications and modified background screening
161 requirements and are adequately reimbursed for their services.

162 (2) QUALIFICATIONS.—

163 (a) A person may seek certification as a peer specialist if
164 he or she has been in recovery from a substance use disorder or
165 mental illness for the past 2 years or if he or she is a family
166 member or caregiver of a person with a substance use disorder or
167 mental illness.

168 (b) To obtain certification as a peer specialist, a person
169 must complete the training program developed under subsection
170 (3), achieve a passing score on the competency exam described in
171 paragraph (3) (a), and meet the background screening requirements
172 specified in subsection (5).

173 (3) DUTIES OF THE DEPARTMENT.—

174 (a) The department shall develop a training program for

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175 persons seeking certification as peer specialists. The
 176 department must give preference to trainers who are certified
 177 peer specialists. The training program must coincide with a
 178 competency exam and be based on current practice standards.

179 (b) The department may certify peer specialists directly or
 180 may approve one or more third-party credentialing entities for
 181 the purposes of certifying peer specialists, approving training
 182 programs for individuals seeking certification as peer
 183 specialists, approving continuing education programs, and
 184 establishing the minimum requirements and standards applicants
 185 must meet to maintain certification.

186 (c) The department shall require that a person providing
 187 recovery support services be certified; however, an individual
 188 who is not certified may provide recovery support services as a
 189 peer specialist for up to 1 year if he or she is working toward
 190 certification and is supervised by a qualified professional or
 191 by a certified peer specialist who has at least 2 years of full-
 192 time experience as a peer specialist at a licensed behavioral
 193 health organization.

194 (4) PAYMENT.—Recovery support services may be reimbursed as
 195 a recovery service through the department, a behavioral health
 196 managing entity, or the Medicaid program. Medicaid managed care
 197 plans are encouraged to use peer specialists in providing
 198 recovery services.

199 (5) BACKGROUND SCREENING.—

200 (a) A peer specialist, or an individual who is working
 201 toward certification and providing recovery support services as
 202 provided in subsection (3), must have completed or have been
 203 lawfully released from confinement, supervision, or any

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204 nonmonetary condition imposed by the court for any felony and
 205 must undergo a background screening as a condition of initial
 206 and continued employment. The applicant must submit a full set
 207 of fingerprints to the department or to a vendor, an entity, or
 208 an agency that enters into an agreement with the Department of
 209 Law Enforcement as provided in s. 943.053(13). The department,
 210 vendor, entity, or agency shall forward the fingerprints to the
 211 Department of Law Enforcement for state processing and the
 212 Department of Law Enforcement shall forward the fingerprints to
 213 the Federal Bureau of Investigation for national processing. The
 214 department shall screen the results to determine if a peer
 215 specialist meets certification requirements. The applicant is
 216 responsible for all fees charged in connection with state and
 217 federal fingerprint processing and retention. The state cost for
 218 fingerprint processing shall be as provided in s. 943.053(3)(e)
 219 for records provided to persons or entities other than those
 220 specified as exceptions therein. Fingerprints submitted to the
 221 Department of Law Enforcement pursuant to this paragraph shall
 222 be retained as provided in s. 435.12 and, when the Department of
 223 Law Enforcement begins participation in the program, enrolled in
 224 the Federal Bureau of Investigation's national retained
 225 fingerprint arrest notification program, as provided in s.
 226 943.05(4). Any arrest record identified must be reported to the
 227 department.

228 (b) The department or the Agency for Health Care
 229 Administration, as applicable, may contract with one or more
 230 vendors to perform all or part of the electronic fingerprinting
 231 pursuant to this section. Such contracts must ensure that the
 232 owners and personnel of the vendor performing the electronic

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233 fingerprinting are qualified and will ensure the integrity and
234 security of all personal identifying information.

235 (c) Vendors who submit fingerprints on behalf of employers
236 must:

237 1. Meet the requirements of s. 943.053; and
238 2. Have the ability to communicate electronically with the
239 state agency accepting screening results from the Department of
240 Law Enforcement and provide the applicant's full first name,
241 middle initial, and last name; social security number or
242 individual taxpayer identification number; date of birth;
243 mailing address; sex; and race.

244 (d) The background screening conducted under this
245 subsection must ensure that a peer specialist has not, during
246 the previous 3 years, been arrested for and is awaiting final
247 disposition of, been found guilty of, regardless of
248 adjudication, or entered a plea of nolo contendere or guilty to,
249 or been adjudicated delinquent and the record has not been
250 sealed or expunged for, any felony.

251 (e) The background screening conducted under this
252 subsection must ensure that a peer specialist has not been found
253 guilty of, regardless of adjudication, or entered a plea of nolo
254 contendere or guilty to, or been adjudicated delinquent and the
255 record has not been sealed or expunged for, any offense
256 prohibited under any of the following state laws or similar laws
257 of another jurisdiction:

258 1. Section 393.135, relating to sexual misconduct with
259 certain developmentally disabled clients and reporting of such
260 sexual misconduct.

261 2. Section 394.4593, relating to sexual misconduct with

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262 certain mental health patients and reporting of such sexual
263 misconduct.

264 3. Section 409.920, relating to Medicaid provider fraud, if
265 the offense was a felony of the first or second degree.

266 4. Section 415.111, relating to abuse, neglect, or
267 exploitation of vulnerable adults.

268 5. Any offense that constitutes domestic violence as
269 defined in s. 741.28.

270 6. Section 777.04, relating to attempts, solicitation, and
271 conspiracy to commit an offense listed in this paragraph.

272 7. Section 782.04, relating to murder.

273 8. Section 782.07, relating to manslaughter, aggravated
274 manslaughter of an elderly person or a disabled adult,
275 aggravated manslaughter of a child, or aggravated manslaughter
276 of an officer, a firefighter, an emergency medical technician,
277 or a paramedic.

278 9. Section 782.071, relating to vehicular homicide.

279 10. Section 782.09, relating to killing an unborn child by
280 injury to the mother.

281 11. Chapter 784, relating to assault, battery, and culpable
282 negligence, if the offense was a felony.

283 12. Section 787.01, relating to kidnapping.

284 13. Section 787.02, relating to false imprisonment.

285 14. Section 787.025, relating to luring or enticing a
286 child.

287 15. Section 787.04(2), relating to leading, taking,
288 enticing, or removing a minor beyond state limits, or concealing
289 the location of a minor, with criminal intent pending custody
290 proceedings.

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- 291 16. Section 787.04(3), relating to leading, taking,
 292 enticing, or removing a minor beyond state limits, or concealing
 293 the location of a minor, with criminal intent pending dependency
 294 proceedings or proceedings concerning alleged abuse or neglect
 295 of a minor.
- 296 17. Section 790.115(1), relating to exhibiting firearms or
 297 weapons within 1,000 feet of a school.
- 298 18. Section 790.115(2)(b), relating to possessing an
 299 electric weapon or device, a destructive device, or any other
 300 weapon on school property.
- 301 19. Section 794.011, relating to sexual battery.
- 302 20. Former s. 794.041, relating to prohibited acts of
 303 persons in familial or custodial authority.
- 304 21. Section 794.05, relating to unlawful sexual activity
 305 with certain minors.
- 306 22. Section 794.08, relating to female genital mutilation.
- 307 23. Section 796.07, relating to procuring another to commit
 308 prostitution, except for those offenses expunged pursuant to s.
 309 943.0583.
- 310 24. Section 798.02, relating to lewd and lascivious
 311 behavior.
- 312 25. Chapter 800, relating to lewdness and indecent
 313 exposure.
- 314 26. Section 806.01, relating to arson.
- 315 27. Section 810.02, relating to burglary, if the offense
 316 was a felony of the first degree.
- 317 28. Section 810.14, relating to voyeurism, if the offense
 318 was a felony.
- 319 29. Section 810.145, relating to video voyeurism, if the

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- 320 offense was a felony.
- 321 30. Section 812.13, relating to robbery.
- 322 31. Section 812.131, relating to robbery by sudden
 323 snatching.
- 324 32. Section 812.133, relating to carjacking.
- 325 33. Section 812.135, relating to home-invasion robbery.
- 326 34. Section 817.034, relating to communications fraud, if
 327 the offense was a felony of the first degree.
- 328 35. Section 817.234, relating to false and fraudulent
 329 insurance claims, if the offense was a felony of the first or
 330 second degree.
- 331 36. Section 817.50, relating to fraudulently obtaining
 332 goods or services from a health care provider and false reports
 333 of a communicable disease.
- 334 37. Section 817.505, relating to patient brokering.
- 335 38. Section 817.568, relating to fraudulent use of personal
 336 identification, if the offense was a felony of the first or
 337 second degree.
- 338 39. Section 825.102, relating to abuse, aggravated abuse,
 339 or neglect of an elderly person or a disabled adult.
- 340 40. Section 825.1025, relating to lewd or lascivious
 341 offenses committed upon or in the presence of an elderly person
 342 or a disabled person.
- 343 41. Section 825.103, relating to exploitation of an elderly
 344 person or a disabled adult, if the offense was a felony.
- 345 42. Section 826.04, relating to incest.
- 346 43. Section 827.03, relating to child abuse, aggravated
 347 child abuse, or neglect of a child.
- 348 44. Section 827.04, relating to contributing to the

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349 delinquency or dependency of a child.

350 45. Former s. 827.05, relating to negligent treatment of

351 children.

352 46. Section 827.071, relating to sexual performance by a

353 child.

354 47. Section 831.30, relating to fraud in obtaining

355 medicinal drugs.

356 48. Section 831.31, relating to sale, manufacture,

357 delivery, possession with intent to sell, manufacture, or

358 deliver of any counterfeit controlled substance, if the offense

359 was a felony.

360 49. Section 843.01, relating to resisting arrest with

361 violence.

362 50. Section 843.025, relating to depriving a law

363 enforcement, correctional, or correctional probation officer of

364 the means of protection or communication.

365 51. Section 843.12, relating to aiding in an escape.

366 52. Section 843.13, relating to aiding in the escape of

367 juvenile inmates of correctional institutions.

368 53. Chapter 847, relating to obscenity.

369 54. Section 874.05, relating to encouraging or recruiting

370 another to join a criminal gang.

371 55. Chapter 893, relating to drug abuse prevention and

372 control, if the offense was a felony of the second degree or

373 greater severity.

374 56. Section 895.03, relating to racketeering and collection

375 of unlawful debts.

376 57. Section 896.101, relating to the Florida Money

377 Laundering Act.

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378 58. Section 916.1075, relating to sexual misconduct with

379 certain forensic clients and reporting of such sexual

380 misconduct.

381 59. Section 944.35(3), relating to inflicting cruel or

382 inhuman treatment on an inmate resulting in great bodily harm.

383 60. Section 944.40, relating to escape.

384 61. Section 944.46, relating to harboring, concealing, or

385 aiding an escaped prisoner.

386 62. Section 944.47, relating to introduction of contraband

387 into a correctional institution.

388 63. Section 985.701, relating to sexual misconduct in

389 juvenile justice programs.

390 64. Section 985.711, relating to introduction of contraband

391 into a detention facility.

392 (6) EXEMPTION REQUESTS.—A person who wishes to become a

393 peer specialist and is disqualified under subsection (5) may

394 request an exemption from disqualification pursuant to s. 435.07

395 from the department or the Agency for Health Care

396 Administration, as applicable.

397 (7) GRANDFATHER CLAUSE.—A peer specialist certified as of

398 the effective date of this act is deemed to satisfy the

399 requirements of this act

400 ~~(1) An individual may seek certification as a peer~~

401 ~~specialist if he or she has been in recovery from a substance~~

402 ~~use disorder or mental illness for at least 2 years, or if he or~~

403 ~~she has at least 2 years of experience as a family member or~~

404 ~~caregiver of a person with a substance use disorder or mental~~

405 ~~illness.~~

406 ~~(2) The department shall approve one or more third-party~~

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407 ~~credentialing entities for the purposes of certifying peer~~
408 ~~specialists, approving training programs for individuals seeking~~
409 ~~certification as peer specialists, approving continuing~~
410 ~~education programs, and establishing the minimum requirements~~
411 ~~and standards that applicants must achieve to maintain~~
412 ~~certification. To obtain approval, the third-party credentialing~~
413 ~~entity must demonstrate compliance with nationally recognized~~
414 ~~standards for developing and administering professional~~
415 ~~certification programs to certify peer specialists.~~

416 ~~(3) An individual providing department-funded recovery~~
417 ~~support services as a peer specialist shall be certified~~
418 ~~pursuant to subsection (2). An individual who is not certified~~
419 ~~may provide recovery support services as a peer specialist for~~
420 ~~up to 1 year if he or she is working toward certification and is~~
421 ~~supervised by a qualified professional or by a certified peer~~
422 ~~specialist who has at least 3 years of full-time experience as a~~
423 ~~peer specialist at a licensed behavioral health organization.~~

424 Section 4. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 18, 2021

I respectfully request that **Senate Bill #130**, relating to Mental Health and Substance Use Disorders, be placed on the:

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

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

Senator Darryl Ervin Rouson
Florida Senate, District 19

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

THE FLORIDA SENATE

APPEARANCE RECORD

4-15-21

Meeting Date

SB 130

Bill Number (if applicable)

Topic Mental Health and Substance Use Disorders

Amendment Barcode (if applicable)

Name Steve Leifman

Job Title Judge

Address 1351 N.W. 12th Street

Phone (305) 548-5394

Street

Miami

City

FL

State

33125

Zip

Email _____

Speaking: For Against Information

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

Representing Steering Committee on Problem-Solving Courts

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 Appropriations

BILL: CS/SB 168

INTRODUCER: Banking and Insurance Committee and Senator Hooper

SUBJECT: Hurricane Loss Mitigation Program

DATE: April 14, 2021 **REVISED:** _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2. <u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3. <u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 168 extends the Hurricane Loss Mitigation Program within Division of Emergency Management until June 30, 2031. The Hurricane Loss Mitigation Program funds programs that improve the wind resistance of residences and public hurricane shelters. The program is funded through an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund to the Division of Emergency Management. The Hurricane Loss Mitigation Program is set to expire on June 30, 2021.

The bill takes effect upon becoming a law.

II. Present Situation:

In the years following Hurricane Andrew, the Legislature created a series of programs to stabilize the economy and insurance industry.¹ These programs include the creation of Citizens Property Insurance Corporation, a state-administered insurance for those unable to obtain a conventional homeowners insurance policy; the Florida Hurricane Catastrophe Fund, a reinsurance fund established to limit residential insurers' exposure after a storm; and mitigation funding, which eventually became the Hurricane Loss Mitigation Program.²

¹ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2020 Annual Report* (January 1, 2021), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited March 12, 2021).

² *Id.* See also The Florida Senate, Committee on Comprehensive Planning, Local, and Military Affairs, *Funding for the Hurricane Loss Mitigation Program*, Interim Project Report 2000-22 (September 1999),

Hurricane Loss Mitigation Program (HLMP)

In 1999, the Legislature created the HLMP within the Division of Emergency Management (DEM) to fund programs for improving the wind resistance of residences and mobile homes.³ The HLMP is funded by an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund.⁴ Specifically, current law requires the funds to be used as follows:

- \$3 million must be directed toward retrofitting existing facilities used as public hurricane shelters.⁵
- \$7 million must be directed toward programs that improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code; and other efforts to prevent or reduce losses or reduce the cost of building after a disaster.⁶

Of the \$7 million allocated to improve the wind resistance of residences and mobile homes, provide education regarding Florida Building Code cooperative programs, and reduce the cost of rebuilding after a disaster:

- 50 percent (\$3.5 million) is directed to grant funding for governmental entities, nonprofit organizations, and qualified for-profit organizations to improve the resiliency of residential, community, and government structures within their communities (Hurricane Loss Mitigation Program Retrofit Grant).
- 40 percent (\$2.8 million) must be directed to the Manufactured Housing and Mobile Home Mitigation and Enhancement Program (Mobile Home Tie-Down Program) to mitigate future losses for mobile homes and inspect and improve tie-downs for mobile homes. The program is administered by Tallahassee Community College (TCC).⁷
- 10 percent (\$700,000) must be directed to the Florida International University (FIU) for hurricane research at the International Hurricane Research Center.⁸

On January 1 of each year, DEM submits an annual report and accounting of activities under the HLMP and an evaluation of the activities.⁹ The report must be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. The Office of Insurance Regulation must review the report and make recommendations to the insurance industry as deemed appropriate.¹⁰

The HLMP expires on June 30, 2021.¹¹

<https://www.flsenate.gov/UserContent/Committees/Publications/InterimWorkProgram/2000/pdf/00-22ca.pdf> (last visited March 13, 2021).

³ Chapter 99-305, Laws of Fla.

⁴ Section 215.559(1), F.S. *See* ch. 2020-111, s. 6., Specific Appropriations 2639 and 2446, Laws of Fla.

⁵ Section 215.559(1)(b), F.S.

⁶ Section 215.559(1)(a), F.S.

⁷ Section 215.559(2), F.S.

⁸ Section 215.559(3), F.S.

⁹ Hurricane Loss Mitigation Reports reside on the DEM website: <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last accessed March 12, 2021).

¹⁰ Section 215.559(6), F.S.

¹¹ Section 215.559(7), F.S.

Shelter Retrofit Program

Of the funds dedicated to the Shelter Retrofit Program, the DEM must prioritize the use of the funds for projects included in the annual Shelter Retrofit Report.¹² The DEM must similarly prioritize these funds to projects in regional planning council regions with shelter deficits and projects that maximize the use of state funds.¹³

In Fiscal Year 2019-2020, the DEM reports that 14 new shelter retrofit agreements were executed and 16 projects were completed. At the end of the fiscal year, 19 projects were active in communities across the state; of the total, nine projects were opened in previous fiscal years. The funds in the program that have not been expended in previous fiscal years are made available in following years for new projects.¹⁴

Hurricane Loss Mitigation Program Retrofit Grant

Governmental entities, nonprofit organizations, and qualified for-profit organizations can submit a proposal for the HLMP Retrofit Grant. Each submitted proposal is reviewed through a cost-benefit analysis to ensure that the recommended mitigation retrofits remain cost effective. A review panel selects eligible applicants based on priority, need, benefit, and alignment with local mitigation strategy projects.¹⁵

In Fiscal Year 2019-2020, the DEM reports that 16 new wind mitigation retrofits to homes were awarded and 7 grants were awarded that involved other mitigation strategies, such as stormwater drainage, flood mitigation, and public wind retrofit activities. Due to projects being halted and supply chain bottlenecks for construction equipment and materials because of COVID-19 impacts, the projects were granted an extension for completion. Typically projects must be complete at the end of the fiscal year; however, the 2019-2020 fiscal year projects were granted an extension through December 31, 2020. Similar to the Shelter Retrofit Grant, funds in the program that have not been expended in previous fiscal years are made available in following years for new projects.¹⁶

Mobile Home Tie-Down Program

The purpose of the Mobile Home Tie-Down Program is to mitigate future losses and inspect and improve tie-downs for mobile homes built before 1999 to meet the current standards.¹⁷ Mitigation under the program includes addressing problems associated with weakened trusses, studs, and other structural components caused by wood rot or termite damage; site-built additions, such as porches or carports; tie-down systems; and any additional issues deemed appropriate by TCC, the Federation of Manufactured Home Owners of Florida, the Florida Manufactured Housing Association, and the Department of Highway Safety and Motor Vehicles (DHSMV).¹⁸

¹² The Shelter Retrofit Report is prepared annually and submitted to the Governor and the Legislature. *See* s. 252.385, F.S.

¹³ Section 215.559(1)(b), F.S.

¹⁴ *Supra* at note 1.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The standards are established in Rules 15C-1.0101 through 15C-1.0109, F.A.C.

¹⁸ Section 215.559(2)(b)1., F.S.

The Mobile Home Tie-Down Program is funded by a direct \$2.8 million allocation under the HLMP to TCC, which serves as program administrator.¹⁹ The Mobile Home Tie-Down Program does not, and mobile homes are ineligible to, receive federal mitigation funds under Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation Grant, Building Resilient Infrastructure and Communities, or Hazard Mitigation Grant programs.

Since 1999, the Mobile Home Tie-Down Program has served over 40,000 mobile homes in over 278 mobile home communities.²⁰ Activities during the 2019-2020 fiscal year included 1,702 completed mobile homes in 14 mobile home communities.²¹ COVID-19 travel, inspection, and community access restrictions prevented the Mobile Home Tie-Down Program from expensing 100% of the allocated funds.²²

Third-party studies of the Mobile Home Tie-Down Program report improved wind resistance following participation in the program. In 2005, a FEMA Mitigation Branch Technical Services Division study of impacted mobile home communities during the 2004 hurricane season reported 4 percent to 5 percent of inspected mobile homes with retrofitted tie-downs were substantially damaged.²³ The same study reported that the primary cause of damage to mobile homes was caused by roof failure associated with the destruction of carports and sunrooms not constructed to code.²⁴

As of December 2020, the Mobile Home Tie-Down Program reported a current waiting list of seven years.²⁵ TCC is not accepting new applications until the waiting list shortens to three years.²⁶

Hurricane Research

FIU conducts research to support hurricane loss reduction devices and techniques as identified by the International Hurricane Research Center. The center's mission is to reduce hurricane damage and loss of life through more effective mitigation. The center has four laboratories focused on different aspects of hurricane impact: Laboratory for Coastal Research; Laboratory for Social and Behavioral Research; Laboratory for Insurance, Financial, and Economic Research; and Laboratory for Wind Engineering Research.²⁷

¹⁹ Section 215.559(2)(a), F.S.

²⁰ Florida Housing Coalition, *Hurricane Member Update Webinar* (August 28, 2020), <https://www.flhousing.org/wp-content/uploads/2020/09/FHC-Hurricane-Member-Update-8-28-20.pdf> (last visited March 12, 2021).

²¹ Division of Emergency Management, *Florida Hurricane Loss Mitigation Program: 2020 Annual Report* (January 1, 2021), <https://www.floridadisaster.org/dem/mitigation/hurricane-loss-mitigation-program/> (last visited March 12, 2021).

²² *Id.*

²³ Federal Emergency Management Agency, Mitigation Section, Technical Services Branch, *Third Party Analysis of Manufactured Home Retrofit Tie Downs* (June 2005) at p.3. On file with the Senate Committee on Banking and Insurance.

²⁴ *Id.* at p. 5.

²⁵ Telephone conversation between Senate Banking and Insurance Committee staff and Amy Bradbury, Director of Financial Planning and Sponsored Programs, Tallahassee Community College, in Tallahassee, Fla. (December 14, 2020).

²⁶ Tallahassee Community College, *Mobile Home Tie-Down Program*, <https://www.tcc.fl.edu/about/college/administrative-services/sponsored-programs/mobile-home-tie-down-program/> (last visited March 12, 2021).

²⁷ Florida International University, International Hurricane Research Center, *About and History*, <http://www.ihrc.fiu.edu/about/> (last visited March 13, 2021).

For Fiscal Year 2019-2020, the International Hurricane Research Center is researching several topics, including experimental and analytical assessments of effects of leakage around residential building openings; investigation to codify wind pressure distribution of elevated homes; continued development of an integrated storm tide and freshwater flooding model; and education and outreach programs to convey the benefits of various hurricane loss mitigation devices and techniques. Due to the impacts of COVID-19, the center was granted an extension to finish its research. Final reports will be delivered to the state in April 2021.²⁸

Florida Hurricane Catastrophe Fund (Cat Fund)

The Cat Fund is a tax-exempt fund created in 1993 after Hurricane Andrew as a form of mandatory reinsurance for residential property insurers.²⁹ The Cat Fund is administered by the State Board of Administration and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent) of hurricane losses above the insurer's retention (deductible).³⁰ The fund provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the Cat Fund.³¹ Because of the low cost of coverage from the Cat fund, the fund acts to lower residential property insurance premiums for consumers.

When the moneys in the Cat Fund are or will be insufficient to cover losses, the fund is authorized to issue revenue bonds funded by emergency assessments on all lines of insurance, except medical malpractice and workers compensation.³² Through private letter ruling the U.S. Internal Revenue Service authorized the Cat Fund to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, and in 2008 another private letter ruling held that the prior exemption could continue to be relied upon on a permanent basis.³³

The private letter ruling "includes a requirement that a certain amount of [Cat Fund] funds be devoted to hurricane mitigation purposes."³⁴ "The allocation of a portion of [Cat Fund] funds to the broad public purpose of hurricane loss mitigation was one of the factors that the US Internal Revenue Service relied on in determining the tax-exempt status of the [fund]."³⁵

²⁸ *Supra* note 1.

²⁹ Section 215.555(1)(f), F.S. *See also* ch. 93-409, Laws of Fla, relating to creation of the fund.

³⁰ Section 215.555(2)(e), F.S.

³¹ Section 215.555(4)(a), F.S.

³² Section 215.555(6), F.S.

³³ State Board of Administration, Florida Hurricane Catastrophe Fund, *Fiscal Year 2014-2015 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20160330_FHCF_AnnualRpt2014_15.pdf?ver=2016-06-08-121801-380 (last visited March 13, 2021).

³⁴ *Id.*

³⁵ State Board of Administration of Florida, Florida Hurricane Catastrophe Fund, *2019 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20200617_2019_FHCFAnnualReport.pdf?ver=2020-06-17-123729-280 (last visited March 13, 2021).

Section 215.555(7)(c), F.S., specifies that the appropriation is for the purpose of providing funding for local governments, state agencies, public and private educational institutions, and nonprofit organizations to:

- Support programs intended to improve hurricane preparedness;
- Reduce potential losses in the event of a hurricane;
- Provide research into means to reduce such losses;
- Educate or inform the public as to means to reduce hurricane losses;
- Assist the public in determining the appropriateness of particular upgrades to structures or in the financing of such upgrades; or
- Protect local infrastructure from potential damage from a hurricane.

Statute requires an annual appropriation of at least \$10 million, but no more than 35 percent of yearly investment income. Annually \$13.5 million is appropriated from the Cat Fund to DEM, including a recurring \$3.5 million for the statewide emergency and mass notification system (Alert System) and a recurring \$10 million for the HLMP as discussed above.

Obsolete Reference

Section 215.559(2)(b)3., F.S., contains an obsolete reference regarding competitive rates for the Manufactured Housing and Mobile home Mitigation and Enhancement Program. The reference is to a defunct rate standard that has not applied to mobile home insurance policies issued by Citizens Property Insurance Corporation since 2007.³⁶

III. Effect of Proposed Changes:

Section 1 extends until June 30, 2031, the Hurricane Loss Mitigation Program (HLMP) within the Division of Emergency Management. Without the bill, the HLMP is set to expire on June 30, 2021.

The bill also removes an obsolete reference in s. 215.559(2)(b)3., F.S.

Section 2 provides 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.

³⁶ Chapter 2007-1, Laws of Fla.

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:

Indeterminate with respect to insurance premiums. A reduction in wind loss attributable to retrofitted tie-downs may be offset by wind loss attributable to carports and sunrooms not constructed to code, which FEMA has concluded as being the primary causes of damage to mobile homes from a wind event.

Nonprofit organizations, qualified for-profit organizations, and property owners benefit from the extension of the mitigation retrofit grant program, which provides for hazard mitigation retrofitting to residential and commercial properties.

C. Government Sector Impact:

The Legislature needs to ensure the continuation of appropriations of at least \$10 million from the Cat Fund are made to hurricane mitigation programs as provided under s. 215.555(7)(c), F.S., to maintain the tax exempt status of the Cat Fund. The extension of the HLMP under the bill provides continued direction for use of these funds. Local housing authorities, local governments, TCC, and FIU benefit from the extension of the shelter retrofit program, the mitigation retrofit grant program, the Mobile Home Tie-Down Program, and the hurricane research at FIU.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.559 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 Banking and Insurance on February 2, 2021:

The committee substitute removes a cross-reference to a defunct rate standard for mobile home insurance policies issued by Citizens Property Insurance Corporation.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Hooper

597-01967-21

2021168c1

1 A bill to be entitled
 2 An act relating to the Hurricane Loss Mitigation
 3 Program; amending s. 215.559, F.S.; deleting
 4 construction relating to Citizens Property Insurance
 5 Corporation coverage rates; delaying the future repeal
 6 of the Hurricane Loss Mitigation Program; providing an
 7 effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (b) of subsection (2) and subsection
 12 (7) of section 215.559, Florida Statutes, are amended to read:
 13 215.559 Hurricane Loss Mitigation Program.—A Hurricane Loss
 14 Mitigation Program is established in the Division of Emergency
 15 Management.
 16 (2)
 17 (b)1. The Manufactured Housing and Mobile Home Mitigation
 18 and Enhancement Program is established. The program shall
 19 require the mitigation of damage to or the enhancement of homes
 20 for the areas of concern raised by the Department of Highway
 21 Safety and Motor Vehicles in the 2004-2005 Hurricane Reports on
 22 the effects of the 2004 and 2005 hurricanes on manufactured and
 23 mobile homes in this state. The mitigation or enhancement must
 24 include, but need not be limited to, problems associated with
 25 weakened trusses, studs, and other structural components caused
 26 by wood rot or termite damage; site-built additions; or tie-down
 27 systems and may also address any other issues deemed appropriate
 28 by Tallahassee Community College, the Federation of Manufactured
 29 Home Owners of Florida, Inc., the Florida Manufactured Housing

Page 1 of 3

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

597-01967-21

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30 Association, and the Department of Highway Safety and Motor
 31 Vehicles. The program shall include an education and outreach
 32 component to ensure that owners of manufactured and mobile homes
 33 are aware of the benefits of participation.
 34 2. The program shall be a grant program that ensures that
 35 entire manufactured home communities and mobile home parks may
 36 be improved wherever practicable. The moneys appropriated for
 37 this program shall be distributed directly to Tallahassee
 38 Community College for the uses set forth under this subsection.
 39 3. Upon evidence of completion of the program, the Citizens
 40 Property Insurance Corporation shall grant, on a pro rata basis,
 41 actuarially reasonable discounts, credits, or other rate
 42 differentials or appropriate reductions in deductibles for the
 43 properties of owners of manufactured homes or mobile homes on
 44 which fixtures or construction techniques that have been
 45 demonstrated to reduce the amount of loss in a windstorm have
 46 been installed or implemented. The discount on the premium must
 47 be applied to subsequent renewal premium amounts. Premiums of
 48 the Citizens Property Insurance Corporation must reflect the
 49 location of the home and the fact that the home has been
 50 installed in compliance with building codes adopted after
 51 Hurricane Andrew. ~~Rates resulting from the completion of the~~
 52 ~~Manufactured Housing and Mobile Home Mitigation and Enhancement~~
 53 ~~Program are not considered competitive rates for the purposes of~~
 54 ~~s. 627.351(6)(d)1. and 2.~~
 55 4. On or before January 1 of each year, Tallahassee
 56 Community College shall provide a report of activities under
 57 this subsection to the Governor, the President of the Senate,
 58 and the Speaker of the House of Representatives. The report must

Page 2 of 3

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

597-01967-21

2021168c1

59 set forth the number of homes that have taken advantage of the
60 program, the types of enhancements and improvements made to the
61 manufactured or mobile homes and attachments to such homes, and
62 whether there has been an increase in availability of insurance
63 products to owners of manufactured or mobile homes.

64
65 Tallahassee Community College shall develop the programs set
66 forth in this subsection in consultation with the Federation of
67 Manufactured Home Owners of Florida, Inc., the Florida
68 Manufactured Housing Association, and the Department of Highway
69 Safety and Motor Vehicles. The moneys appropriated for the
70 programs set forth in this subsection shall be distributed
71 directly to Tallahassee Community College to be used as set
72 forth in this subsection.

73 (7) This section is repealed June 30, 2031 ~~2021~~.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 11, 2021

I respectfully request that **Senate Bill # 168**, relating to Hurricane Loss Mitigation Program, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/15/21

Meeting Date

CS/SB 168

Bill Number (if applicable)

Topic Hurricane Loss Mitigation Program

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title Legislative Counsel

Address 1400 Village Square Blvd Sk 3-156

Phone 850.385.7805

Street

Tallahassee

FL

32312

City

State

Zip

Email nancy.stewart@nancyblackstewart.com

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

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

Representing Federation of Manufactured Home Owners of FL, Inc

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

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 184

INTRODUCER: Transportation Committee and Senator Berman

SUBJECT: Purple Alert

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Favorable</u>
3.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 184 requires the Division of Emergency Management to identify and maintain an inventory of available digitally displayed automatic changeable facing signs capable of providing the immediate distribution of critical information to the public in times of declared emergency and regarding missing endangered persons.

It also establishes criteria and processes for issuing Purple Alerts to assist in finding missing adults with developmental disabilities, brain injuries, or other disabilities not related to substance abuse.

The bill provides the FDLE with budget authority of \$199,901 (\$92,790 nonrecurring) in the Operating Trust Fund and 2 FTE in order to accommodate increased workload and make technology improvements. See Section V. Fiscal Impact Statement for additional information.

The bill takes effect July 1, 2021, but the alert system is effective July 1, 2022.

II. Present Situation:

Florida Statutory Alerts

Section 937.021, F.S., requires law enforcement agencies (LEAs) in this state to adopt written policies that specify the procedures to be used to investigate reports of missing children and

missing adults. Section 937.022, F.S., creates the Missing Endangered Persons Information Clearinghouse (MEPIC) within the Florida Department of Law Enforcement (FDLE) “to serve as a central repository of information regarding missing endangered persons.” Every state, county, or municipal LEA must submit information on missing endangered persons to the clearinghouse and the FDLE must collect and disseminate the information to assist in the location of missing endangered persons.¹

A Missing Child Alert is intended to enable law enforcement to quickly disseminate information when a child is missing and believed to be in life-threatening danger, but there is no indication that the child has been abducted.² A Missing Child Alert may result in an AMBER Alert if investigation produces an indication that the child has been abducted.³ A state Silver Alert is intended to aid law enforcement in the rescue or recovery of a missing elderly person who suffers from irreversible deterioration of intellectual faculties⁴ and becomes lost while driving a vehicle.⁵

Generally, in each case, the local LEA with jurisdiction contacts the FDLE’s MEPIC. The FDLE works with the local LEA to determine whether information will be broadcast on a regional or statewide basis and prepares information for public distribution through the Emergency Alert System, wireless emergency alerts, the Department of Transportation’s (FDOT) 511 traveler information system⁶ and dynamic message signs, lottery machines, and email, as appropriate.⁷

With respect to use of the FDOT’s dynamic message signs, after contact from the FDLE, the appropriate FDOT Regional Transportation Management Center is ultimately responsible for displaying alert messages on those signs. If the alert message is:

- A Missing Child Alert or a Silver Alert, the message is displayed for a maximum of six hours and is re-activated if the FDLE requests it, but only in the specific area the law enforcement believes the child may be located.
- An AMBER Alert, the message is displayed until the child is recovered or for a maximum of 24 hours, again re-activated upon the FDLE’s request only in the specific area law enforcement believes the child may be located.⁸

¹ Section 937.022(3)(b), F.S.

² The Florida Department of Law Enforcement (the FDLE) Missing Endangered Persons Information Clearinghouse, *Florida’s Missing Child Alert*, available at <http://www.fdle.state.fl.us/mcicsearch/MCApage.asp> (last visited February 10, 2021).

³ The FDLE Missing Endangered Persons Information Clearinghouse, *AMBER Alerts*, available at <http://www.fdle.state.fl.us/mcicsearch/Amber.asp> (last visited February 10, 2021).

⁴ The FDLE Missing Endangered Persons Information Clearinghouse, *Florida’s Silver Alert Plan*, available at <http://www.fdle.state.fl.us/mcicsearch/SilverAlerts.asp> (last visited February 10, 2021).

⁵ See *Florida Missing Persons and Blue Alert Plans*, The FDLE and The Florida Department of Transportation, p. 1. (On file in the Senate Committee on Transportation)(hereinafter cited as “Missing Persons and Blue Alert Plans”). See also FDLE, *Florida’s Silver Alert Plan*, available at <http://www.fdle.state.fl.us/Silver-Alert-Plan/Silver-Alert-Plan> (last visited February 10, 2021).

⁶ See s. 334.044(31) and s. 334.60, F.S. The 511 System is used only while dynamic message signs are displayed. See also *Missing Persons and Blue Alert Plans*, p. 4.

⁷ *Missing Persons and Blue Alert Plans*, pp. 1-5.

⁸ *Missing Persons and Blue Alert Plans*, pp. 4-5.

Section 937.021(5), F.S., provides immunity from civil liability for complying in good faith with a request to record, report, transmit, display, or release Missing Child, AMBER, and Silver Alert information.

Section 784.071, F.S., authorizes Blue Alerts and the FDLE will issue a Blue Alert if a law enforcement officer has been killed, suffered serious bodily injury, or been assaulted with a deadly weapon; or is missing while in the line of duty or under circumstances indicating concern for an officer's safety; and the suspect has fled the scene and poses an imminent threat to the public or to other law enforcement officers.

The FDLE, in conjunction with the Florida Highway Patrol, the FDOT, and the Department of Lottery, broadcasts information to the public through the Emergency Alert System on television and radio when information about an offender would help avert further harm or assist in apprehending a suspect in connection with killing or harming a law enforcement officer.⁹ In such cases, dynamic message signs are also used to display Blue Alerts.¹⁰ These alerts use the technologies employed for Amber Alerts.¹¹ At the request of a local LEA, the FDLE Intelligence Watch and Warning Regional Special Agency Supervisor works with the investigating agency to prepare information for public release, include suspect and/or vehicle information. The FDLE works with the FDOT's Regional Transportation Management Center, which is ultimately responsible for displaying Blue Alert messages on the dynamic message signs. Again, the alert is displayed for a maximum of six hours, with re-activation upon FDLE request in the specific area that law enforcement believes the person may be located.¹²

The FDOT observes the following orders of priority with respect to these alert messages on dynamic message signs:

- If there are multiple alerts activated during the same time: AMBER, Missing Child, Blue, and Silver.
- If there are multiple AMBER, Missing Child, or Blue Alerts activated during the same time, each one is displayed on every other dynamic message sign.¹³

Missing Endangered Persons

Section 937.0201(4), F.S., defines the term "missing endangered person" for purposes of missing person investigations to mean:

- A missing child;
- A missing adult younger than 26 years of age;
- A missing adult 26 years of age or older who is suspected by an LEA of being endangered or the victim of criminal activity; or
- A missing adult who meets the criteria for activation of the Silver Alert Plan¹⁴ of the FDLE.

⁹ Missing Persons and Blue Alert Plans.

¹⁰ Section 784.071(2)(a), F.S.

¹¹ FDLE, *Florida Blue Alert Notification System*, available at <http://floridabluealert.com/> (last visited February 10, 2021).

¹² Missing Persons and Blue Alert Plans, pp. 4-5.

¹³ *Id.* at p. 5.

¹⁴ Both local (missing on foot) and state (missing in vehicle) Silver Alerts are currently used to locate missing persons suffering from an irreversible deterioration of intellectual faculties. See FDLE, *Silver Activation Steps*, available at

Alzheimer’s Participants

Section 429.918, F.S., relating to licensure designation as a specialized Alzheimer’s services adult day care center, requires a number of requirements for such day centers to operate, including, among other requirements that:

- Employees hired to provide direct care to ADRD participants¹⁵ must receive and review an orientation plan that includes information on the Silver Alert Plan; and
- ADRD participants (or caregivers) must be provided a copy of the participant’s plan of care and information regarding resources to assist in ensuring the safety and security of a participant, which must include (among other items) information on the Silver Alert Plan.

Civil Immunity

Florida law provides civil immunity to certain individuals in specified circumstances who, acting in good faith, attempt to render aid to others.¹⁶ Section 937.021, F.S., currently provides civil immunity for specified entities requested by law enforcement to record, report, transmit, display, or release information pertaining to a missing person if such entity complied with the request in good faith.¹⁷ These entities include:

- The FDLE, a state or local law enforcement agency, and agency personnel;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services as defined in s. 202.11, F.S.¹⁸

Entities who report, transmit, display, or release information pertaining to a missing person are presumed to have acted in good faith.¹⁹ The presumption of good faith is not overcome if a technical or clerical error is made by an agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction or if the missing person information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.²⁰

III. Effect of Proposed Changes:

The bill establishes criteria and processes for Purple Alerts.

<http://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps> (last visited February 11, 2021)(hereinafter cited as “Silver Activation Steps”). This site lists the criteria for both local and state Silver Alerts.

¹⁵ Section 429.918, F.S., defines the term “ADRD participant” to mean a participant who has a documented diagnosis of Alzheimer’s disease or a dementia-related disorder (ADRD) from a licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse.

¹⁶ For example, Section 768.13, F.S. (also known as Florida’s Good Samaritan Act (GSA)) provides immunity from civil liability for persons acting in good faith who render emergency care and treatment to individuals in need of assistance. Under the GSA, immunity from civil liability is available to any person who gratuitously and in good faith renders emergency assistance without the objection of a victim, if the person acts as a reasonably prudent person would act under similar circumstances.

¹⁷ Section 937.021(5)(a), F.S.

¹⁸ Examples of a dealer of communications services include a cable or satellite television service provider, a telephone service provider, or a mobile communication service provider. s. 937.021, F.S.

¹⁹ Section 937.021(5)(c), F.S.

²⁰ *Id.*

Section 1 amends s. 252.35, F.S., relating to duties of the Division of Emergency Management, to add a requirement that the division identify and maintain an inventory of available digitally displayed automatic changeable facing signs capable of providing the immediate distribution of critical information to the public in times of declared emergency and regarding missing endangered persons.

Section 2 amends s. 937.0201, F.S., relating to definitions for purposes of missing person investigations. The bill includes in the definition of “missing endangered person” a missing adult who meets the criteria for the FDLE’s activation of the Purple Alert pursuant to s. 937.0205, F.S., created by the bill.

Section 3 creates s. 937.0205, entitled *Purple Alert*. The bill expresses the following Legislative findings:

- A standardized state system is necessary to aid in the search of certain missing adults (identified and discussed below).
- A coordinated local law enforcement and state agency response with prompt and widespread sharing of information will improve the chances of finding the person.

The bill also recites the Legislature’s intent to establish the Purple Alert, implemented in a manner that, to the extent practicable, safeguards the privacy rights and related health diagnostic information of such missing adults.

The bill directs the FDLE, in cooperation with the FDOT, the Department of Highway Safety and Motor Vehicles (DHSMV), the Department of the Lottery, and local LEAs, to establish and implement the Purple Alert. At a minimum, the Purple Alert must:

- Be the only viable means by which the missing adult is likely to be returned to safety;
- Provide, to the greatest extent possible, for the protection of the privacy, dignity, and independence of the missing adult by including standards aimed at safeguarding these civil liberties by preventing the inadvertent or unnecessary broadcasting or dissemination of sensitive health and diagnostic information;
- Provide that the broadcasting and dissemination of alerts and related information be limited to the geographic areas where the missing adult could reasonably be, considering his or her circumstances and physical and mental condition, the potential modes of transportation available to him or her or suspected to be involved, and the known or suspected circumstances of his or her disappearance; and
- Be activated only when there is sufficient descriptive information about the missing adult and the circumstances surrounding his or her disappearance to indicate that activating the alert is likely to help locate the missing adult.

The bill authorizes (but does not require) a local LEA, under a Purple Alert, to broadcast to the media and to persons who subscribe to receive alert notifications information concerning a missing adult:

- Who has a mental or cognitive disability that is not Alzheimer’s disease or a dementia-related disorder; an intellectual disability or a development disability, as those terms are defined in s.

393.063, F.S.;²¹ a brain injury; another physical, mental, or emotional disability that is not related to substance abuse; or a combination of any of these;

- Whose disappearance indicates a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by the local LEA;
- Who cannot be returned to safety without law enforcement intervention; and,
- Who does not meet the criteria for activation of a local Silver Alert or the Silver Alert Plan of the FDLE.²²

If a Purple Alert is determined to be necessary and appropriate, the local law enforcement agency having jurisdiction must notify the media and subscribers in the jurisdiction or jurisdictions where the missing adult is believed to or may be located. The local law enforcement agency having jurisdiction may also request that the Purple Alert notification be broadcast on lottery terminals within the geographic regions where the missing adult may reasonably be, including, but not limited to, lottery terminals in gas stations, convenience stores, and supermarkets.

The local jurisdictional LEA is also authorized to request that a case be opened with the FDLE's MEPIC. To enhance local or regional efforts when the investigation indicates that an identifiable vehicle is involved, the MEPIC is required to coordinate with the FDOT and the DHSMV for the activation of dynamic message signs on state highways and the immediate distribution of critical information to the public regarding the missing adult in accordance with the alert.

The bill requires the Purple Alert process to include procedures to monitor the use, activation, and results of alerts and a strategy for informing and educating law enforcement, the media, and other stakeholders concerning the alert. Lastly, this section of the bill authorizes the FDLE to adopt rules to implement and administer the new section of law.

Missing adults who meet the criteria for activation of a Purple Alert, their caregivers and families, as well as the general public may benefit from improved communication of emergency information through Purple Alerts. However, to receive Purple Alerts, individuals must be subscribers in the jurisdiction or jurisdictions where the missing adult is believed to or may be located, see the alerts on lottery terminals in gas stations, convenience stores, or supermarkets or on dynamic message signs along the State Highway System, or otherwise gain knowledge of a Purple Alert following notification of the media by the local jurisdictional LEA.

Section 4 amends s. 937.021, F.S., relating to missing child and missing adult reports, to include Purple Alerts in the existing provisions relating to immunity from civil liability for law enforcement agencies, broadcasters, and other entities acting in good faith when involved in issuing Missing Child Alerts, AMBER Alerts, and Silver Alerts.

²¹ That section defines "intellectual disability" to mean significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term: (a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community. (b) "Significantly sub-average general intellectual functioning" means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency. "Developmental disability" means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

²² See Silver Activation Steps. See also FDLE Missing Endangered Persons Information Clearinghouse, *Florida's Silver Alert Plan*, available at <http://www.fdle.state.fl.us/mcicsearch/SilverAlerts.asp> (last visited February 11, 2021).

Section 5 amends s. 937.022, F.S., relating to the MEPIC, to include Purple Alerts in this provision. This will limit the activation of the Purple Alerts to only allow the LEA having jurisdiction over a case to make a request to the MEPIC for activation of a Purple Alert if the criteria for issuance are met. This is the same limitation for the activation of Silver Alert Plan discussed above.

Section 6 provides \$107,111 in recurring and \$92,790 in nonrecurring budget authority from the Operating Trust Fund to the Department of Law Enforcement, and two full-time equivalent positions with associated salary rate of 55,853 for the purpose of accommodating increased workload and implementing required technology improvements.

Section 7 provides that except as otherwise expressly provided in the act and except for this section, which shall take effect July 1, 2021, the act shall take effect July 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:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**The Florida Department of Law Enforcement (FDLE):**

The FDLE estimates that the bill's provision will result in an additional 146 alerts added to the alert system yearly or, on average, one Purple Alert every 2.5 days. To address this workload, the FDLE is requesting three Crime Intelligence Analyst I FTE positions totaling \$165,735 (\$155,262 recurring). Additionally, the FDLE indicates that the cost of necessary modifications to existing information technology will total \$170,000 and take approximately 12 months to complete. The FDLE will be required to create policies and procedures on how to activate and cancel Purple Alerts but the department did not estimate the cost of such activities.²³

The bill provides \$107,111 in recurring and \$92,790 in nonrecurring budget authority from the Operating Trust Fund to the Department of Law Enforcement, and two full-time equivalent positions with associated salary rate of 55,853 for the purpose of accommodating increased workload and implementing required technology improvements.

The Florida Department of Transportation (FDOT):

The fiscal impact to the FDOT relating to display of Purple Alerts on dynamic message signs is indeterminate, as the potential increase in volume of alerts cannot be determined.

The Florida Department of Highway Safety and Motor Vehicles (DHSMV):

The DHSMV notes the bill will result in a significant workload increase for the Florida Highway Patrol, especially the regional communications center ultimately assigned to coordinate Purple Alerts. At this time, the workload increase is expected to be absorbed within existing resources. However, the DHSMV states that it will monitor the workload increase to determine if additional staff may be necessary at a future time to address the workload.²⁴

Local Law Enforcement Agencies:

Local jurisdictional LEAs will incur indeterminate expenses associated with notifying the media and subscribers as authorized under the bill, and with developing any necessary policies and training and establishing or enhancing necessary infrastructure and systems.

VI. Technical Deficiencies:

None.

²³ See the FDLE 2021 Legislative Bill Analysis for SB 184 on file with the Senate Committee on Transportation.

²⁴ See the DHSMV 2021 Legislative Bill Analysis for SB 184 on file with the Senate Committee on Transportation.

VII. Related Issues:

The FDLE noted that the language in the bill omitting an adult who has Alzheimer's disease or a dementia-related disorder from the alert may significantly complicate the required investigative and verification steps necessary for local law enforcement agencies to assess and confirm a potential alert subject's medical diagnoses. Similarly, the language may complicate details of training criteria and necessitate the FDLE to run through longer and multiple checklists with local agencies requesting an alert, especially if they are unsure of the subject's exact medical history. These complexities could lengthen the time it takes law enforcement to issue the alert, whatever the type. According to the FDLE, timely public notification is crucial for improving the chances of a successful, safe recovery and this language may have the unintended consequence of making both the existing and the new alert types less successful.²⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 252.35, 937.0201, 937.021, and 937.022.

This bill creates section 937.0205 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 Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that an individual with Alzheimer's disease or a dementia-related disorder is not included under the Purple Alert as such individuals are included for alerts under the Silver Alert;
- Removes the Purple Alert training requirement for licensed specialized Alzheimer's services adult day care centers; and
- Provides the Department of Law Enforcement with two FTE, salary rate of 55,853, and \$199,901 in budget authority in the Operating Trust Fund to implement the bill.

CS by Transportation on February 2, 2021:

- Removes the appropriation of \$152,836 in recurring funds and \$170,000 in nonrecurring funds from the General Revenue Fund, and the three full-time equivalent positions.

- B. **Amendments:**

None.

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

²⁵ See the FDLE 2021 Legislative Bill Analysis for CS/CS/HB 79 (*Revised on April 7, 2021*) on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 117 - 252

and insert:

1. Who has a mental or cognitive disability that is not Alzheimer's disease or a dementia-related disorder; an intellectual disability or a developmental disability, as those terms are defined in s. 393.063; a brain injury; another physical, mental, or emotional disability that is not related to substance abuse; or a combination of any of these;



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11 2. Whose disappearance indicates a credible threat of
12 immediate danger or serious bodily harm to himself or herself,
13 as determined by the local law enforcement agency;

14 3. Who cannot be returned to safety without law enforcement
15 intervention; and

16 4. Who does not meet the criteria for activation of a local
17 Silver Alert or the Silver Alert Plan of the Department of Law
18 Enforcement.

19 (b) If a Purple Alert is determined to be necessary and
20 appropriate, the local law enforcement agency having
21 jurisdiction must notify the media and subscribers in the
22 jurisdiction or jurisdictions where the missing adult is
23 believed to or may be located. The local law enforcement agency
24 having jurisdiction may also request that the Purple Alert
25 notification be broadcast on lottery terminals within the
26 geographic regions where the missing adult may reasonably be,
27 including, but not limited to, lottery terminals in gas
28 stations, convenience stores, and supermarkets.

29 (c) Under the Purple Alert, the local law enforcement
30 agency having jurisdiction may also request that a case be
31 opened with the Department of Law Enforcement's Missing
32 Endangered Persons Information Clearinghouse. To enhance local
33 or regional efforts when the investigation indicates that an
34 identifiable vehicle is involved, the clearinghouse must
35 coordinate with the Department of Transportation and the
36 Department of Highway Safety and Motor Vehicles for the
37 activation of dynamic message signs on state highways and the
38 immediate distribution of critical information to the public
39 regarding the missing adult in accordance with the alert.



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40 (5) The Purple Alert process must include procedures to
41 monitor the use, activation, and results of alerts and a
42 strategy for informing and educating law enforcement, the media,
43 and other stakeholders concerning the alert.

44 (6) The Department of Law Enforcement may adopt rules to
45 implement and administer this section.

46 Section 4. Paragraphs (c), (d), and (e) of subsection (5)
47 of section 937.021, Florida Statutes, are amended to read:

48 937.021 Missing child and missing adult reports.—

49 (5)

50 (c) Upon receiving a request to record, report, transmit,
51 display, or release Silver Alert or Purple Alert information
52 from the law enforcement agency having jurisdiction over the
53 missing adult, the Department of Law Enforcement as the state
54 Silver Alert and Purple Alert coordinator, any state or local
55 law enforcement agency, and the personnel of these agencies; any
56 radio or television network, broadcaster, or other media
57 representative; any dealer of communications services as defined
58 in s. 202.11; or any agency, employee, individual, or entity is
59 immune from civil liability for damages for complying in good
60 faith with the request and is presumed to have acted in good
61 faith in recording, reporting, transmitting, displaying, or
62 releasing Silver Alert or Purple Alert information pertaining to
63 the missing adult.

64 (d) The presumption of good faith is not overcome if a
65 technical or clerical error is made by any agency, employee,
66 individual, or entity acting at the request of the local law
67 enforcement agency having jurisdiction, or if the Amber Alert,
68 Missing Child Alert, missing child information, missing adult



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69 information, or Silver Alert or Purple Alert information is
70 incomplete or incorrect because the information received from
71 the local law enforcement agency was incomplete or incorrect.

72 (e) Neither this subsection nor any other ~~provision of law~~
73 creates a duty of the agency, employee, individual, or entity to
74 record, report, transmit, display, or release the Amber Alert,
75 Missing Child Alert, missing child information, missing adult
76 information, or Silver Alert or Purple Alert information
77 received from the local law enforcement agency having
78 jurisdiction. The decision to record, report, transmit, display,
79 or release information is discretionary with the agency,
80 employee, individual, or entity receiving the information.

81 Section 5. Paragraph (b) of subsection (3) of section
82 937.022, Florida Statutes, is amended to read:

83 937.022 Missing Endangered Persons Information
84 Clearinghouse.—

85 (3) The clearinghouse shall:

86 (b) Provide a centralized file for the exchange of
87 information on missing endangered persons.

88 1. Every state, county, or municipal law enforcement agency
89 shall submit to the clearinghouse information concerning missing
90 endangered persons.

91 2. Any person having knowledge may submit a missing
92 endangered person report to the clearinghouse concerning a child
93 or adult younger than 26 years of age whose whereabouts is
94 unknown, regardless of the circumstances, subsequent to
95 reporting such child or adult missing to the appropriate law
96 enforcement agency within the county in which the child or adult
97 became missing, and subsequent to entry by the law enforcement



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98 agency of the child or person into the Florida Crime Information
99 Center and the National Crime Information Center databases. The
100 missing endangered person report shall be included in the
101 clearinghouse database.

102 3. Only the law enforcement agency having jurisdiction over
103 the case may submit a missing endangered person report to the
104 clearinghouse involving a missing adult age 26 years or older
105 who is suspected by a law enforcement agency of being endangered
106 or the victim of criminal activity.

107 4. Only the law enforcement agency having jurisdiction over
108 the case may make a request to the clearinghouse for the
109 activation of a state Silver Alert or a Purple Alert involving a
110 missing adult if circumstances regarding the disappearance have
111 met the criteria for activation of the Silver Alert Plan or the
112 Purple Alert.

113 Section 6. Effective July 1, 2021, for the 2021-2022 fiscal
114 year, the sums of \$107,111 in recurring funds and \$92,790 in
115 nonrecurring funds are appropriated from the Operating Trust
116 Fund to the Department of Law Enforcement, and two full-time
117 equivalent positions with associated salary rate of 55,853 are
118 authorized, for the purpose of implementing this act.

119 Section 7. Except as otherwise expressly provided in this
120 act and except for this section, which shall take effect July 1,
121 2021, this act shall take effect July 1, 2022.

122
123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete lines 45 - 46

126 and insert:



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127

providing an appropriation; providing effective dates.

By the Committee on Transportation; and Senator Berman

596-01961-21

2021184c1

1 A bill to be entitled
 2 An act relating to the Purple Alert; amending s.
 3 252.35, F.S.; requiring the Division of Emergency
 4 Management to identify and maintain an inventory of
 5 certain digitally displayed automatic changeable
 6 facing signs; amending s. 937.0201, F.S.; redefining
 7 the term "missing endangered person"; creating s.
 8 937.0205, F.S.; providing legislative findings and
 9 intent; requiring the Department of Law Enforcement,
 10 in cooperation with the Department of Transportation,
 11 the Department of Highway Safety and Motor Vehicles,
 12 the Department of the Lottery, and local law
 13 enforcement agencies, to establish and implement the
 14 Purple Alert; specifying minimum requirements for the
 15 Purple Alert; authorizing local law enforcement
 16 agencies to broadcast information concerning certain
 17 missing adults; requiring the local law enforcement
 18 agency having jurisdiction to notify media and alert
 19 subscribers if a Purple Alert is determined to be
 20 necessary and appropriate; authorizing the local law
 21 enforcement agency having jurisdiction to request that
 22 a case be opened with the Department of Law
 23 Enforcement's Missing Endangered Persons Information
 24 Clearinghouse; requiring the clearinghouse to
 25 coordinate with the Department of Transportation and
 26 the Department of Highway Safety and Motor Vehicles in
 27 the activation of dynamic message signs on state
 28 highways and the immediate distribution of certain
 29 critical information under certain circumstances;

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

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30 requiring the Purple Alert process to include certain
 31 procedures and an information and education strategy;
 32 authorizing the Department of Law Enforcement to adopt
 33 rules; amending s. 937.021, F.S.; providing that the
 34 Department of Law Enforcement, as the Purple Alert
 35 coordinator, and certain agencies, employees,
 36 individuals, and entities are immune from civil
 37 liability for damages when performing certain actions
 38 in good faith; providing that the presumption of good
 39 faith is not overcome under certain circumstances;
 40 providing construction; amending s. 937.022, F.S.;
 41 authorizing only the law enforcement agency having
 42 jurisdiction over a case to make a request to the
 43 clearinghouse for the activation of a Purple Alert
 44 involving a missing adult under certain circumstances;
 45 amending s. 429.918, F.S.; conforming provisions to
 46 changes made by the act; providing an effective date.
 47
 48 Be It Enacted by the Legislature of the State of Florida:
 49
 50 Section 1. Paragraph (z) is added to subsection (2) of
 51 section 252.35, Florida Statutes, to read:
 52 252.35 Emergency management powers; Division of Emergency
 53 Management.—
 54 (2) The division is responsible for carrying out the
 55 provisions of ss. 252.31-252.90. In performing its duties, the
 56 division shall:
 57 (z) Identify and maintain an inventory of available
 58 digitally displayed automatic changeable facing signs capable of

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

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59 providing the immediate distribution of critical information to
 60 the public in times of declared emergency and regarding missing
 61 endangered persons.

62 Section 2. Subsection (4) of section 937.0201, Florida
 63 Statutes, is amended to read:

64 937.0201 Definitions.—As used in this chapter, the term:

65 (4) "Missing endangered person" means any of the following:

66 (a) A missing child.~~+~~

67 (b) A missing adult younger than 26 years of age.~~+~~

68 (c) A missing adult 26 years of age or older who is
 69 suspected by a law enforcement agency of being endangered or the
 70 victim of criminal activity.~~+~~~~or~~

71 (d) A missing adult who meets the criteria for activation
 72 of the Silver Alert Plan of the Department of Law Enforcement.

73 (e) A missing adult who meets the criteria for activation
 74 of the Purple Alert of the Department of Law Enforcement
 75 pursuant to s. 937.0205.

76 Section 3. Section 937.0205, Florida Statutes, is created
 77 to read:

78 937.0205 Purple Alert.—

79 (1) The Legislature finds that a standardized state system
 80 is necessary to aid in the search for a missing adult identified
 81 in paragraph (4) (a). The Legislature also finds that a
 82 coordinated local law enforcement and state agency response with
 83 prompt and widespread sharing of information will improve the
 84 chances of finding the person.

85 (2) It is the intent of the Legislature to establish the
 86 Purple Alert, to be implemented in a manner that, to the extent
 87 practicable, safeguards the privacy rights and related health

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88 and diagnostic information of such missing adults.

89 (3) The Department of Law Enforcement, in cooperation with
 90 the Department of Transportation, the Department of Highway
 91 Safety and Motor Vehicles, the Department of the Lottery, and
 92 local law enforcement agencies, shall establish and implement
 93 the Purple Alert. At a minimum, the Purple Alert must:

94 (a) Be the only viable means by which the missing adult is
 95 likely to be returned to safety;

96 (b) Provide, to the greatest extent possible, for the
 97 protection of the privacy, dignity, and independence of the
 98 missing adult by including standards aimed at safeguarding these
 99 civil liberties by preventing the inadvertent or unnecessary
 100 broadcasting or dissemination of sensitive health and diagnostic
 101 information;

102 (c) Limit the broadcasting and dissemination of alerts and
 103 related information to the geographic areas where the missing
 104 adult could reasonably be, considering his or her circumstances
 105 and physical and mental condition, the potential modes of
 106 transportation available to him or her or suspected to be
 107 involved, and the known or suspected circumstances of his or her
 108 disappearance; and

109 (d) Be activated only when there is sufficient descriptive
 110 information about the missing adult and the circumstances
 111 surrounding his or her disappearance to indicate that activating
 112 the alert is likely to help locate the missing adult.

113 (4) (a) Under a Purple Alert, a local law enforcement agency
 114 may broadcast to the media and to persons who subscribe to
 115 receive alert notifications under this section information
 116 concerning a missing adult:

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117 1. Who has a mental or cognitive disability; an
 118 intellectual disability or a developmental disability, as those
 119 terms are defined in s. 393.063; a brain injury; another
 120 physical, mental, or emotional disability that is not related to
 121 substance abuse; or a combination of any of these;

122 2. Whose disappearance indicates a credible threat of
 123 immediate danger or serious bodily harm to himself or herself,
 124 as determined by the local law enforcement agency;

125 3. Who cannot be returned to safety without law enforcement
 126 intervention; and

127 4. Who does not meet the criteria for activation of a local
 128 Silver Alert or the Silver Alert Plan of the Department of Law
 129 Enforcement.

130 (b) If a Purple Alert is determined to be necessary and
 131 appropriate, the local law enforcement agency having
 132 jurisdiction must notify the media and subscribers in the
 133 jurisdiction or jurisdictions where the missing adult is
 134 believed to or may be located. The local law enforcement agency
 135 having jurisdiction may also request that the Purple Alert
 136 notification be broadcast on lottery terminals within the
 137 geographic regions where the missing adult may reasonably be,
 138 including, but not limited to, lottery terminals in gas
 139 stations, convenience stores, and supermarkets.

140 (c) Under the Purple Alert, the local law enforcement
 141 agency having jurisdiction may also request that a case be
 142 opened with the Department of Law Enforcement's Missing
 143 Endangered Persons Information Clearinghouse. To enhance local
 144 or regional efforts when the investigation indicates that an
 145 identifiable vehicle is involved, the clearinghouse must

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146 coordinate with the Department of Transportation and the
 147 Department of Highway Safety and Motor Vehicles for the
 148 activation of dynamic message signs on state highways and the
 149 immediate distribution of critical information to the public
 150 regarding the missing adult in accordance with the alert.

151 (5) The Purple Alert process must include procedures to
 152 monitor the use, activation, and results of alerts and a
 153 strategy for informing and educating law enforcement, the media,
 154 and other stakeholders concerning the alert.

155 (6) The Department of Law Enforcement may adopt rules to
 156 implement and administer this section.

157 Section 4. Paragraphs (c), (d), and (e) of subsection (5)
 158 of section 937.021, Florida Statutes, are amended to read:

159 937.021 Missing child and missing adult reports.—

160 (5)

161 (c) Upon receiving a request to record, report, transmit,
 162 display, or release Silver Alert or Purple Alert information
 163 from the law enforcement agency having jurisdiction over the
 164 missing adult, the Department of Law Enforcement as the state
 165 Silver Alert and Purple Alert coordinator, any state or local
 166 law enforcement agency, and the personnel of these agencies; any
 167 radio or television network, broadcaster, or other media
 168 representative; any dealer of communications services as defined
 169 in s. 202.11; or any agency, employee, individual, or entity is
 170 immune from civil liability for damages for complying in good
 171 faith with the request and is presumed to have acted in good
 172 faith in recording, reporting, transmitting, displaying, or
 173 releasing Silver Alert or Purple Alert information pertaining to
 174 the missing adult.

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175 (d) The presumption of good faith is not overcome if a
 176 technical or clerical error is made by any agency, employee,
 177 individual, or entity acting at the request of the local law
 178 enforcement agency having jurisdiction, or if the Amber Alert,
 179 Missing Child Alert, missing child information, missing adult
 180 information, or Silver Alert or Purple Alert information is
 181 incomplete or incorrect because the information received from
 182 the local law enforcement agency was incomplete or incorrect.

183 (e) Neither this subsection nor any other ~~provision of~~ law
 184 creates a duty of the agency, employee, individual, or entity to
 185 record, report, transmit, display, or release the Amber Alert,
 186 Missing Child Alert, missing child information, missing adult
 187 information, or Silver Alert or Purple Alert information
 188 received from the local law enforcement agency having
 189 jurisdiction. The decision to record, report, transmit, display,
 190 or release information is discretionary with the agency,
 191 employee, individual, or entity receiving the information.

192 Section 5. Paragraph (b) of subsection (3) of section
 193 937.022, Florida Statutes, is amended to read:

194 937.022 Missing Endangered Persons Information
 195 Clearinghouse.—

196 (3) The clearinghouse shall:

197 (b) Provide a centralized file for the exchange of
 198 information on missing endangered persons.

199 1. Every state, county, or municipal law enforcement agency
 200 shall submit to the clearinghouse information concerning missing
 201 endangered persons.

202 2. Any person having knowledge may submit a missing
 203 endangered person report to the clearinghouse concerning a child

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204 or adult younger than 26 years of age whose whereabouts is
 205 unknown, regardless of the circumstances, subsequent to
 206 reporting such child or adult missing to the appropriate law
 207 enforcement agency within the county in which the child or adult
 208 became missing, and subsequent to entry by the law enforcement
 209 agency of the child or person into the Florida Crime Information
 210 Center and the National Crime Information Center databases. The
 211 missing endangered person report shall be included in the
 212 clearinghouse database.

213 3. Only the law enforcement agency having jurisdiction over
 214 the case may submit a missing endangered person report to the
 215 clearinghouse involving a missing adult age 26 years or older
 216 who is suspected by a law enforcement agency of being endangered
 217 or the victim of criminal activity.

218 4. Only the law enforcement agency having jurisdiction over
 219 the case may make a request to the clearinghouse for the
 220 activation of a state Silver Alert or a Purple Alert involving a
 221 missing adult if circumstances regarding the disappearance have
 222 met the criteria for activation of the Silver Alert Plan or the
 223 Purple Alert.

224 Section 6. Paragraph (d) of subsection (6) and subsection
 225 (9) of section 429.918, Florida Statutes, are amended to read:

226 429.918 Licensure designation as a specialized Alzheimer's
 227 services adult day care center.—

228 (6)

229 (d) Each employee hired on or after July 1, 2012, who
 230 provides direct care to ADRD participants, must receive and
 231 review an orientation plan that includes, at a minimum:

232 1. Procedures to locate an ADRD participant who has

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233 wandered from the center. These procedures shall be reviewed
234 regularly with all direct care staff.

235 2. Information on the Silver Alert program and the Purple
236 Alert in this state.

237 3. Information regarding available products or programs
238 used to identify ADRD participants or prevent them from
239 wandering away from the center, their home, or other locations.

240 (9) An adult day care center having a license designated
241 under this section must give to each person who enrolls as an
242 ADRD participant in the center, or the caregiver, a copy of the
243 ADRD participant's plan of care, as well as information
244 regarding resources to assist in ensuring the safety and
245 security of the ADRD participant, which must include, but need
246 not be limited to, information pertaining to driving for those
247 persons affected by dementia, available technology on wandering-
248 prevention devices and identification devices, the Silver Alert
249 program and the Purple Alert in this state, and dementia-
250 specific safety interventions and strategies that can be used in
251 the home setting.

252 Section 7. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 16, 2021

I respectfully request that **Senate Bill #184**, relating to Purple Alert, be placed on the:

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

A handwritten signature in black ink, appearing to read "Lori Berman", written over a horizontal line.

Senator Lori Berman
Florida Senate, District 31

Cc: Senator Aaron Bean, Vice Chair
Tim Sadberry, Staff Director

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

CS/SB184

Bill Number (if applicable)

Topic Purple Alert

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title Legislative Counsel

Address 1400 Village Square Blvd Ste 3-156

Phone 850.385.7805
nancy.stewart@

Street

Tallahassee FL 32312

City

State

Zip

Email nancy.blackstewart.co.

Speaking: For Against Information

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

Representing Federation of Manufactured Home Owners of FL, 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)

4-15-21

Meeting Date

184

Bill Number (if applicable)

Topic Purple Alert

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title _____

Address 625 E Brevard St

Phone 251-4280

Street

Tallahassee FL 32308

Email barbadevane1@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing 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.

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 Appropriations

BILL: CS/SB 260

INTRODUCER: Appropriations Committee; and Senator Harrell and others

SUBJECT: Services for Veterans and Their Families

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
3.	<u>Gerbrandt</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 260 creates the Florida Veterans' Care Coordination Program (Program), to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a veteran may call a separate veteran-dedicated support line to receive assistance and support from a fellow veteran who is trained to respond to the calls for assistance.

The bill authorizes the Florida Department of Veterans' Affairs (FDVA) to establish the Program. To provide services, the FDVA may contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the Alliance of Information and Referral Services. The contracting entity must enter into agreements with Florida 211 Network participants to provide services to veterans.

The FDVA must compile data collected by the Florida 211 Network into a report for the Governor, President of the Senate, and Speaker of the House of Representatives by December 15, 2022.

Current federal funding for the program is set to expire September 30, 2021. Should the funding not be extended, annual recurring costs to operate the statewide program have been estimated at \$4.5 million from General Revenue. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2021.

II. Present Situation:

Veterans and Mental Health and/or Substance Abuse

More than 1.5 million veterans currently live in Florida, making the state's veteran population the third largest nationally.¹ Veterans face unique challenges, and some struggle with mental health and substance abuse.

Post-traumatic Stress Disorder (PTSD) is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event, including war or combat.²

The National Center for PTSD, U.S. Department of Veterans Affairs (VA), lists the percentage of veterans with PTSD by service era:

- Between 11 and 20 percent of veterans who served in Operations Iraqi Freedom and Enduring Freedom have PTSD in a given year.
- About 12 percent of veterans who served in the Gulf War have PTSD in a given year.
- About 15 percent of veterans of the Vietnam War were diagnosed with PTSD at the time of the most recent study in the late 1980's. However, it is estimated that about 30 percent of veterans of the Vietnam War have had PTSD in their lifetimes.³

A strong association exists between PTSD and substance use disorders (SUD) amongst veterans. Statistics show:

- More than two in 10 veterans with PTSD also have SUD;
- Almost one in three veterans seeking treatment for SUD also have PTSD;
- About one in 10 veterans returning from the wars in Iraq and Afghanistan seen at the VA have problems with alcohol or other drugs.⁴

Suicide rates for veterans continue to be a cause of national concern:

- More than 6,000 veterans committed suicide each year from 2008 to 2016.
- In 2016, the suicide rate was 1.5 times greater for veterans than for non-veteran adults, after adjusting for age and gender.⁵

From 2005 to 2016, the increase in suicide rate among veterans in Veterans Hospital Administration (VHA) care was lower than among veterans not in VHA care.⁶

¹ Florida Department of Veterans' Affairs, *Our Veterans*, available at <http://floridavets.org/our-veterans/> (last visited February 25, 2021).

² American Psychiatric Association, *What is Posttraumatic Stress Disorder?*, available at <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited February 25, 2021).

³ National Center for PTSD, U.S. Dep't of Veterans Affairs, *How Common is PTSD in Veterans?*, available at https://www.ptsd.va.gov/understand/common/common_veterans.asp (last visited February 25, 2021).

⁴ National Center for PTSD, U.S. Dep't of Veterans Affairs, *PTSD and Substance Abuse in Veterans*, available at https://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp (last visited February 25, 2021).

⁵ Office of Mental Health and Suicide Prevention, U.S. Dep't of Veterans Affairs, *VA National Suicide Data Report 2005-2016*, pg. 3, available at https://www.mentalhealth.va.gov/docs/data-sheets/OMHSP_National_Suicide_Data_Report_2005-2016_508.pdf (last visited February 25, 2021).

⁶ *Id.*

Florida Alliance of Information and Referral Services (FLAIRS)

Each year, 16 million people in the United States call 2-1-1 for help with basic needs like food and shelter, and emergency needs, such as mental health, addiction, and suicide intervention.⁷ The Florida Alliance of Information and Referral Services (FLAIRS) is the 211 collaborative organization for the state responsible for designing, studying, and implementing the Florida 211 Network.⁸ The mission of the FLAIRS is to strengthen the health and human service information and referral provider network in the state through advocacy, coordination, and education.⁹

The Florida 211 Network, established in s. 408.918, F.S., operates as the single point of coordination for information and referral of health and human services.¹⁰ As of February 20, 2017, 22 Florida 211 Network providers operated across the state.¹¹

To participate in the Florida 211 Network, a 211 provider must be fully accredited by the National Alliance of Information and Referral Services or have received approval to operate, pending accreditation from its affiliate, the FLAIRS.¹²

The Council on Accreditation

The Council on Accreditation (COA) is an international accrediting entity that accredits private and public organizations and programs that provide human services.¹³ The COA specifically accredits entities providing child welfare, behavioral health, and community-based social services.¹⁴

Pilot Program and Statewide Expansion

Pilot Program

In 2014, the Crisis Center of Tampa Bay launched a pilot program through its existing 211 Network to offer a separate dedicated phone line for state veterans in need of support, known as the Florida Veterans Support Line. The pilot program expanded existing 211 services, including

⁷ See The Florida Alliance of Information and Referral Services (FLAIRS), *211 Counts.org*, available at <http://www.flairs.org/211counts/> (last visited Jan. 14, 2021). For a breakdown of needs by center on the FLAIRS website, see *What are the Most Pressing Needs for Your Community?*, available at <https://211counts.org/home/index> (last visited February 25, 2021).

⁸ Section 408.918(3), F.S.

⁹ The Florida Alliance of Information and Referral Services (FLAIRS), *Mission*, available at <http://www.flairs.org/mission/> (last visited February 25, 2021).

¹⁰ Section 408.918(1), F.S.

¹¹ The Florida Alliance of Information and Referral Services (FLAIRS), *Florida 2-1-1 Network Map*, available at <http://www.flairs.org/wp-content/uploads/sites/13/2017/03/FL-211-providers-and-coverage-areas-022717.pdf> (last visited February 25, 2021).

¹² Section 408.918(2), F.S.; The full accreditation process requires a remote database review, consultation component, on-site review, and demonstration of a call handling component, as well as payment of a membership fee, more information is available at <https://www.airs.org/i4a/pages/index.cfm?pageid=3286> (last visited February 25, 2021).

¹³ Council on Accreditation, *Home*, available at <http://coanet.org/home/> (last visited February 25, 2021).

¹⁴ Council on Accreditation, *Frequently Asked Questions*, available at <http://coanet.org/faq/> (last visited February 25, 2021).

crisis intervention and peer-to-peer care coordination, to veterans and their families in Hillsborough, Pasco, Pinellas, Polk, and Manatee counties.¹⁵

Under the Crisis Center's Peer-to-Peer Care Coordination model, callers to the support line talk to a fellow veteran who will provide emotional support and referral to VA and non-VA services, including for medical care, housing, counseling, legal, and employment assistance.¹⁶

History of Funding for the Pilot Program

Since the launch of the pilot program, funding has been provided as follows:

- 2014 - 2015
The Legislature provided \$150,000 in nonrecurring general revenue funds to the FDVA to contract with the Crisis Center of Tampa Bay to establish a pilot program to expand 2-1-1-services to veterans.¹⁷ With the appropriation, in August 2014, the Crisis Center of Tampa Bay expanded its services to veterans and hired veterans to answer crisis calls. In November 2014, the Crisis Center launched the Florida Veterans Support Line.
- 2016 - 2021
The Department of Children and Families (DCF) has continued to fund the Crisis Center of Tampa Bay's pilot program with an annual appropriation of approximately \$150,000.¹⁸
- 2017 - 2018
The Legislature provided \$400,000 in nonrecurring general revenue funds to the FDVA to contract with the Crisis Center of Tampa Bay to fund local call centers statewide with the purpose of connecting veterans with resources available in their community.¹⁹
- 2018 - 2019
The U.S. Department of Veteran Affairs (USDVA) agreed to partially fund the implementation of statewide peer-to-peer coordination and provided \$1 million in funding for the statewide program.²⁰ To ensure full statewide implementation, the DCF provided \$538,000 in federal funds provided through the State Opioid Response Grant (SOR Grant).²¹
- 2019 - 2020
The USDVA provided \$1 million in funding, matched in full with the DCF SOR Grant for total funding of \$2 million.²²

¹⁵ Specific Appropriation 595, ch. 2014-51, L.O.F., available at <http://laws.flrules.org/2014/51> (last visited February 25, 2021).

¹⁶ Crisis Center of Tampa Bay, *Florida Veterans Support Line, What we offer*, available at <https://www.myflvet.com/about-1> (last visited February 25, 2021).

¹⁷ Specific Appropriation 595, ch. 2014-51, L.O.F., available at <http://laws.flrules.org/2014/51> (last visited February 25, 2021).

¹⁸ Crisis Center of Tampa Bay, *Overview of Current Funding* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security). See Florida Accountability Contract Tracking System, Agency Contract ID LH294, available at <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=LH294> (last visited April 9, 2021).

¹⁹ Specific Appropriation 575 of ch. 2017-70, L.O.F., available at <http://laws.flrules.org/2017/70> (last visited February 25, 2021).

²⁰ Crisis Center of Tampa Bay, *Overview of Current Funding* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²¹ See Florida Accountability Contract Tracking System, Agency Contract ID LD994, available at <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=600000&ContractId=LH294> (last visited April 9, 2021).

²² *Id.*; Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security); Department of Veterans Affairs, 2021 Agency Legislative Bill

- 2020 - 2021
The USDVA provided \$1 million in funding, matched in full with the DCF SOR Grant for total funding of \$2 million.²³
- 2021 - 2022
The Senate’s Fiscal Year 2021-2022 proposed budget includes \$1.1 million in funding through the DCF’s Community Mental Health Block Grant for the Crisis Center of Tampa Bay’s Veteran Support Line.²⁴

Both of the federal sources of funding provided for the last three fiscal years are set to expire September 30, 2021, though may possibly be extended to September 2024, pending a funding allocation.²⁵

Use of the Program by Veterans

Since the Crisis Center implemented the pilot program in 2014, veteran and veteran family participation has steadily increased.

Region Served	Fiscal Year	Veterans Served	Services Referred	Suicide Concerns	Peer-to-Peer Care Coordination - Crisis Center of Tampa Bay Only
5 Counties	2014-2015	1,135	925	179	626 ²⁶
5 Counties	2015-2016	1,315	1,478	207	750 ²⁷
5 Counties	2016-2017	3,420	3,641	538	768 ²⁸
Statewide	2017-2018	28,962	49,932	396 ²⁹	880 ³⁰
Statewide	2018-2019	17,699	35,150	431	2,274 ³¹
Statewide	2019-2020	25,800	55,012	201	5,639 ³²
Statewide	2020-2021	6,890	19,707	67	1,658 ³³

Analysis, SB 260, p. 5. (Jan. 25, 2021) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security) (hereinafter cited as “FDVA Analysis”).

²³ *Id.*

²⁴ Specific Appropriation 362 of SB 2500, First Engrossed (2021 Session).

²⁵ Crisis Center of Tampa Bay, *Florida Veterans Support Line, Current Funding* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²⁶ Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²⁷ *Id.*

²⁸ *Id.*

²⁹ This number is reflected for the Crisis Center of Tampa Bay only.

³⁰ Crisis Center of Tampa Bay, *Overview of the 1-844-MYFLVET Support Line* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

³¹ Crisis Center of Tampa Bay, *Florida Veterans Support Line, Statewide Data, Fiscal Year 2019, Fiscal Year 2020, Fiscal Year 2021 - Q1* (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

³² *Id.*

³³ *Id.* The totals for the most recent fiscal year reflect the first quarter of the 2020-2021 fiscal year, October through December 2020.

III. Effect of Proposed Changes:

This bill creates the Florida Veterans' Care Coordination Program (Program) as a statewide program, to provide veterans and their families dedicated behavioral health care referral services, primarily for mental health and substance abuse. Through the Program, a veteran who calls a dedicated support line receives assistance and support from a trained fellow veteran.

The bill authorizes the Florida Department of Veterans' Affairs (FDVA) to establish the Program. To provide services, the FDVA may contract with a nonprofit entity that has statewide phone capacity to serve veterans and is accredited by the Council on Accreditation and fully accredited by the National Alliance of Information and Referral Services. The entity must enter into agreements with Florida 211 Network participants to provide services to veterans.

The bill models the Program after the pilot program established in 2014 by the Crisis Center of Tampa Bay and the FDVA in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

Program Goals and Services

Program goals are to prevent suicide by a veteran and increase veteran participation in programs and services provided by the VA and community-based programs and services.

Florida 211 Network participants in the Program must provide an array of specific services, including all of the following:

- Telephonic peer support, crisis intervention, and information on referral resources.
- Treatment coordination, including coordination of follow-up care.
- Assessment of suicide risk.
- Immediate needs assessments, including safety planning and support.
- Promotion of the safety and wellness of veterans and their families, including continuous safety planning and support.
- Resource coordination, including data analysis, to facilitate acceptance, enrollment, and attendance of veterans and their families in programs and services provided by the VA and other available community-based programs and services.

The bill requires program teams to:

- Document all incoming calls and capture data needed to reach a greater number of veterans and their families;
- Track the number and nature of requests from veterans and family members;
- Follow up with callers to determine if they have pursued referrals and whether additional help is needed; and
- Implement communication strategies³⁴ to educate veterans and their families about programs and services provided by the VA and other community-based programs and services.

To educate others about the Program:

³⁴ Examples of communication strategies provided by the bill include media promotions, public service announcements, print and Internet articles, and community presentations.

- Florida 211 network participants must collect data on the program and establish and maintain a database of services available locally.
- Both the FDVA and its contractor must work with managing entities to educate service providers about the Florida Veterans Support Line and the Program.

Data Collection and Report

Florida 211 Network participants must provide all collected data to the FDVA, as directed by the FDVA. By December 15, 2022, the FDVA must then submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives.

The report must include:

- The total number of calls received by the Program;
- Demographic information on each caller, including military affiliation, veteran status, and whether they are receiving services provided by the VA or other available community-based programs and services;
- The nature of each call, including any concerns prompting the call and any services requested by the caller;
- The outcome of each call, including referrals for services and any organizations to which the caller was referred;
- Services received as a result of each call;
- Information regarding follow-up by the Program team, including the percentage of calls receiving follow-up and the outcome of such follow-up;
- Information regarding the Program's impact on each caller's quality of life and avoidance of negative outcomes; and
- Each caller's level of satisfaction with services received.

The bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida 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:**C. Government Sector Impact:**

CS/SB 260 authorizes the FDVA to establish the Veterans Care Coordination Program and provide statewide referral and care coordination services to veterans and their families through Florida's 211 Network. The program is currently funded by federal grants that are scheduled to expire September 30, 2021, unless the grants are extended.³⁵ According to the Crisis Center of Tampa Bay, the cost to implement the Florida Veterans Support Line program statewide is \$4.5 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 394.9087 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 Appropriations on April 15, 2021:**

The committee substitute authorizes, rather than requires the Department of Veterans' Affairs to establish a Florida Veterans' Care Coordination Program. The amendment also makes stylistic changes.

B. Amendments:

None.

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

³⁵ FDVA Analysis, p. 4.



491526

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 118
and insert:

(1) The Department of Veterans' Affairs may establish the Florida Veterans' Care Coordination Program. If the Department of Veterans' Affairs establishes the program, it may contract with a nonprofit entity that is accredited by the Council on Accreditation, is fully accredited by the National Alliance of Information and Referral Services, and has statewide phone



11 capacity to serve veterans to enter into agreements with Florida
12 211 Network participants to provide veterans and their families
13 in this state with dedicated behavioral health care referral
14 services, especially mental health and substance abuse services.
15 The Department of Veterans' Affairs shall model the program
16 after the proof-of-concept pilot program established in 2014 by
17 the Crisis Center of Tampa Bay and the Department of Veterans'
18 Affairs in Hillsborough, Pasco, Pinellas, Polk, and Manatee
19 Counties.

20 (2) The goals of the program are to:

21 (a) Prevent suicides by veterans.

22 (b) Increase veterans' use of programs and services
23 provided by the United States Department of Veterans Affairs.

24 (c) Increase the number of veterans who use other available
25 community-based programs and services.

26 (3) The program must be available statewide. Program
27 services must be provided by program teams operated by Florida
28 211 Network participants as authorized by s. 408.918. A Florida
29 211 Network participant may provide services in more than one
30 geographic area under a single contract.

31 (4) The program teams shall provide referral and care
32 coordination services to veterans and their families and expand
33 the existing Florida 211 Network to include the optimal range of
34 veterans' service organizations and programs. Florida 211
35 Network participants in the Florida Veterans' Care Coordination
36 Program must include all of the following:

37 (a) Telephonic peer support, crisis intervention, and the
38 communication of information on referral resources.

39 (b) Treatment coordination, including coordination of



40 followup care.

41 (c) Suicide risk assessment.

42 (d) Promotion of the safety and wellness of veterans and
43 their families, including continuous safety planning and
44 support.

45 (e) Resource coordination, including data analysis, to
46 facilitate acceptance, enrollment, and attendance of veterans
47 and their families in programs and services provided by the
48 United States Department of Veterans Affairs and other available
49 community-based programs and services.

50 (f) Immediate needs assessments, including safety planning
51 and support.

52 (5) To enhance program services, program teams shall:

53 (a) Track the number of requests from callers who are
54 veterans or members of a veteran's family.

55 (b) Follow up with callers who are veterans or members of a
56 veteran's family to determine whether they have acted on the
57 referrals or received the assistance needed and whether
58 additional referral or advocacy is needed.

59 (c) Develop and implement communication strategies, such as
60 media promotions, public service announcements, print and
61 Internet articles, and community presentations, to inform
62 veterans and their families about available programs and
63 services provided by the United States Department of Veterans
64 Affairs and other available community-based programs and
65 services.

66 (d) Document all calls and capture all necessary data to
67 improve outreach to veterans and their families and report such
68 data to the contracted entity.



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69 (6) Florida 211 Network participants in the Florida
70 Veterans' Care Coordination Program shall maintain a database of
71 veteran-specific services available in the communities served by
72 the programs. The Department of Veterans' Affairs and its
73 selected contractor shall work with managing entities as defined
74 in s. 394.9082(2) to educate service providers about the Florida
75 Veterans Support Line and the Florida Veterans' Care
76 Coordination Program.

77 (7) Florida 211 Network participants shall collect data on
78 the program and submit such data to the Department of Veterans'
79 Affairs in the format prescribed by the Department of Veterans'
80 Affairs. The Department of Veterans' Affairs shall use such data
81 to prepare a report for submittal to the Governor, the President
82 of the Senate, and the Speaker of the House of Representatives
83 by December 15, 2022. The report must include all of the
84 following:

85 (a) The number of calls received.

86 (b) Demographic information for each caller, including, but
87 not limited to, the caller's military affiliation, the caller's
88 veteran status, and whether the caller is receiving services
89 provided by the United States Department of Veterans Affairs or
90 other available community-based programs and services.

91 (c) The nature of each call, including, but not limited to,
92 the concerns prompting the call and the services requested.

93 (d) The outcome of each call, including, but not limited
94 to, the services for which referrals were made and the
95 organizations to which the caller was referred.

96 (e) Services received as a result of each call.

97 (f) Information regarding followup by the program team,



491526

98 including, but not limited to, the percentage of calls receiving
99 followup and the outcome of followup.

100

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

102 And the title is amended as follows:

103 Delete lines 3 - 16

104 and insert:

105 families; creating s. 394.9087, F.S.; authorizing the
106 Department of Veterans' Affairs to establish the
107 Florida Veterans' Care Coordination Program to provide
108 veterans and their families with behavioral health
109 care referral and care coordination services;
110 authorizing the department to contract with a certain
111 nonprofit entity to enter into agreements with Florida
112 211 Network participants to provide such services;
113 providing program goals; providing for the statewide
114 delivery of specified services by program teams;
115 requiring Florida 211 Network participants to collect
116 program implementation data and to submit such data to
117 the department; requiring the department to submit a
118 report to the Governor and Legislature by a

By Senator Harrell

25-00487-21

2021260__

A bill to be entitled

An act relating to services for veterans and their families; creating s. 394.9087, F.S.; requiring the Department of Veterans' Affairs to establish the Florida Veterans' Care Coordination Program to provide behavioral health care referral and care coordination services for veterans and their families; requiring the department to contract with a certain nonprofit entity to enter into agreements with Florida 211 Network participants to provide such services; providing program goals; providing for the statewide delivery of specified services by program teams; requiring Florida 211 Network participants to collect program implementation data and to submit such data to the department; requiring the department to submit a report to the Governor and the Legislature by a specified date; providing requirements for the report; providing an effective date.

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

Section 1. Section 394.9087, Florida Statutes, is created to read:

394.9087 Florida Veterans' Care Coordination Program.—

(1) The Department of Veterans' Affairs shall establish the Florida Veterans' Care Coordination Program. The Department of Veterans' Affairs shall contract with a nonprofit entity that is accredited by the Council on Accreditation, is fully accredited by the National Alliance of Information and Referral Services,

Page 1 of 5

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

25-00487-21

2021260__

and has statewide phone capacity to serve veterans to enter into agreements with Florida 211 Network participants to provide veterans and their families in this state with dedicated behavioral health care referral services, especially mental health and substance abuse services. The Department of Veterans' Affairs shall model the program after the proof-of-concept pilot program established in 2014 by the Crisis Center of Tampa Bay and the Department of Veterans' Affairs in Hillsborough, Pasco, Pinellas, Polk, and Manatee Counties.

(2) The goals of the program are to:

(a) Prevent suicides by veterans.

(b) Increase veterans' use of programs and services provided by the United States Department of Veterans Affairs.

(c) Increase the number of veterans who use other available community-based programs and services.

(3) The program must be available statewide. Program services must be provided by program teams operated by Florida 211 Network participants as authorized by s. 408.918. A Florida 211 Network participant may provide services in more than one geographic area under a single contract.

(4) The program teams shall provide referral and care coordination services to veterans and their families and expand the existing Florida 211 Network to include the optimal range of veterans' service organizations and programs. Florida 211 Network participants in the Florida Veterans' Care Coordination Program must include all of the following:

(a) Telephonic peer support, crisis intervention, and the communication of information on referral resources.

(b) Treatment coordination, including coordination of

Page 2 of 5

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

25-00487-21

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59 followup care.

60 (c) Suicide risk assessment.

61 (d) Promotion of the safety and wellness of veterans and
62 their families, including continuous safety planning and
63 support.

64 (e) Resource coordination, including data analysis, to
65 facilitate acceptance, enrollment, and attendance of veterans
66 and their families in programs and services provided by the
67 United States Department of Veterans Affairs and other available
68 community-based programs and services.

69 (f) Immediate needs assessments, including safety planning
70 and support.

71 (5) To enhance program services, program teams shall:

72 (a) Track the number of requests from callers who are
73 veterans or members of a veteran's family.

74 (b) Follow up with callers who are veterans or members of a
75 veteran's family to determine whether they have acted on the
76 referrals or received the assistance needed and whether
77 additional referral or advocacy is needed.

78 (c) Develop and implement communication strategies, such as
79 media promotions, public service announcements, print and
80 Internet articles, and community presentations, to inform
81 veterans and their families about available programs and
82 services provided by the United States Department of Veterans
83 Affairs and other available community-based programs and
84 services.

85 (d) Document all calls and capture all necessary data to
86 improve outreach to veterans and their families and report such
87 data to the contracted entity.

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88 (6) Florida 211 Network participants in the Florida
89 Veterans' Care Coordination Program shall maintain a database of
90 veteran-specific services available in the communities served by
91 the program. The Department of Veterans' Affairs and its
92 selected contractor shall work with managing entities as defined
93 in s. 394.9082(2) (e) to educate service providers about the
94 Florida Veterans Support Line and the Florida Veterans' Care
95 Coordination Program.

96 (7) Florida 211 Network participants shall collect data on
97 the program and submit such data to the Department of Veterans'
98 Affairs in the format prescribed by the Department of Veterans'
99 Affairs. The Department of Veterans' Affairs shall use such data
100 to prepare a report for submittal to the Governor, the President
101 of the Senate, and the Speaker of the House of Representatives
102 by December 15, 2022. The report must include all of the
103 following:

104 (a) The number of calls received.

105 (b) Demographic information for each caller, including, but
106 not limited to, the caller's military affiliation, the caller's
107 veteran status, and whether the caller is receiving services
108 provided by the United States Department of Veterans Affairs or
109 other available community-based programs and services.

110 (c) The nature of each call, including, but not limited to,
111 the concerns prompting the call and the services requested.

112 (d) The outcome of each call, including, but not limited
113 to, the services for which referrals were made and the
114 organizations to which the caller was referred.

115 (e) Services received as a result of each call.

116 (f) Information regarding followup by the program team,

25-00487-21

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117 including, but not limited to, the percentage of calls receiving
118 followup and the outcome of such followup.

119 (g) Information regarding the program's impact on each
120 caller's quality of life and on the avoidance of negative
121 outcomes, including arrest and suicide.

122 (h) Each caller's level of satisfaction with program
123 services.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:
Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 3, 2021

Senator Kelli Stargel
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Stargel,

I respectfully request that **SB 260 – Services for Veterans** be placed on the next available agenda for the Appropriations Committee Meeting. SB 260 passed its last committee stop unanimously.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21
Meeting Date

SB 260
Bill Number (if applicable)

Topic Services for Vets + their Families

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104 S. Monroe St.
Street

Phone 850.425.1344

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 NAACP FL 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

SB 260

Bill Number (if applicable)

Topic Services for Veterans & Their Families

Amendment Barcode (if applicable)

Name Nancy Stewart

Job Title Legislative Counsel

Address 1400 Village Square Blvd Ste 3-156

Phone 850-385-7805

Street

Tallahassee

FL

32312

City

State

Zip

Email nancy.stewart@nancy-blackstewart.com

Speaking: For Against Information

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

Representing Federation of Manufactured Home Owners of FL, 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

15 April 2021

Meeting Date

SB 260

Bill Number (if applicable)

Topic Services for Veterans and Their Families

Amendment Barcode (if applicable)

Name James "Hammer" Hartsell, Major General, USMC (Ret),

Job Title Deputy Executive Director

Address 400 S. Monroe Street Ste 2105

Phone 850-487-1533

Street

Tallahassee

FL

32399

Email HartsellJ@FDVA.State.FL.US

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Veterans Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 366 (441292)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Hutson and others

SUBJECT: Educational Opportunities Leading to Employment

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 366 modifies Florida's statutes to provide support for students in work-based learning programs, modify assessment requirements for initial student eligibility in dual enrollment programs, and provide relevant mathematics pathways. Specifically, the bill:

- Specifies that students in a preapprenticeship program or courses with a work-based component are deemed to be employees of the state for workers' compensation purposes for medically necessary care only.
- Clarifies that eligibility for initial enrollment in dual enrollment courses requires a student to demonstrate a level of achievement of college-level communication and computation skills through an approved common placement test or alternative method, to be approved by the State Board of Education.
- Eases plan development and reporting requirements for the implementation of developmental education strategies by Florida College System (FCS) institutions for potential students entering dual enrollment courses.
- Requires a representative committee of State University System, district career centers, and FCS faculty to identify mathematics pathways aligned to programs, meta-majors, and careers.

The fiscal impact is discussed in section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Work-based Learning

Present Situation

Federal legislation defines work-based learning (WBL) as “sustained interactions with industry or community professionals in real workplace settings, to the extent practicable, or simulated environments at an educational institution that foster in depth, firsthand engagement with the tasks required in a given career field, that are aligned to curriculum and instruction.”¹ Learning set in the real-world context of work not only makes academic learning more accessible to many students but also increases their engagement in schooling. WBL can play a crucial role in improving outcomes for at-risk students by increasing their engagement in learning, whether in or out of school.²

WBL takes many forms, such as internships, job shadowing, service learning, or preapprenticeships, and is defined by activities and experiences that occur when a student or worker:³

- Goes to a workplace or works with an employer; and
- Does meaningful job tasks that develop his or her skills, knowledge, and readiness for work and support entry or advancement in a particular career field.

WBL is comprised of identified courses that involve OJT, which is an instructional method whereby students acquire knowledge and skills exclusively on-site with a business or industry partner instead of a traditional classroom setting. WBL may also be delivered through utilization of the cooperative method of instruction which is delivered through formal classroom instruction and on-the-job learning, on-site, with a business or industry partner.⁴

Recent research, policy literature, and federal legislation suggest that comprehensive WBL programs contain three key components: the alignment of classroom and workplace learning; application of academic, technical, and employability skills in a work setting; and support from classroom or workplace mentors.⁵

¹ 20 U.S.C. s. 2302; Perkins V (The Strengthening Career and Technical Education for the 21st Century Act) and other federal legislation reference and support work-based learning, including in the Every Student Succeeds Act of 2015 (ESSA), and the Workforce Innovation and Opportunity Act of 2014 (WIOA).

² Michael E. Wonacott, *The Impact of Work-Based Learning on Students*, ERIC Digest (2002), available at <https://files.eric.ed.gov/fulltext/ED472603.pdf>, at 2.

³ Southern Regional Education Board, *Work-Based Learning*, <https://www.sreb.org/node/1923> (last visited Feb. 25, 2021).

⁴ 20 U.S.C. s. 2302(10).

⁵ United States Department of Education, *Work-Based Learning Toolkit*, <https://cte.ed.gov/wbltoolkit/> (Interact with the “WBL Framework” section) (last visited Feb. 25, 2021).

In 2019-2020, there were 23,258 students enrolled in secondary on-the-job training, preapprenticeship, work experience, and other WBL courses.⁶

Workers' Compensation

Workers' compensation is a form of insurance designed to provide wage replacement and medical benefits for employees who are injured in the course of employment, in exchange for giving up the right to sue the employer for negligence.⁷ In Florida, workers' compensation is governed by ch. 440, F.S., the "Workers' Compensation Law." The law prescribes coverage requirements, medical and indemnity benefits, the rights and responsibilities of employers, injured employees, medical providers, and carriers, as well as procedures for dispute resolution.

Generally, employers are required to provide medical and indemnity benefits to a worker who is injured due to an accident arising out of and during the course of employment.⁸ For such injuries, an employer is responsible for providing medical treatment⁹ and compensation in the event of employee disability¹⁰ or death.¹¹ Specific employer coverage requirements are based on the type of industry, number of employees, and entity organization.¹²

State Risk Management Program

The Division of Risk Management (DRM)¹³ located within the Department of Financial Services (DFS) is responsible for ensuring that state agencies and universities participating in the state's self-insurance program receive quality coverage for workers' compensation, general liability, federal civil rights, auto liability, and property insurance at reasonable rates. The DRM's operations and the state's insurance coverage are funded by annual agency assessments, which are deposited into the State Risk Management Trust Fund (SRMTF). The SRMTF provides coverage that protects state property and workforce members that are exposed to the risk of financial losses through damage, injuries, and alleged negligent or improper acts.¹⁴

Effect of Proposed Changes

The bill creates s. 446.54, F.S., to provide a definition of "work-based learning" to include "on-the-job training" and mean interactions with industry or community professionals in off-campus workplaces which foster in-depth, firsthand engagement with the tasks required in a given career field and which are aligned to curriculum and instruction. The bill encourages school districts to place students in paid work experiences for purposes of educational training and WBL and defines WBL as it relates to public K-12 education to mean sustained interactions with industry or community professionals in workplace settings, to the extent practicable, or simulated

⁶ Email, Florida Department of Education (Mar. 1, 2021).

⁷ See *Jones v. Martin Elecs., Inc.*, 932 So. 2d 1100, 1108 (Fla. 2006).

⁸ Section 440.09(1), F.S.

⁹ Section 440.13, F.S.

¹⁰ Section 440.15, F.S.

¹¹ Section 440.16, F.S.

¹² Division of Workers' Compensation, *Coverage Requirements*, <https://www.myfloridacfo.com/division/wc/Employer/coverage.htm> (last visited on Feb. 25, 2021).

¹³ Section 20.121(2)(h), F.S.

¹⁴ Florida Department of Economic Opportunity, Economic and Demographic Research, *Risk Management Trust Fund* (Dec. 18, 2019), available at <http://edr.state.fl.us/Content/conferences/riskmanagement/riskmanagementexecsumm.pdf>.

environments that foster in-depth, firsthand engagement with the tasks required in a given career field, that align with curriculum and instruction, and that are provided in partnership with an educational institution.

The bill provides that:

- An individual 18 years of age or younger who is enrolled in a preapprenticeship program, as defined in s. 446.021, F.S., which requires work-based learning and who suffers a work-related injury in the course of his or her enrollment is deemed to be an employee of the state for purposes of workers' compensation coverage. Such coverage applies only to medically necessary care rendered as a direct result of that injury.
- A student in grades 6 through 12 who is enrolled in a course identified in the Course Code Directory which incorporates a work-based learning component or an activity that is unpaid and who suffers a work-related injury in the course of his or her enrollment is deemed to be an employee of the state for purposes of workers' compensation coverage. Such coverage applies only to medically necessary care rendered as a direct result of that injury.

The bill provides that work-based learning may be paid or unpaid and may be delivered in a stand-alone, work-based learning course that results in high school credit or may be a component of an existing course which may use the cooperative method of instruction. As it relates to postsecondary education, the bill defines cooperative method of instruction as an instructional methodology that provides students enrolled in career education programs an opportunity to extend their employment preparation beyond the classroom through participation in concurrent career education instruction through regularly scheduled on-the-job training experiences.

The designation of preapprenticeship and WBL program students as employees of the state for the purposes of workers' compensation medical claims may increase the financial liability of the state, but may encourage more employers, who otherwise would not participate due to concerns about assuming liability for a minor, to partner with school districts to sponsor such programs. The provisions in the bill may allow more students under 18 to participate in WBL opportunities.

Florida College System Institution Admissions

Present Situation

Admissions Requirements for FCS Institutions

Each FCS institution board of trustees is authorized to adopt rules governing admissions of students subject to requirements provided in law and rules of the SBE.¹⁵

Admissions counseling must be provided to all students entering college or career credit programs. Counseling must use tests to measure achievement of college-level communication and computation competencies by students entering college credit programs or tests to measure achievement of basic skills for students entering career education programs. Counseling includes providing developmental education options for students whose assessment results indicate that

¹⁵ Section 1007.263, F.S.

they need to improve communication or computation skills that are essential to perform college-level work.¹⁶

Each FCS institution board of trustees is required to develop a plan to implement developmental education strategies through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction. Each plan must include certain minimum requirements that are specified in law.¹⁷

FCS institutions are also required to annually prepare an accountability report that includes student success data relating to each developmental education strategy implemented by the institution and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE.¹⁸

Admission to associate degree programs is subject to minimum standards adopted by the SBE and requires:

- A standard high school diploma, a high school equivalency diploma as prescribed in law,¹⁹ previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of law. Students who are enrolled in a dual enrollment or early admission program are exempt from this requirement.
- A demonstrated level of achievement of college-level communication and computation skills.
- Any other requirements established by the FCS board of trustees.²⁰

Student Eligibility for Dual Enrollment Programs

The dual enrollment program is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree. A student who is enrolled in postsecondary instruction that is not creditable toward a high school diploma may not be classified as a dual enrollment student. An eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that provides a secondary curriculum.²¹

Student eligibility requirements for initial enrollment in college credit dual enrollment courses must include a 3.0 unweighted high school grade point average and the minimum score on a common placement test adopted by the SBE which indicates that the student is ready for college-level coursework. Student eligibility requirements for initial and continued enrollment in career certificate dual enrollment courses must include a 2.0 unweighted high school grade point

¹⁶ Section 1007.263(1), F.S.

¹⁷ Sections 1008.30(5) and 1008.02(1), F.S.

¹⁸ Section 1008.30(5), F.S.

¹⁹ Section 1003.435, F.S., specifies the requirements for earning a high school equivalency diploma.

²⁰ Section 1007.263(2), F.S.

²¹ Section 1007.271(1) and (2), F.S.

average.²² FCS institution boards of trustees may establish additional initial student eligibility requirements, which must be included in the dual enrollment articulation agreement, to ensure student readiness for postsecondary instruction.²³

Common Placement Testing for Public Postsecondary Education

The SBE, in conjunction with the BOG, has implemented common placement testing requirements²⁴ for the purpose of assessing the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. The common placement testing program must include the capacity to diagnose the basic competencies in the areas of English, reading, and mathematics that are essential for success in meta-majors and the capacity to provide test information to students on the specific skills the student needs to attain.²⁵

Assessment of Career Education Program Basic Skills

The SBE is required to adopt standards of basic skill mastery for completion of certificate career education programs and to designate examinations to assess mastery. Students who enroll in a program offered for career credit of 450 hours or more must complete an entry-level examination within the first six weeks after admission into the program. A student may not receive a career or technical certificate of completion without first demonstrating the basic skills required in the state curriculum frameworks for the career education program. Certain students are exempted from this requirement.²⁶

Effect of Proposed Changes

Admissions Requirements for FCS Institutions

The bill modifies s. 1007.263, F.S., to provide flexibility to FCS institutions in their admissions requirements for entering students. Specifically, the bill authorizes FCS institutions to accept:

- Alternate methods, to be approved by the state board, to measure achievement of college level communication and computation competencies by students entering college credit programs.
- For admission to associate degree programs, a high school equivalency diploma issued by another state which is recognized as equivalent by SBE rule and is based on an assessment recognized by the United States Department of Education.

The bill requires that admissions counseling at FCS institutions measure achievement of basic skills for career education programs, which may direct a student to developmental education to improve communication and computation skills.

²² Section 1007.271(3), F.S. Exceptions to the required grade point averages may be granted on an individual student basis if the educational entities agree and the terms of the agreement are contained within the dual enrollment articulation agreement developed by the district school superintendent and the public postsecondary institution president through an articulation committee, as specified in s. 1007.271(21).

²³ Section 1007.271(3), F.S.

²⁴ The state board has adopted rules 6A-14.064 and 6A-10.0315, F.A.C., to govern assessment requirements for determining initial student eligibility for dual enrollment programs.

²⁵ Section 1008.30(1) and (2), F.S.

²⁶ Section 1004.91(1)-(3), F.S.

The bill also modifies s. 1008.30, F.S., to remove outdated language related to a requirement that FCS institutions develop and submit a developmental education plan to the Chancellor of the FCS. In addition, the bill removes the requirement that the FCS annually prepare an accountability report that includes student success data relating to each developmental education strategy and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE.

Student Eligibility for Dual Enrollment Programs

The bill modifies the mechanism in s. 1007.271, F.S., for assessing the readiness of a student for initial enrollment in college credit dual enrollment courses. In addition to achievement by a student of the minimum score on a common placement test, the bill authorizes a student to demonstrate a level of achievement of college-level communication and computation skills via an alternative method of assessment.

Common Placement Testing for Public Postsecondary Education

The bill modifies s. 1008.30, F.S., to require, by January 31, 2022, the SBE to adopt rules to develop and implement alternative methods for assessing the basic computation and communication skills of students who intend to enter a degree program at a FCS institution. The bill authorizes FCS institutions to use these alternative methods in lieu of common placement tests to assess student readiness for college-level work in computation and communication. The bill removes the requirement that the common placement testing program include the capacity to diagnose certain basic competencies in the areas of English, reading, and mathematics. The bill also specifies that students who are currently exempt from common placement testing requirements are also exempt from the college readiness assessment established in the bill.

Mathematics Pathways

Present Situation

Statewide Articulation Agreement

The SBE and the BOG are required to enter into a statewide articulation agreement. The agreement must preserve Florida's "2+2" system of articulation and facilitate the seamless articulation of student credit across and among Florida's educational entities.²⁷ The agreement requires state university BOT, FCS BOT, and district school boards to adopt policies and procedures to provide articulated programs so that students can proceed toward their educational objectives as rapidly as their circumstances permit.²⁸

Academic Pathways

The SBE, in consultation with the BOG, is required to approve a series of meta-majors and the academic pathways that identify the gateway courses associated with each meta-major. FCS institutions use placement test results to determine the extent to which each student demonstrates sufficient communication and computation skills to indicate readiness for his or her chosen meta-

²⁷ Section 1007.23(1), F.S.

²⁸ Rule 6A-10.024(1), F.A.C.

major. FCS institutions counsel students into college credit courses as quickly as possible, with developmental education limited to the content needed for success in the meta-major.²⁹

The purpose of meta-major academic pathways is to advise FCS system associate degree seeking students of the gateway courses that are aligned with their intended academic and career goals. The meta-major academic pathways in SBE rule are established in the following areas:

- Arts, humanities, communication and design.
- Business.
- Education.
- Health sciences.
- Industry/manufacturing and construction.
- Public Safety.
- Science, technology, engineering, and mathematics.
- Social and behavioral sciences and human services.³⁰

In 2018, the Florida Student Success Center³¹ established three workgroups to identify current challenges in mathematics pathways and develop policy and practice recommendations to improve student achievement across Florida's education systems. The charge to the workgroups was to explore complex issues surrounding mathematics pathways to prepare high school students for transition into FCS institutions, and FCS institution students for transition into four-year universities. More than 90 mathematics faculty, administrators and key stakeholders from Florida's K-12 system, the FCS, and the SUS served as members of the workgroups in 2018-19. Among the 12 recommendations, the workgroups recommended creation of common mathematics pathways by aligning mathematics courses to programs, meta-majors, and careers in Florida.³²

Effect of Proposed Changes

The bill modifies s. 1007.23, F.S., to require the statewide articulation agreement to specify three mathematics pathways, which are aligned to programs, meta-majors, and careers, on which degree-seeking students must be placed. The bill specifies the purpose of the pathways is to facilitate seamless transfer, reduce excess credit hours, and ensure that students are taking the relevant courses needed for their future careers. To accomplish the identification of the mathematics pathways, the bill requires a representative committee of State University System, district career centers, and FCS faculty to collaborate to identify the three pathways.

The bill removes the requirement that the SBE, in consultation with the BOG, approve a series of meta-majors and the academic pathways that identify the gateway courses associated with each meta-major.

²⁹ Section 1008.30(4) and (5), F.S.

³⁰ Rule 6A-14.065, F.A.C.

³¹ The Florida Student Success Center is part of the national Student Success Center Network and supports Florida's 28 state and community colleges' efforts to develop student-centered pathways and increase student completion rates. The Florida College System, *Florida Student Success Center*, <https://www.floridacollegesystemfoundation.org/florida-student-success-center-home> (last visited Feb. 25, 2021).

³² The Florida College System, *Mathematics Re-Design*, <https://www.floridacollegesystemfoundation.org/fssc-math-redesign> (last visited Feb. 25, 2021).

The bill also modifies s. 1009.25, F.S., to authorize the State Board of Education (SBE) and the Board of Governors of the State University System of Florida (BOG) to adopt rules and regulations, regarding documentation and procedures to implement a fee waiver for a student who is homeless.³³

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Financial Services, Division of Risk Management (DRM) estimates that the workers' compensation coverage provisions would cause additional claims costs for covering participants in preapprenticeship and work-based learning programs. The bill provides a \$2 million nonrecurring appropriation from the General Revenue Fund to the State Risk Management Trust Fund in the Department of Financial Services for worker's compensation costs associated with the provisions of the bill. The bill also

³³ A homeless student is defined as a student who lacks a fixed, regular, and adequate nighttime residence or whose primary nighttime residence is a public or private shelter designed to provide temporary residence, a public or private transitional living program, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. Section 1009.25(1)(f), F.S.

provides an appropriation for two FTE positions to the Department of Financial Services out of the trust fund to implement the worker's coverage provisions of the bill.

Depending on the number and severity of future claims, the increase in workers' compensation loss payments and operational costs to the Risk Management Trust Fund could result in a long-term need for additional premium to be charged to the state agencies to cover these losses.

School districts that pay workers' compensation expenses for participants in work-based learning programs would likely see a reduction in workers' compensation costs. The reduction in workers' compensation costs is indeterminate.³⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1007.23, 1007.263, 1007.271, 1008.30, and 1009.25.

This bill creates section 446.54 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.)

Recommended CS/CS by the Appropriations Subcommittee on Education on April 8, 2021:

The committee substitute makes the following changes:

- Removes modifications from the bill, provisions related to:
 - Apprenticeship and preapprenticeship programs.
 - CAPE Industry Certification Funding List.
- Provides an appropriation and two FTE positions to the Department of Financial Services for worker's compensation for anticipated claims associated with participants in the work-based learning programs.

CS by Education Committee on March 2, 2021:

The committee substitute:

- Changes the title of the bill to an act related to educational opportunities leading to employment.

³⁴Florida Department of Financial Services, *2021 Legislative Bill Analysis for SB 366* (Apr. 4, 2021).

- Modifies legislative intent regarding apprenticeships to:
 - Expand legislative intent to encourage apprenticeship programs that lead to any postsecondary credential. The bill encourages only the programs that lead to college credit or a degree.
 - Clarify that the responsibility of the Department of Education (DOE) over minimum standards applies only to apprenticeship and preapprenticeship programs *that are registered*.
- Modifies the duties of the DOE to:
 - Provide that the DOE must include information and resources related to preapprenticeship programs in its annual apprenticeship report.
 - Add that the DOE must provide assistance to postsecondary educational institutions in notifying the community of apprenticeship and preapprenticeship opportunities.
 - Clarify that the DOE must ensure that equal opportunity for apprentices, preapprentices, and applicants for apprenticeships and preapprenticeships is provided for the apprenticeship and preapprenticeship programs.
- Modifies additional work-based learning program provisions. Specifically, the committee substitute:
 - Modifies provisions of the bill directed toward state universities and Florida College System (FCS) institutions and includes all postsecondary educational institutions.
 - Removes the requirement of the bill that defines apprentices as employees of the state for purposes of workers' compensation coverage for medical benefits. The amendment retains other provisions of the bill deeming preapprentices and students in work-based learning as employees of the state for workers' compensation coverage for medical benefits.
 - Defines "work-based learning," as it relates to public k-12 education, to mean sustained interactions with industry or community professionals in workplace settings, to the extent practicable, or simulated environments that foster in-depth, firsthand engagement with the tasks required in a given career field, that align with curriculum and instruction, and that are provided in partnership with an educational institution.
 - Defines "cooperative method of instruction," as it relates to postsecondary education, to mean an instructional methodology that provides students enrolled in career education programs an opportunity to extend their employment preparation beyond the classroom through participation in concurrent career education instruction through regularly scheduled on-the-job training experiences.
 - Removes a provision of the bill providing for guaranteed licenses for apprenticeship program completers.
- Modifies provisions related to the middle school course in career and education planning, by:
 - Removing a provision of the bill authorizing the Florida Virtual School to offer a course in career and education planning.
 - Removing a provision of the bill that would have made the required course in career and education planning optional for students in middle grades.
- Modifies provisions relating to K-12 career and technical education, by:

- Removing the requirement of the bill that opportunities for learning computer science in elementary school include computational thinking and foundational computer science skills, and retains current law that makes the skills optional.
- Removing a provision of the bill that modifies the authorized uses of funds for computer science instruction.
- Removing a provision of the bill authorizing school districts or regional consortia to work with national providers to submit recommended career-themed courses to the DOE for state board approval.
- Granting the DOE rulemaking authority over the administration of the CAPE Act.
- Modifies provisions relating to FCS institution admissions and student progression. The committee substitute:
 - Authorizes alternate methods, to be approved by the state board, to measure achievement of college level communication and computation competencies by students entering college credit programs.
 - Authorizes associate degree programs to accept a high school equivalency diploma issued by another state, as approved by the State Board of Education (SBE).
 - Clarifies that student eligibility for initial enrollment in dual enrollment courses includes a demonstrated level of achievement of college-level communication and computation skills through an approved common placement test or alternative method as adopted by the SBE.
 - Removes a requirement of existing law that the common placement testing program include the capacity to diagnose basic competencies in the areas of English, reading, and mathematics which are essential for success in meta-majors and to provide test information to students on the specific skills the student needs to attain.
 - Requires the SBE, by January 31, 2022, to adopt rules to develop and implement alternative methods for assessing the basic computation and communication skills of students who intend to enter a degree program at an FCS institution. The amendment authorizes FCS institutions to use these alternative methods in lieu of common placement tests to assess student readiness for college-level work in computation and communication.
 - Removes the requirement of existing law for FCS institutions to submit to the Chancellor of the FCS for approval implemented developmental education strategies through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction.
 - Adds alternative methods to the requirement for in current law for FCS institutions to use placement test results as established by the SBE to determine the extent to which each student demonstrates sufficient computation and communication skills to indicate readiness for his or her chosen meta-major and to counsel students into college credit courses as quickly as possible, with developmental education limited to that content needed for success in the meta-major.
 - Removes a requirement of existing law that each FCS institution annually prepare and submit to state officials an accountability report that includes student success

data relating to each developmental education strategy implemented by the institution.

- Provides for a representative committee of State University System, certain career centers established by district school boards, and FCS faculty, instead of the representative workgroup of the Articulation Coordinating Committee required by the bill, to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs and careers.
- Modifies workforce and postsecondary financial provisions. The committee substitute:
 - Removes the additional full-time-equivalent (FTE) weights for industry certifications associated with aviation-related and aerospace-related occupations and instead provides additional FTE weight for industry certifications that lead to occupations in critical industry sectors as identified by the Department of Education and included on the Career and Professional Education (CAPE) industry funding list.
 - Authorizes a technical center operated by a school district, an FCS institution, or a state university to enter into an agreement with another entity to cover the approved apprenticeship program student tuition and fees, including lab fees.
 - Authorizes the SBE and the Board of Governors of the State University System of Florida to adopt rules and regulations regarding requirements for fee waivers for homeless students.
 - Modifies the provisions of the bill authorizing school districts and FCS institutions to earn an additional \$2000 for workforce education programs that lead to industry certification in critical industry sectors to instead provide an additional \$2000 for school districts and FCS institutions for industry certifications earned by students in workforce education programs that are identified as leading to employment in critical industry sectors.
 - Requires a district school board or FCS institution board of trustees that receives workforce performance funding to use at least 70 percent of the funds received to directly support the program that generated the funds.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 55 - 65

and insert:

(1) (a) A student in grades 6 through 12 who is enrolled in

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

And the title is amended as follows:

Delete lines 3 - 5

and insert:

to employment; creating s. 446.54, F.S.; providing



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11

that certain individuals enrolled



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to educational opportunities leading to employment; creating s. 446.54, F.S.; providing legislative intent; defining the term "work-based learning"; providing that certain individuals enrolled in work-based learning are deemed to be employees of the state for purposes of receiving certain medically necessary care under workers' compensation coverage; amending s. 1007.23, F.S.; requiring that the statewide articulation agreement specify three mathematics pathways that meet a certain requirement upon which degree-seeking students must be placed; amending s. 1007.263, F.S.; requiring admissions counseling to use certain tests or alternative methods to measure achievement of college-level communication and computation by students entering college programs; requiring that such counseling measure achievement of certain basic skills; revising requirements for admission to associate degree programs; amending s. 1007.271, F.S.; revising eligibility requirements for initial enrollment in college-level dual enrollment courses; revising requirements for home education students seeking dual enrollment in certain postsecondary institutions; amending s. 1008.30, F.S.; requiring the State Board of Education to adopt, by a specified date, rules establishing alternative methods for assessing communication and computation skills of



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certain students; authorizing Florida College System institutions to use such alternative methods in lieu of the common placement test to assess a student's readiness to perform college-level work in communication and computation; deleting obsolete provisions; requiring Florida College System institutions to use placement test results or alternative methods to determine the extent to which certain students demonstrate sufficient communication and computation skills to indicate readiness for their meta-major; requiring Florida College System institutions to counsel and place certain students in specified college courses; limiting students' developmental education to content needed for success in their meta-major; conforming provisions to changes made by the act; making technical changes; amending s. 1009.25, F.S.; authorizing the State Board of Education to adopt specified rules and the Board of Governors to adopt specified regulations; providing an appropriation; authorizing positions; providing an effective date.

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

Section 1. Section 446.54, Florida Statutes, is created to read:

446.54 Work-based learning.-

(1) It is the intent of the Legislature that, to the extent possible, school districts place students in paid work



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57 experiences, including apprenticeships and preapprenticeships,
58 for purposes of educational training and work-based learning.

59 (2) For purposes of this section, "work-based learning"
60 includes "on-the-job training" as defined in s. 446.021(7) and
61 means sustained interactions with industry or community
62 professionals in off-campus workplace settings that foster in-
63 depth firsthand engagement with the tasks required in a given
64 career or field and are aligned to curriculum and instruction.

65 (3) (a) A student in grades 6 through 12 who is enrolled in
66 a course identified in the Course Code Directory which
67 incorporates a work-based learning component or an activity that
68 is unpaid and who suffers a work-related injury in the course of
69 his or her enrollment is deemed to be an employee of the state
70 for purposes of workers' compensation coverage. Such coverage
71 applies only to medically necessary care rendered as a direct
72 result of that injury.

73 (b) An individual 18 years of age or younger who is
74 enrolled in a preapprenticeship program as defined in s. 446.021
75 which requires work-based learning and who suffers a work-
76 related injury in the course of his or her enrollment is deemed
77 to be an employee of the state for purposes of workers'
78 compensation coverage. Such coverage applies only to medically
79 necessary care rendered as a direct result of that injury.

80 Section 2. Present subsections (3) through (8) of section
81 1007.23, Florida Statutes, are redesignated as subsections (4)
82 through (9), respectively, and a new subsection (3) is added to
83 that section, to read:

84 1007.23 Statewide articulation agreement.—

85 (3) To facilitate seamless transfer of credits, reduce



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86 excess credit hours, and ensure students are taking the courses
87 needed for their future career, the articulation agreement must
88 establish three mathematics pathways for students by aligning
89 mathematics courses to programs, meta-majors, and careers. A
90 representative committee consisting of State University System
91 faculty, faculty of career centers established under s. 1001.44,
92 and Florida College System institution faculty shall collaborate
93 to identify the three mathematics pathways and the mathematics
94 course sequence within each pathway which align to the
95 mathematics skills needed for success in the corresponding
96 academic programs and careers.

97 Section 3. Subsection (1) and paragraph (a) of subsection
98 (2) of section 1007.263, Florida Statutes, are amended to read:
99 1007.263 Florida College System institutions; admissions of
100 students.—Each Florida College System institution board of
101 trustees is authorized to adopt rules governing admissions of
102 students subject to this section and rules of the State Board of
103 Education. These rules shall include the following:

104 (1) Admissions counseling shall be provided to all students
105 entering college or career credit programs. For students who are
106 not otherwise exempt from testing under s. 1008.30, counseling
107 must use the tests or alternative methods established by the
108 State Board of Education under s. 1008.30 to measure achievement
109 of college-level communication and computation competencies by
110 students entering college credit programs ~~or tests to measure~~
111 achievement of basic skills for career education programs as
112 prescribed in s. 1004.91. Counseling must measure achievement of
113 basic skills for career education programs under s. 1004.91.
114 Counseling includes providing developmental education options



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115 for students whose ~~assessment~~ results, determined under s.
116 1008.30, indicate that they need to improve communication or
117 computation skills that are essential to perform college-level
118 work.

119 (2) Admission to associate degree programs is subject to
120 minimum standards adopted by the State Board of Education and
121 shall require:

122 (a) A standard high school diploma; ~~a~~ a State of Florida
123 high school equivalency diploma awarded under s. 1003.435(2); a
124 high school equivalency diploma issued by another state which is
125 recognized as equivalent by State Board of Education rule and is
126 based on an assessment recognized by the United States
127 Department of Education; ~~as prescribed in s. 1003.435,~~
128 previously demonstrated competency in college credit
129 postsecondary coursework; ~~or,~~ or, in the case of a student who is
130 home educated, a signed affidavit submitted by the student's
131 parent or legal guardian attesting that the student has
132 completed a home education program pursuant to the requirements
133 of s. 1002.41. Students who are enrolled in a dual enrollment or
134 early admission program pursuant to s. 1007.271 are exempt from
135 this requirement.

136
137 Each board of trustees shall establish policies that notify
138 students about developmental education options for improving
139 their communication or computation skills that are essential to
140 performing college-level work, including tutoring, extended time
141 in gateway courses, free online courses, adult basic education,
142 adult secondary education, or private provider instruction.

143 Section 4. Subsection (3) and paragraph (b) of subsection



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144 (13) of section 1007.271, Florida Statutes, are amended to read:
145 1007.271 Dual enrollment programs.—

146 (3) Student eligibility requirements for initial enrollment
147 in college credit dual enrollment courses must include a 3.0
148 unweighted high school grade point average and a demonstrated
149 level of achievement of college-level communication and
150 computation skills as provided under s. 1008.30(1) or (2) ~~the~~
151 minimum score on a common placement test adopted by the State
152 Board of Education which indicates that the student is ready for
153 college-level coursework. Student eligibility requirements for
154 continued enrollment in college credit dual enrollment courses
155 must include the maintenance of a 3.0 unweighted high school
156 grade point average and the minimum postsecondary grade point
157 average established by the postsecondary institution. Regardless
158 of meeting student eligibility requirements for continued
159 enrollment, a student may lose the opportunity to participate in
160 a dual enrollment course if the student is disruptive to the
161 learning process such that the progress of other students or the
162 efficient administration of the course is hindered. Student
163 eligibility requirements for initial and continued enrollment in
164 career certificate dual enrollment courses must include a 2.0
165 unweighted high school grade point average. Exceptions to the
166 required grade point averages may be granted on an individual
167 student basis if the educational entities agree and the terms of
168 the agreement are contained within the dual enrollment
169 articulation agreement established under ~~pursuant to~~ subsection
170 (21). Florida College System institution boards of trustees may
171 establish additional initial student eligibility requirements,
172 which shall be included in the dual enrollment articulation



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173 agreement, to ensure student readiness for postsecondary
174 instruction. Additional requirements included in the agreement
175 may not arbitrarily prohibit students who have demonstrated the
176 ability to master advanced courses from participating in dual
177 enrollment courses or limit the number of dual enrollment
178 courses in which a student may enroll based solely upon
179 enrollment by the student at an independent postsecondary
180 institution.

181 (13)

182 (b) Each public postsecondary institution eligible to
183 participate in the dual enrollment program pursuant to s.
184 1011.62(1)(i) must enter into a home education articulation
185 agreement with each home education student seeking enrollment in
186 a dual enrollment course and the student's parent. By August 1
187 of each year, the eligible postsecondary institution shall
188 complete and submit the home education articulation agreement to
189 the Department of Education. The home education articulation
190 agreement must include, at a minimum:

191 1. A delineation of courses and programs available to
192 dually enrolled home education students. Courses and programs
193 may be added, revised, or deleted at any time by the
194 postsecondary institution. Any course or program limitations may
195 not exceed the limitations for other dually enrolled students.

196 2. The initial and continued eligibility requirements for
197 home education student participation, not to exceed those
198 required of other dually enrolled students. A high school grade
199 point average may not be required for home education students
200 who demonstrate achievement of college-level communication and
201 computation skills as provided under s. 1008.30(1) or (2) meet



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202 ~~the minimum score on a common placement test adopted by the~~
203 ~~State Board of Education which indicates that the student is~~
204 ~~ready for college-level coursework;~~ however, home education
205 student eligibility requirements for continued enrollment in
206 dual enrollment courses must include the maintenance of the
207 minimum postsecondary grade point average established by the
208 postsecondary institution.

209 3. The student's responsibilities for providing his or her
210 own transportation.

211 4. A copy of the statement on transfer guarantees developed
212 by the Department of Education under subsection (15).

213 Section 5. Section 1008.30, Florida Statutes, is amended to
214 read:

215 1008.30 Assessing college-level communication and
216 computation skills ~~Common placement testing~~ for public
217 postsecondary education.-

218 (1) The State Board of Education, in conjunction with the
219 Board of Governors, shall develop and implement a common
220 placement test for the purpose of assessing the basic
221 communication and computation and communication skills of
222 students who intend to enter a degree program at any public
223 postsecondary educational institution. Alternative assessments
224 that may be accepted in lieu of the common placement test shall
225 also be identified in rule. Public postsecondary educational
226 institutions shall provide appropriate modifications of the test
227 instruments or test procedures for students with disabilities.

228 (2) By January 31, 2022, the State Board of Education shall
229 adopt rules to develop and implement alternative methods for
230 assessing the basic communication and computation skills of



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231 students who intend to enter a degree program at a Florida
232 College System institution. Florida College System institutions
233 may use these alternative methods in lieu of the common
234 placement tests under subsection (1) to assess student readiness
235 for college-level work in communication and computation ~~The~~
236 ~~common placement testing program shall include the capacity to~~
237 ~~diagnose basic competencies in the areas of English, reading,~~
238 ~~and mathematics which are essential for success in meta-majors~~
239 ~~and to provide test information to students on the specific~~
240 ~~skills the student needs to attain.~~

241 ~~(3) By October 31, 2013, the State Board of Education shall~~
242 ~~establish by rule the test scores a student must achieve to~~
243 ~~demonstrate readiness to perform college-level work, and The~~
244 ~~rules adopted under subsection (2) must specify the following:~~

245 (a) A student who entered 9th grade in a Florida public
246 school in the 2003-2004 school year, or any year thereafter, and
247 earned a Florida standard high school diploma or a student who
248 is serving as an active duty member of any branch of the United
249 States Armed Services ~~is shall not be required to be assessed~~
250 for readiness for college-level work in communication and
251 computation ~~take the common placement test and is shall not be~~
252 ~~required to enroll in developmental education instruction in a~~
253 ~~Florida College System institution. However, a student who is~~
254 ~~not required to be assessed for readiness for college-level work~~
255 in communication and computation ~~take the common placement test~~
256 ~~and is not required to enroll in developmental education under~~
257 ~~this paragraph may opt to be assessed and to enroll in~~
258 ~~developmental education instruction, and the college shall~~
259 ~~provide such assessment and instruction upon the student's~~



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260 request.

261 (b) A student who is assessed for readiness for college-
262 level computation and communication and whose assessment results
263 indicate ~~takes the common placement test and whose score on the~~
264 ~~test indicates~~ a need for developmental education must be
265 advised of all the developmental education options offered at
266 the institution and, after advisement, may shall be allowed to
267 enroll in the developmental education option of his or her
268 choice.

269 (c) A student who demonstrates readiness by achieving or
270 exceeding the test scores established by the state board and
271 enrolls in a Florida College System institution within 2 years
272 after achieving such scores shall not be required to retest or
273 complete developmental education when admitted to any Florida
274 College System institution.

275 (4) ~~By December 31, 2013, the State Board of Education, in~~
276 ~~consultation with the Board of Governors, shall approve a series~~
277 ~~of meta-majors and the academic pathways that identify the~~
278 ~~gateway courses associated with each meta-major. Florida College~~
279 ~~System institutions shall use placement test results to~~
280 ~~determine the extent to which each student demonstrates~~
281 ~~sufficient communication and computation skills to indicate~~
282 ~~readiness for his or her chosen meta-major. Florida College~~
283 ~~System institutions shall counsel students into college credit~~
284 ~~courses as quickly as possible, with developmental education~~
285 ~~limited to that content needed for success in the meta major.~~

286 ~~(5)~~ (a) Each Florida College System institution ~~board of~~
287 ~~trustees shall develop a plan to implement the developmental~~
288 ~~education strategies defined in s. 1008.02 and rules established~~



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289 by the State Board of Education. ~~The plan must be submitted to~~
290 ~~the Chancellor of the Florida College System for approval no~~
291 ~~later than March 1, 2014, for implementation no later than the~~
292 ~~fall semester 2014. Each plan must include, at a minimum, local~~
293 ~~policies that outline:~~

294 1. ~~Documented student achievements such as grade point~~
295 ~~averages, work history, military experience, participation in~~
296 ~~juried competitions, career interests, degree major declaration,~~
297 ~~or any combination of such achievements that the institution may~~
298 ~~consider, in addition to common placement test scores, for~~
299 ~~advising students regarding enrollment options.~~

300 2. ~~Developmental education strategies available to~~
301 ~~students.~~

302 3. ~~A description of student costs and financial aid~~
303 ~~opportunities associated with each option.~~

304 4. ~~Provisions for the collection of student success data.~~

305 5. ~~A comprehensive plan for advising students into~~
306 ~~appropriate developmental education strategies based on student~~
307 ~~success data.~~

308 (b) ~~Beginning October 31, 2015,~~ Each Florida College System
309 institution shall use placement test results or alternative
310 methods as established by the State Board of Education to
311 determine the extent to which each student demonstrates
312 sufficient communication and computation skills to indicate
313 readiness for his or her chosen meta-major. Florida College
314 System institutions shall counsel students into college credit
315 courses as quickly as possible, with developmental education
316 limited to that content needed for success in the meta-major
317 annually prepare an accountability report that includes student



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318 ~~success data relating to each developmental education strategy~~
319 ~~implemented by the institution. The report shall be submitted to~~
320 ~~the Division of Florida Colleges by October 31 in a format~~
321 ~~determined by the Chancellor of the Florida College System. By~~
322 ~~December 31, the chancellor shall compile and submit the~~
323 ~~institutional reports to the Governor, the President of the~~
324 ~~Senate, the Speaker of the House of Representatives, and the~~
325 ~~State Board of Education.~~

326 (c) A university board of trustees may contract with a
327 Florida College System institution board of trustees for the
328 Florida College System institution to provide developmental
329 education on the state university campus. Any state university
330 in which the percentage of incoming students requiring
331 developmental education equals or exceeds the average percentage
332 of such students for the Florida College System may offer
333 developmental education without contracting with a Florida
334 College System institution; however, any state university
335 offering college-preparatory instruction as of January 1, 1996,
336 may continue to provide developmental education instruction as
337 defined in s. 1008.02(1).

338 ~~(5)-(6)~~ A student may not be enrolled in a college credit
339 mathematics or English course on a dual enrollment basis unless
340 the student has demonstrated adequate precollegiate preparation
341 in on the section of the basic computation and communication and
342 computation skills assessment required pursuant to subsection
343 ~~(1) that is~~ appropriate for successful student participation in
344 the course.

345 Section 6. Paragraph (f) of subsection (1) of section
346 1009.25, Florida Statutes, is amended to read:



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347 1009.25 Fee exemptions.—

348 (1) The following students are exempt from the payment of
349 tuition and fees, including lab fees, at a school district that
350 provides workforce education programs, Florida College System
351 institution, or state university:

352 (f) A student who lacks a fixed, regular, and adequate
353 nighttime residence or whose primary nighttime residence is a
354 public or private shelter designed to provide temporary
355 residence, a public or private transitional living program, or a
356 public or private place not designed for, or ordinarily used as,
357 a regular sleeping accommodation for human beings. This includes
358 a student who would otherwise meet the requirements of this
359 paragraph, as determined by a college or university, but for his
360 or her residence in college or university dormitory housing. The
361 State Board of Education may adopt rules and the Board of
362 Governors may adopt regulations regarding documentation and
363 procedures to implement this paragraph.

364 Section 7. For the 2021-2022 Fiscal Year, the nonrecurring
365 sum of \$2 million is appropriated from the General Revenue Fund
366 to the State Risk Management Trust Fund in the Department of
367 Financial Services for workers' compensation costs associated
368 with participants under s. 446.54, Florida Statutes. The funds
369 may not be included or combined with the premiums otherwise due
370 from the Department of Education pursuant to chapter 284,
371 Florida Statutes, but must be credited on behalf of the
372 Department of Education.

373 Section 8. For the 2021-2022 fiscal year, two full-time
374 equivalent positions with associated salary rate of 76,787 are
375 authorized, and the sums of \$127,190 in recurring funds and



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376 \$7,790 in nonrecurring funds from the State Risk Management
377 Trust Fund are appropriated to the Department of Financial
378 Services for the purpose of implementing the workers'
379 compensation coverage provisions of this act.

380 Section 9. 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 Appropriations

BILL: CS/CS/SB 366

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Hutson and others

SUBJECT: Educational Opportunities Leading to Employment

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 366 modifies Florida’s statutes to provide support for students in work-based learning programs, modify assessment requirements for initial student eligibility in dual enrollment programs, and provide relevant mathematics pathways. Specifically, the bill:

- Specifies that students in a preapprenticeship program or courses with a work-based component are deemed to be employees of the state for workers’ compensation purposes for medically necessary care only.
- Clarifies that eligibility for initial enrollment in dual enrollment courses requires a student to demonstrate a level of achievement of college-level communication and computation skills through an approved common placement test or alternative method, to be approved by the State Board of Education.
- Eases plan development and reporting requirements for the implementation of developmental education strategies by Florida College System (FCS) institutions for potential students entering dual enrollment courses.
- Requires a representative committee of State University System, district career centers, and FCS faculty to identify mathematics pathways aligned to programs, meta-majors, and careers.

The fiscal impact is discussed in section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Work-based Learning

Present Situation

Federal legislation defines work-based learning (WBL) as “sustained interactions with industry or community professionals in real workplace settings, to the extent practicable, or simulated environments at an educational institution that foster in depth, firsthand engagement with the tasks required in a given career field, that are aligned to curriculum and instruction.”¹ Learning set in the real-world context of work not only makes academic learning more accessible to many students but also increases their engagement in schooling. WBL can play a crucial role in improving outcomes for at-risk students by increasing their engagement in learning, whether in or out of school.²

WBL takes many forms, such as internships, job shadowing, service learning, or preapprenticeships, and is defined by activities and experiences that occur when a student or worker:³

- Goes to a workplace or works with an employer; and
- Does meaningful job tasks that develop his or her skills, knowledge, and readiness for work and support entry or advancement in a particular career field.

WBL is comprised of identified courses that involve OJT, which is an instructional method whereby students acquire knowledge and skills exclusively on-site with a business or industry partner instead of a traditional classroom setting. WBL may also be delivered through utilization of the cooperative method of instruction which is delivered through formal classroom instruction and on-the-job learning, on-site, with a business or industry partner.⁴

Recent research, policy literature, and federal legislation suggest that comprehensive WBL programs contain three key components: the alignment of classroom and workplace learning; application of academic, technical, and employability skills in a work setting; and support from classroom or workplace mentors.⁵

¹ 20 U.S.C. s. 2302; Perkins V (The Strengthening Career and Technical Education for the 21st Century Act) and other federal legislation reference and support work-based learning, including in the Every Student Succeeds Act of 2015 (ESSA), and the Workforce Innovation and Opportunity Act of 2014 (WIOA).

² Michael E. Wonacott, *The Impact of Work-Based Learning on Students*, ERIC Digest (2002), available at <https://files.eric.ed.gov/fulltext/ED472603.pdf>, at 2.

³ Southern Regional Education Board, *Work-Based Learning*, <https://www.sreb.org/node/1923> (last visited Feb. 25, 2021).

⁴ 20 U.S.C. s. 2302(10).

⁵ United States Department of Education, *Work-Based Learning Toolkit*, <https://cte.ed.gov/wbltoolkit/> (Interact with the “WBL Framework” section) (last visited Feb. 25, 2021).

In 2019-2020, there were 23,258 students enrolled in secondary on-the-job training, preapprenticeship, work experience, and other WBL courses.⁶

Workers' Compensation

Workers' compensation is a form of insurance designed to provide wage replacement and medical benefits for employees who are injured in the course of employment, in exchange for giving up the right to sue the employer for negligence.⁷ In Florida, workers' compensation is governed by ch. 440, F.S., the "Workers' Compensation Law." The law prescribes coverage requirements, medical and indemnity benefits, the rights and responsibilities of employers, injured employees, medical providers, and carriers, as well as procedures for dispute resolution.

Generally, employers are required to provide medical and indemnity benefits to a worker who is injured due to an accident arising out of and during the course of employment.⁸ For such injuries, an employer is responsible for providing medical treatment⁹ and compensation in the event of employee disability¹⁰ or death.¹¹ Specific employer coverage requirements are based on the type of industry, number of employees, and entity organization.¹²

State Risk Management Program

The Division of Risk Management (DRM)¹³ located within the Department of Financial Services (DFS) is responsible for ensuring that state agencies and universities participating in the state's self-insurance program receive quality coverage for workers' compensation, general liability, federal civil rights, auto liability, and property insurance at reasonable rates. The DRM's operations and the state's insurance coverage are funded by annual agency assessments, which are deposited into the State Risk Management Trust Fund (SRMTF). The SRMTF provides coverage that protects state property and workforce members that are exposed to the risk of financial losses through damage, injuries, and alleged negligent or improper acts.¹⁴

Effect of Proposed Changes

The bill creates s. 446.54, F.S., to encourage school districts to place students in paid work experiences for purposes of educational training and WBL.

The bill provides that:

- An individual 18 years of age or younger who is enrolled in a preapprenticeship program, as defined in s. 446.021, F.S., which requires work-based learning and who suffers a work-related injury in the course of his or her enrollment is deemed to be an employee of the state

⁶ Email, Florida Department of Education (Mar. 1, 2021).

⁷ See *Jones v. Martin Elecs., Inc.*, 932 So. 2d 1100, 1108 (Fla. 2006).

⁸ Section 440.09(1), F.S.

⁹ Section 440.13, F.S.

¹⁰ Section 440.15, F.S.

¹¹ Section 440.16, F.S.

¹² Division of Workers' Compensation, *Coverage Requirements*, <https://www.myfloridacfo.com/division/wc/Employer/coverage.htm> (last visited on Feb. 25, 2021).

¹³ Section 20.121(2)(h), F.S.

¹⁴ Florida Department of Economic Opportunity, Economic and Demographic Research, *Risk Management Trust Fund* (Dec. 18, 2019), available at <http://edr.state.fl.us/Content/conferences/riskmanagement/riskmanagementexecsumm.pdf>.

for purposes of workers' compensation coverage. Such coverage applies only to medically necessary care rendered as a direct result of that injury.

- A student in grades 6 through 12 who is enrolled in a course identified in the Course Code Directory which incorporates a work-based learning component or an activity that is unpaid and who suffers a work-related injury in the course of his or her enrollment is deemed to be an employee of the state for purposes of workers' compensation coverage. Such coverage applies only to medically necessary care rendered as a direct result of that injury.

The bill provides that work-based learning may be paid or unpaid and may be delivered in a stand-alone, work-based learning course that results in high school credit or may be a component of an existing course which may use the cooperative method of instruction. As it relates to postsecondary education, the bill defines cooperative method of instruction as an instructional methodology that provides students enrolled in career education programs an opportunity to extend their employment preparation beyond the classroom through participation in concurrent career education instruction through regularly scheduled on-the-job training experiences.

The designation of preapprenticeship and WBL program students as employees of the state for the purposes of workers' compensation medical claims may increase the financial liability of the state, but may encourage more employers, who otherwise would not participate due to concerns about assuming liability for a minor, to partner with school districts to sponsor such programs. The provisions in the bill may allow more students under 18 to participate in WBL opportunities.

Florida College System Institution Admissions

Present Situation

Admissions Requirements for FCS Institutions

Each FCS institution board of trustees is authorized to adopt rules governing admissions of students subject to requirements provided in law and rules of the SBE.¹⁵

Admissions counseling must be provided to all students entering college or career credit programs. Counseling must use tests to measure achievement of college-level communication and computation competencies by students entering college credit programs or tests to measure achievement of basic skills for students entering career education programs. Counseling includes providing developmental education options for students whose assessment results indicate that they need to improve communication or computation skills that are essential to perform college-level work.¹⁶

Each FCS institution board of trustees is required to develop a plan to implement developmental education strategies through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction. Each plan must include certain minimum requirements that are specified in law.¹⁷

¹⁵ Section 1007.263, F.S.

¹⁶ Section 1007.263(1), F.S.

¹⁷ Sections 1008.30(5) and 1008.02(1), F.S.

FCS institutions are also required to annually prepare an accountability report that includes student success data relating to each developmental education strategy implemented by the institution and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE.¹⁸

Admission to associate degree programs is subject to minimum standards adopted by the SBE and requires:

- A standard high school diploma, a high school equivalency diploma as prescribed in law,¹⁹ previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of law. Students who are enrolled in a dual enrollment or early admission program are exempt from this requirement.
- A demonstrated level of achievement of college-level communication and computation skills.
- Any other requirements established by the FCS board of trustees.²⁰

Student Eligibility for Dual Enrollment Programs

The dual enrollment program is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree. A student who is enrolled in postsecondary instruction that is not creditable toward a high school diploma may not be classified as a dual enrollment student. An eligible secondary student is a student who is enrolled in any of grades 6 through 12 in a Florida public school or in a Florida private school that provides a secondary curriculum.²¹

Student eligibility requirements for initial enrollment in college credit dual enrollment courses must include a 3.0 unweighted high school grade point average and the minimum score on a common placement test adopted by the SBE which indicates that the student is ready for college-level coursework. Student eligibility requirements for initial and continued enrollment in career certificate dual enrollment courses must include a 2.0 unweighted high school grade point average.²² FCS institution boards of trustees may establish additional initial student eligibility requirements, which must be included in the dual enrollment articulation agreement, to ensure student readiness for postsecondary instruction.²³

¹⁸ Section 1008.30(5), F.S.

¹⁹ Section 1003.435, F.S., specifies the requirements for earning a high school equivalency diploma.

²⁰ Section 1007.263(2), F.S.

²¹ Section 1007.271(1) and (2), F.S.

²² Section 1007.271(3), F.S. Exceptions to the required grade point averages may be granted on an individual student basis if the educational entities agree and the terms of the agreement are contained within the dual enrollment articulation agreement developed by the district school superintendent and the public postsecondary institution president through an articulation committee, as specified in s. 1007.271(21).

²³ Section 1007.271(3), F.S.

Common Placement Testing for Public Postsecondary Education

The SBE, in conjunction with the BOG, has implemented common placement testing requirements²⁴ for the purpose of assessing the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. The common placement testing program must include the capacity to diagnose the basic competencies in the areas of English, reading, and mathematics that are essential for success in meta-majors and the capacity to provide test information to students on the specific skills the student needs to attain.²⁵

Assessment of Career Education Program Basic Skills

The SBE is required to adopt standards of basic skill mastery for completion of certificate career education programs and to designate examinations to assess mastery. Students who enroll in a program offered for career credit of 450 hours or more must complete an entry-level examination within the first six weeks after admission into the program. A student may not receive a career or technical certificate of completion without first demonstrating the basic skills required in the state curriculum frameworks for the career education program. Certain students are exempted from this requirement.²⁶

Effect of Proposed Changes

Admissions Requirements for FCS Institutions

The bill modifies s. 1007.263, F.S., to provide flexibility to FCS institutions in their admissions requirements for entering students. Specifically, the bill authorizes FCS institutions to accept:

- Alternate methods, to be approved by the state board, to measure achievement of college level communication and computation competencies by students entering college credit programs.
- For admission to associate degree programs, a high school equivalency diploma issued by another state which is recognized as equivalent by SBE rule and is based on an assessment recognized by the United States Department of Education.

The bill requires that admissions counseling at FCS institutions measure achievement of basic skills for career education programs, which may direct a student to developmental education to improve communication and computation skills.

The bill also modifies s. 1008.30, F.S., to remove outdated language related to a requirement that FCS institutions develop and submit a developmental education plan to the Chancellor of the FCS. In addition, the bill removes the requirement that the FCS annually prepare an accountability report that includes student success data relating to each developmental education strategy and submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE.

²⁴ The state board has adopted rules 6A-14.064 and 6A-10.0315, F.A.C., to govern assessment requirements for determining initial student eligibility for dual enrollment programs.

²⁵ Section 1008.30(1) and (2), F.S.

²⁶ Section 1004.91(1)-(3), F.S.

Student Eligibility for Dual Enrollment Programs

The bill modifies the mechanism in s. 1007.271, F.S., for assessing the readiness of a student for initial enrollment in college credit dual enrollment courses. In addition to achievement by a student of the minimum score on a common placement test, the bill authorizes a student to demonstrate a level of achievement of college-level communication and computation skills via an alternative method of assessment.

Common Placement Testing for Public Postsecondary Education

The bill modifies s. 1008.30, F.S., to require, by January 31, 2022, the SBE to adopt rules to develop and implement alternative methods for assessing the basic computation and communication skills of students who intend to enter a degree program at a FCS institution. The bill authorizes FCS institutions to use these alternative methods in lieu of common placement tests to assess student readiness for college-level work in computation and communication. The bill removes the requirement that the common placement testing program include the capacity to diagnose certain basic competencies in the areas of English, reading, and mathematics. The bill also specifies that students who are currently exempt from common placement testing requirements are also exempt from the college readiness assessment established in the bill.

Mathematics Pathways

Present Situation

Statewide Articulation Agreement

The SBE and the BOG are required to enter into a statewide articulation agreement. The agreement must preserve Florida's "2+2" system of articulation and facilitate the seamless articulation of student credit across and among Florida's educational entities.²⁷ The agreement requires state university BOT, FCS BOT, and district school boards to adopt policies and procedures to provide articulated programs so that students can proceed toward their educational objectives as rapidly as their circumstances permit.²⁸

Academic Pathways

The SBE, in consultation with the BOG, is required to approve a series of meta-majors and the academic pathways that identify the gateway courses associated with each meta-major. FCS institutions use placement test results to determine the extent to which each student demonstrates sufficient communication and computation skills to indicate readiness for his or her chosen meta-major. FCS institutions counsel students into college credit courses as quickly as possible, with developmental education limited to the content needed for success in the meta-major.²⁹

The purpose of meta-major academic pathways is to advise FCS system associate degree seeking students of the gateway courses that are aligned with their intended academic and career goals. The meta-major academic pathways in SBE rule are established in the following areas:

- Arts, humanities, communication and design.

²⁷ Section 1007.23(1), F.S.

²⁸ Rule 6A-10.024(1), F.A.C.

²⁹ Section 1008.30(4) and (5), F.S.

- Business.
- Education.
- Health sciences.
- Industry/manufacturing and construction.
- Public Safety.
- Science, technology, engineering, and mathematics.
- Social and behavioral sciences and human services.³⁰

In 2018, the Florida Student Success Center³¹ established three workgroups to identify current challenges in mathematics pathways and develop policy and practice recommendations to improve student achievement across Florida's education systems. The charge to the workgroups was to explore complex issues surrounding mathematics pathways to prepare high school students for transition into FCS institutions, and FCS institution students for transition into four-year universities. More than 90 mathematics faculty, administrators and key stakeholders from Florida's K-12 system, the FCS, and the SUS served as members of the workgroups in 2018-19. Among the 12 recommendations, the workgroups recommended creation of common mathematics pathways by aligning mathematics courses to programs, meta-majors, and careers in Florida.³²

Effect of Proposed Changes

The bill modifies s. 1007.23, F.S., to require the statewide articulation agreement to specify three mathematics pathways, which are aligned to programs, meta-majors, and careers, on which degree-seeking students must be placed. The bill specifies the purpose of the pathways is to facilitate seamless transfer, reduce excess credit hours, and ensure that students are taking the relevant courses needed for their future careers. To accomplish the identification of the mathematics pathways, the bill requires a representative committee of State University System, district career centers, and FCS faculty to collaborate to identify the three pathways.

The bill removes the requirement that the SBE, in consultation with the BOG, approve a series of meta-majors and the academic pathways that identify the gateway courses associated with each meta-major.

The bill also modifies s. 1009.25, F.S., to authorize the State Board of Education (SBE) and the Board of Governors of the State University System of Florida (BOG) to adopt rules and regulations, regarding documentation and procedures to implement a fee waiver for a student who is homeless.³³

³⁰ Rule 6A-14.065, F.A.C.

³¹ The Florida Student Success Center is part of the national Student Success Center Network and supports Florida's 28 state and community colleges' efforts to develop student-centered pathways and increase student completion rates. The Florida College System, *Florida Student Success Center*, <https://www.floridacollegesystemfoundation.org/florida-student-success-center-home> (last visited Feb. 25, 2021).

³² The Florida College System, *Mathematics Re-Design*, <https://www.floridacollegesystemfoundation.org/fssc-math-redesign> (last visited Feb. 25, 2021).

³³ A homeless student is defined as a student who lacks a fixed, regular, and adequate nighttime residence or whose primary nighttime residence is a public or private shelter designed to provide temporary residence, a public or private transitional living program, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. Section 1009.25(1)(f), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Financial Services, Division of Risk Management (DRM) estimates that the workers' compensation coverage provisions would cause additional claims costs for covering participants in preapprenticeship and work-based learning programs. The bill provides a \$2 million nonrecurring appropriation from the General Revenue Fund to the State Risk Management Trust Fund in the Department of Financial Services for worker's compensation costs associated with the provisions of the bill. The bill also provides an appropriation for two FTE positions to the Department of Financial Services out of the trust fund to implement the worker's coverage provisions of the bill.

Depending on the number and severity of future claims, the increase in workers' compensation loss payments and operational costs to the Risk Management Trust Fund could result in a long-term need for additional premium to be charged to the state agencies to cover these losses.

School districts that pay workers' compensation expenses for participants in work-based learning programs would likely see a reduction in workers' compensation costs. The reduction in workers' compensation costs is indeterminate.³⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1007.23, 1007.263, 1007.271, 1008.30, and 1009.25.

This bill creates section 446.54 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 Appropriations on April 15, 2021:

The committee substitute makes the following changes:

- Removes the legislative intent and the definition of “work-based learning”.
- Removes modifications from the bill, provisions related to:
 - Apprenticeship and preapprenticeship programs.
 - CAPE Industry Certification Funding List.
- Provides an appropriation and two FTE positions to the Department of Financial Services for worker’s compensation for anticipated claims associated with participants in the work-based learning programs.

CS by Education Committee on March 2, 2021:

The committee substitute:

- Changes the title of the bill to an act related to educational opportunities leading to employment.
- Modifies legislative intent regarding apprenticeships to:
 - Expand legislative intent to encourage apprenticeship programs that lead to any postsecondary credential. The bill encourages only the programs that lead to college credit or a degree.
 - Clarify that the responsibility of the Department of Education (DOE) over minimum standards applies only to apprenticeship and preapprenticeship programs *that are registered*.
- Modifies the duties of the DOE to:

³⁴Florida Department of Financial Services, *2021 Legislative Bill Analysis for SB 366* (Apr. 4, 2021).

- Provide that the DOE must include information and resources related to preapprenticeship programs in its annual apprenticeship report.
- Add that the DOE must provide assistance to postsecondary educational institutions in notifying the community of apprenticeship and preapprenticeship opportunities.
- Clarify that the DOE must ensure that equal opportunity for apprentices, preapprentices, and applicants for apprenticeships and preapprenticeships is provided for the apprenticeship and preapprenticeship programs.
- Modifies additional work-based learning program provisions. Specifically, the committee substitute:
 - Modifies provisions of the bill directed toward state universities and Florida College System (FCS) institutions and includes all postsecondary educational institutions.
 - Removes the requirement of the bill that defines apprentices as employees of the state for purposes of workers' compensation coverage for medical benefits. The amendment retains other provisions of the bill deeming preapprentices and students in work-based learning as employees of the state for workers' compensation coverage for medical benefits.
 - Defines "work-based learning," as it relates to public k-12 education, to mean sustained interactions with industry or community professionals in workplace settings, to the extent practicable, or simulated environments that foster in-depth, firsthand engagement with the tasks required in a given career field, that align with curriculum and instruction, and that are provided in partnership with an educational institution.
 - Defines "cooperative method of instruction," as it relates to postsecondary education, to mean an instructional methodology that provides students enrolled in career education programs an opportunity to extend their employment preparation beyond the classroom through participation in concurrent career education instruction through regularly scheduled on-the-job training experiences.
 - Removes a provision of the bill providing for guaranteed licenses for apprenticeship program completers.
- Modifies provisions related to the middle school course in career and education planning, by:
 - Removing a provision of the bill authorizing the Florida Virtual School to offer a course in career and education planning.
 - Removing a provision of the bill that would have made the required course in career and education planning optional for students in middle grades.
- Modifies provisions relating to K-12 career and technical education, by:
 - Removing the requirement of the bill that opportunities for learning computer science in elementary school include computational thinking and foundational computer science skills, and retains current law that makes the skills optional.
 - Removing a provision of the bill that modifies the authorized uses of funds for computer science instruction.
 - Removing a provision of the bill authorizing school districts or regional consortia to work with national providers to submit recommended career-themed courses to the DOE for state board approval.
 - Granting the DOE rulemaking authority over the administration of the CAPE Act.

- Modifies provisions relating to FCS institution admissions and student progression. The committee substitute:
 - Authorizes alternate methods, to be approved by the state board, to measure achievement of college level communication and computation competencies by students entering college credit programs.
 - Authorizes associate degree programs to accept a high school equivalency diploma issued by another state, as approved by the State Board of Education (SBE).
 - Clarifies that student eligibility for initial enrollment in dual enrollment courses includes a demonstrated level of achievement of college-level communication and computation skills through an approved common placement test or alternative method as adopted by the SBE.
 - Removes a requirement of existing law that the common placement testing program include the capacity to diagnose basic competencies in the areas of English, reading, and mathematics which are essential for success in meta-majors and to provide test information to students on the specific skills the student needs to attain.
 - Requires the SBE, by January 31, 2022, to adopt rules to develop and implement alternative methods for assessing the basic computation and communication skills of students who intend to enter a degree program at an FCS institution. The amendment authorizes FCS institutions to use these alternative methods in lieu of common placement tests to assess student readiness for college-level work in computation and communication.
 - Removes the requirement of existing law for FCS institutions to submit to the Chancellor of the FCS for approval implemented developmental education strategies through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction.
 - Adds alternative methods to the requirement for in current law for FCS institutions to use placement test results as established by the SBE to determine the extent to which each student demonstrates sufficient computation and communication skills to indicate readiness for his or her chosen meta-major and to counsel students into college credit courses as quickly as possible, with developmental education limited to that content needed for success in the meta-major.
 - Removes a requirement of existing law that each FCS institution annually prepare and submit to state officials an accountability report that includes student success data relating to each developmental education strategy implemented by the institution.
- Provides for a representative committee of State University System, certain career centers established by district school boards, and FCS faculty, instead of the representative workgroup of the Articulation Coordinating Committee required by the bill, to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs and careers.
- Modifies workforce and postsecondary financial provisions. The committee substitute:

- Removes the additional full-time-equivalent (FTE) weights for industry certifications associated with aviation-related and aerospace-related occupations and instead provides additional FTE weight for industry certifications that lead to occupations in critical industry sectors as identified by the Department of Education and included on the Career and Professional Education (CAPE) industry funding list.
- Authorizes a technical center operated by a school district, an FCS institution, or a state university to enter into an agreement with another entity to cover the approved apprenticeship program student tuition and fees, including lab fees.
- Authorizes the SBE and the Board of Governors of the State University System of Florida to adopt rules and regulations regarding requirements for fee waivers for homeless students.
- Modifies the provisions of the bill authorizing school districts and FCS institutions to earn an additional \$2000 for workforce education programs that lead to industry certification in critical industry sectors to instead provide an additional \$2000 for school districts and FCS institutions for industry certifications earned by students in workforce education programs that are identified as leading to employment in critical industry sectors.
- Requires a district school board or FCS institution board of trustees that receives workforce performance funding to use at least 70 percent of the funds received to directly support the program that generated the funds.

B. Amendments:

None.

By the Committee on Education; and Senators Hutson and Brodeur

581-02347-21

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1 A bill to be entitled
 2 An act relating to educational opportunities leading
 3 to employment; amending s. 446.011, F.S.; revising
 4 legislative intent related to apprenticeship training;
 5 amending s. 446.021, F.S.; defining and redefining
 6 terms; amending s. 446.032, F.S.; revising the general
 7 duties of the Department of Education with regard to
 8 apprenticeship and preapprenticeship programs;
 9 amending s. 446.041, F.S.; requiring the department to
 10 regularly review and evaluate its uniform minimum
 11 standards for apprenticeship and preapprenticeship
 12 programs; conforming provisions to changes made by the
 13 act; requiring the department to ensure that equal
 14 opportunity for apprentices, preapprentices, and
 15 applicants for apprenticeship and preapprenticeship is
 16 provided for the apprenticeship and preapprenticeship
 17 programs; amending s. 446.045, F.S.; conforming
 18 provisions to changes made by the act; revising the
 19 membership of the State Apprenticeship Advisory
 20 Council; revising meeting requirements; amending s.
 21 446.051, F.S.; providing that apprenticeship or
 22 preapprenticeship program sponsors are responsible for
 23 the selection and training of certain personnel, as
 24 approved by the department; encouraging district
 25 school boards and postsecondary educational
 26 institutions to cooperate in providing certain
 27 equipment, supplies, and instructor salaries; amending
 28 s. 446.052, F.S.; encouraging specified entities to
 29 cooperate in developing and establishing

Page 1 of 38

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

581-02347-21

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30 apprenticeship and preapprenticeship programs that
 31 include career instruction; encouraging specified
 32 entities to work together toward specified goals
 33 relating to apprenticeship programs; amending s.
 34 446.071, F.S.; providing that certain entities may be
 35 approved as apprenticeship sponsors if they meet
 36 certain uniform minimum standards; removing the
 37 definition of the term "need"; conforming provisions
 38 to changes made by the act; amending s. 446.081, F.S.;
 39 revising construction; repealing s. 446.091, F.S.,
 40 relating to the adaptation and applicability of
 41 certain provisions to on-the-job training programs;
 42 amending s. 446.092, F.S.; revising criteria for
 43 apprenticeship occupations; creating s. 446.54, F.S.;
 44 providing legislative intent; defining the term "work-
 45 based learning"; providing that certain individuals
 46 enrolled in work-based learning are deemed to be
 47 employees of the state for purposes of receiving
 48 certain medically necessary care under workers'
 49 compensation coverage; amending s. 1003.01, F.S.;
 50 defining the term "work-based learning"; amending s.
 51 1003.491, F.S.; authorizing the department to adopt
 52 rules; amending s. 1004.02, F.S.; defining the term
 53 "cooperative method of instruction"; amending s.
 54 1007.23, F.S.; requiring that the statewide
 55 articulation agreement specify three mathematics
 56 pathways that meet a certain requirement upon which
 57 degree-seeking students must be placed; amending s.
 58 1007.263, F.S.; requiring admissions counseling to use

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59 certain tests or alternative methods to measure
 60 achievement of college-level communication and
 61 computation by students entering college programs;
 62 requiring that such counseling measure achievement of
 63 certain basic skills; revising requirements for
 64 admission to associate degree programs; amending s.
 65 1007.271, F.S.; revising eligibility requirements for
 66 initial enrollment in college-level dual enrollment
 67 courses; revising requirements for home education
 68 students seeking dual enrollment in certain
 69 postsecondary institutions; amending s. 1008.30, F.S.;
 70 requiring the State Board of Education to adopt, by a
 71 specified date, rules establishing alternative methods
 72 for assessing computation and communication skills of
 73 certain students; authorizing Florida College System
 74 institutions to use such alternative methods in lieu
 75 of the common placement test to assess a student's
 76 readiness to perform college-level work in computation
 77 and communication; deleting obsolete provisions;
 78 requiring Florida College System institutions to use
 79 placement test results or alternative methods to
 80 determine the extent to which certain students
 81 demonstrate sufficient computation and communication
 82 skills to indicate readiness for their meta-major;
 83 requiring Florida College System institutions to
 84 counsel and place certain students in specified
 85 college courses; limiting students' developmental
 86 education to content needed for success in their meta-
 87 major; conforming provisions to changes made by the

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88 act; making technical changes; amending s. 1008.44,
 89 F.S.; requiring the Department of Education to
 90 identify certain certifications as those leading to
 91 occupations in specified industry sectors; authorizing
 92 the Commissioner of Education to limit certain
 93 certifications for the purpose of specified
 94 calculations; amending s. 1009.25, F.S.; authorizing
 95 technical centers operated by school districts,
 96 Florida College System institutions, or state
 97 universities to enter into specified agreements with
 98 other entities; authorizing the State Board of
 99 Education to adopt specified rules and the Board of
 100 Governors to adopt specified regulations; amending s.
 101 1011.62, F.S.; revising the calculation of certain
 102 additional full-time equivalent membership relating to
 103 funding for the operation of schools; deleting a
 104 provision relating to full-time equivalent membership
 105 calculation for elementary and middle grades students;
 106 requiring that a specified supplemental value for
 107 full-time equivalent student membership be calculated
 108 for certain industry certifications leading to
 109 employment in critical industry sectors; authorizing
 110 the use of a specified percentage of certain funds for
 111 CAPE program expenses; limiting the amount of funds
 112 that may be used for administrative costs; prohibiting
 113 the use of CAPE funding to supplant funds provided for
 114 basic operation of the CAPE program; amending s.
 115 1011.80, F.S.; providing for an appropriation to a
 116 school district or Florida College System institution

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117 from the General Appropriations Act for certain
 118 industry certifications; requiring a district school
 119 board or Florida College System institution board of
 120 trustees that receives certain funding to use the
 121 funding in a specified manner; amending s. 1011.802,
 122 F.S.; specifying that Florida Pathways to Career
 123 Opportunities Grant Program funds may be used for
 124 instructional personnel; specifying the maximum amount
 125 of funds that may be used by the department to
 126 administer the Florida Pathways to Career
 127 Opportunities Grant Program; amending s. 1011.81,
 128 F.S.; providing for an appropriation to each Florida
 129 College System institution from the General
 130 Appropriations Act for certain industry
 131 certifications; providing an effective date.

132
 133 Be It Enacted by the Legislature of the State of Florida:

134
 135 Section 1. Section 446.011, Florida Statutes, is amended to
 136 read:

137 446.011 Legislative intent regarding apprenticeship
 138 training.—

139 (1) It is the intent of the State of Florida to provide
 140 educational opportunities for its residents so that they can be
 141 trained for trades, occupations, and professions suited to their
 142 abilities. It is the intent of this act to promote the mode of
 143 training known as apprenticeship in occupations throughout
 144 industry ~~in the state that require physical manipulative skills.~~
 145 The Legislature further intends to broaden ~~By broadening~~ job

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146 training opportunities ~~by~~ and providing for increased
 147 coordination between secondary and postsecondary educational
 148 institutions and businesses and industries participating in
 149 ~~public school academic programs, career programs, and registered~~
 150 apprenticeship programs ~~so that~~, the residents of this state
 151 ~~will~~ benefit from an additional avenue to a postsecondary
 152 credential or degree when on-the-job training is combined with
 153 related technical and theoretical instruction provided by a
 154 school district or any accredited postsecondary educational
 155 institution. Therefore, this act encourages apprenticeship
 156 programs to lead to a postsecondary credential ~~the valuable~~
 157 ~~training opportunities developed when on the job training is~~
 158 ~~combined with academic related classroom experiences. Moreover,~~
 159 this act is intended to develop the apparent potentials in
 160 apprenticeship training by assisting in the establishment of
 161 preapprenticeship programs in the public school system and
 162 elsewhere and by expanding presently registered programs as well
 163 as promoting new registered programs in jobs that lend
 164 themselves to apprenticeship training.

165 (2) It is the intent of the Legislature that the Department
 166 of Education have responsibility for the development of the
 167 registered apprenticeship and registered preapprenticeship
 168 uniform minimum standards for ~~the~~ apprenticeable occupations
 169 ~~trades~~ and that the department have responsibility for assisting
 170 approved program sponsors pursuant to s. 446.071 ~~district school~~
 171 ~~boards and Florida College System institution boards of trustees~~
 172 in developing preapprenticeship programs.

173 (3) It is the further intent of ss. 446.011-446.092 that
 174 the department ensure quality training through the adoption and

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175 enforcement of uniform minimum standards and that the department
176 promote, register, monitor, and service apprenticeship and
177 preapprenticeship training programs and ensure that the programs
178 adhere to the standards.

179 (4) It is the intent of the Legislature that this act not
180 require the use of apprentices or preapprentices on construction
181 projects financed by the state or any county, municipality, town
182 or township, public authority, special district, municipal
183 service taxing unit, or other agency of state or local
184 government. Notwithstanding this intent, whenever any government
185 or agency of government employs, of its own choice, apprentices
186 or preapprentices or employs contractors who employ apprentices
187 or preapprentices, the behavior of the government and the
188 contractors employed by the government shall be governed by the
189 provisions of this act.

190 Section 2. Section 446.021, Florida Statutes, is amended to
191 read:

192 (Substantial rewording of section. See
193 s. 446.021, F.S., for present text.)
194 446.021 Definitions of terms used in ss. 446.011-446.092.-
195 As used in ss. 446.011-446.092, the term:

196 (1) "Apprentice" means a person at least 16 years of age
197 who has entered into an apprenticeship agreement with a
198 registered apprenticeship program sponsor, is engaged in
199 learning an apprenticeable occupation through actual work
200 experience under the supervision of journeyworkers, and is
201 enrolled in the apprenticeship program, thereby receiving an
202 organized and systematic form of instruction designed to provide
203 theoretical and technical knowledge related to the occupation.

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204 (2) "Apprenticeship program" means a program that is
205 registered with the department on the basis of a plan submitted
206 to the department which contains the terms and conditions for
207 the qualification, recruitment, selection, employment, and
208 training of apprentices, including requirements for a written
209 apprenticeship agreement.

210 (3) "Cancellation" means the termination or deregistration
211 of an apprenticeship program at the request of the program
212 sponsor or the termination of an apprenticeship agreement at the
213 request of the apprentice.

214 (4) "Department" means the Department of Education.

215 (5) "Journeyworker" means a person working in an
216 apprenticeable occupation who has successfully completed a
217 registered apprenticeship program or who has worked the number
218 of years required by established industry practices for the
219 particular trade or occupation.

220 (6) "On-the-job training" means a structured system of work
221 processes under the supervision of a journeyworker which
222 provides the experience and knowledge necessary to meet the
223 training objective of learning a specific skill, trade, or
224 occupation.

225 (7) "Preapprentice" means a person at least 16 years of age
226 who enters into a preapprenticeship agreement with a
227 preapprenticeship program sponsor approved by the department and
228 who engages in learning an apprenticeable occupation in any
229 course of instruction in the public school system or elsewhere.

230 (8) "Preapprenticeship program" means a program sponsored
231 by an apprenticeship program in the same occupation which is
232 registered with the department on the basis of a plan submitted

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233 to the department which contains the terms and conditions of
 234 instruction in the public school system or elsewhere and is
 235 designed to prepare a registered preapprentice to become an
 236 apprentice in an apprenticeship program.

237 (9) "Related instruction" means an organized and systematic
 238 form of instruction designed to provide an apprentice or a
 239 preapprentice with the knowledge of theoretical subjects related
 240 to a specific trade or occupation.

241 (10) "Uniform minimum standards" means the minimum
 242 requirements established for each occupation under which an
 243 apprenticeship or preapprenticeship program is administered. The
 244 term includes standards of admission, training objectives,
 245 curriculum outlines, objective standards to measure successful
 246 completion of the apprenticeship or preapprenticeship program,
 247 and the percentage of credit which may be given to an apprentice
 248 or preapprentice.

249 Section 3. Subsection (1), paragraphs (b), (d), and (e) of
 250 subsection (2), and subsection (3) of section 446.032, Florida
 251 Statutes, are amended to read:

252 446.032 General duties of the department for apprenticeship
 253 training.—The department shall:

254 (1) Establish uniform minimum standards ~~and policies~~
 255 governing apprenticeship apprentice programs and agreements. The
 256 standards and policies shall govern the terms and conditions of
 257 the apprentice's employment and training, including the quality
 258 training of the apprentice for, but not limited to, such matters
 259 as ratios of apprentices to journeyworkers, safety, related
 260 technical instruction, and on-the-job training; but these
 261 standards ~~and policies~~ may not include rules, standards, or

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262 guidelines that require the use of apprentices ~~and job trainees~~
 263 on state, county, or municipal contracts. Uniform minimum
 264 standards must be uniform across all occupations ~~The department~~
 265 ~~may adopt rules necessary to administer the standards and~~
 266 ~~policies.~~

267 (2) By September 1 of each year, publish an annual report
 268 on apprenticeship and preapprenticeship programs. The report
 269 must be published on the department's website and, at a minimum,
 270 include all of the following:

271 (b) A detailed summary of each local educational agency's
 272 expenditure of funds for apprenticeship and preapprenticeship
 273 programs, including:

274 1. The total amount of funds received for apprenticeship
 275 and preapprenticeship programs;

276 2. The total amount of funds allocated to each
 277 apprenticeable trade or occupation;

278 3. The total amount of funds expended for administrative
 279 costs per apprenticeable trade or occupation; and

280 4. The total amount of funds expended for instructional
 281 costs per apprenticeable trade and occupation.

282 (d) The percentage of apprentices and preapprentices who
 283 complete their respective programs ~~in the appropriate timeframe.~~

284 (e) Information and resources related to ~~applications for~~
 285 new apprenticeship programs and preapprenticeship programs and
 286 technical assistance and requirements for potential
 287 apprenticeship programs and preapprenticeship programs
 288 applicants.

289 (3) Provide assistance to district school boards,
 290 postsecondary educational institutions, Florida College System

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291 institution boards of trustees, approved program sponsors under
 292 s. 446.071, and local workforce development boards in notifying
 293 students, parents, and members of the community of the
 294 availability of apprenticeship and preapprenticeship
 295 opportunities, including data provided in the economic security
 296 report pursuant to s. 445.07.

297 Section 4. Subsections (2) through (8), (10), (11), and
 298 (12) of section 446.041, Florida Statutes, are amended to read:

299 446.041 Apprenticeship program, duties of the department.—
 300 The department shall:

301 (2) Regularly review and evaluate the uniform minimum
 302 Administer the standards established by the department for
 303 registered apprenticeship and preapprenticeship programs.

304 (3) Register, in accordance with this chapter, any
 305 apprenticeship or preapprenticeship program that, regardless of
 306 affiliation, which meets the uniform minimum standards
 307 established by the department.

308 (4) Investigate complaints concerning the failure of any
 309 registered program to meet the uniform minimum standards
 310 established by the department.

311 (5) Cancel the registration of any program that fails to
 312 comply with the uniform minimum standards and policies of the
 313 department or that unreasonably fails or refuses to cooperate
 314 with the department in monitoring and enforcing compliance with
 315 the uniform minimum standards.

316 (6) Encourage potential sponsors to develop and encourage
 317 apprenticeship and preapprenticeship programs.

318 (7) Lead and coordinate outreach efforts to educate
 319 veterans about apprenticeship programs and ~~career opportunities.~~

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320 (8) Cooperate with ~~and assist local~~ apprenticeship sponsors
 321 in the development of the uniform minimum ~~their~~ apprenticeship
 322 standards and training requirements.

323 (10) Monitor registered apprenticeship programs to ensure
 324 that they are being operated in compliance with all applicable
 325 uniform minimum standards.

326 (11) ~~Supervise all apprenticeship programs that are~~
 327 ~~registered with the department.~~

328 ~~(12)~~ Ensure that equal opportunity for apprentices,
 329 preapprentices, and applicants for apprenticeships and
 330 preapprenticeships is provided for the apprenticeship and
 331 preapprenticeship programs and that minority and gender
 332 diversity are considered in administering this program.

333 Section 5. Paragraphs (a), (b), and (c) of subsection (2)
 334 of section 446.045, Florida Statutes, are amended to read:

335 446.045 State Apprenticeship Advisory Council.—

336 (2) (a) There is created a State Apprenticeship Advisory
 337 Council to be composed of 10 voting members appointed by the
 338 Governor and two ex officio nonvoting members. The purpose of
 339 the advisory council is to advise the department on matters
 340 relating to apprenticeship and preapprenticeship. The advisory
 341 council may not establish policy, adopt rules, or consider
 342 whether particular apprenticeship or preapprenticeship programs
 343 should be approved by the department.

344 (b) The Commissioner of Education or the commissioner's
 345 designee shall serve ex officio as chair of the State
 346 Apprenticeship Advisory Council, but may not vote. A
 347 representative ~~The state director~~ of the Office of
 348 Apprenticeship of the United States Department of Labor shall

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349 serve ex officio as a nonvoting member of the council. The
 350 Governor shall appoint to the council four members representing
 351 employee organizations and four members representing employer
 352 organizations. Each of these eight members shall represent
 353 industries that have registered apprenticeship programs. The
 354 Governor shall also appoint two public members who are
 355 knowledgeable about registered apprenticeship and apprenticeable
 356 occupations and who are independent of any joint or nonjoint
 357 organization. Members shall be appointed for 4-year staggered
 358 terms. The Governor A vacancy shall fill any vacancy be filled
 359 for the remainder of the unexpired term.

360 (c) The council shall meet at the call of the chair or the
 361 chair's designee or at the request of a majority of its voting
 362 membership, but at least twice a year. A majority of the voting
 363 members shall constitute a quorum, and the affirmative vote of a
 364 majority of a quorum is necessary to take action.

365 Section 6. Section 446.051, Florida Statutes, is amended to
 366 read:

367 446.051 Related instruction for apprentices.—

368 (1) The administration and supervision of related and
 369 supplemental instruction for apprentices, the coordination of
 370 such instruction with job experiences, and the selection and
 371 training of teachers, instructors, and coordinators for such
 372 instruction, all as approved by the department registered
 373 program sponsor, ~~are shall be~~ the responsibility of the
 374 apprenticeship and preapprenticeship program sponsors
 375 ~~appropriate career education institution.~~

376 (2) District school boards and postsecondary educational
 377 institutions are ~~The appropriate career education institution~~

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378 ~~shall be~~ encouraged to cooperate with and assist in providing to
 379 any registered program sponsor facilities, equipment and
 380 supplies, and instructors' salaries for the performance of
 381 related and supplemental instruction associated with the
 382 apprenticeship or preapprenticeship ~~registered~~ program.

383 Section 7. Subsections (1), (2), and (3) of section
 384 446.052, Florida Statutes, are amended to read:

385 446.052 Preapprenticeship program.—

386 (1) There is created and established a preapprenticeship
 387 education program, as defined in s. 446.021.

388 (2) The department, under regulations established by the
 389 State Board of Education, may administer the provisions of ss.
 390 446.011-446.092 which relate to preapprenticeship programs in
 391 cooperation with district school boards and Florida College
 392 System institution boards of trustees. District school boards,
 393 postsecondary educational institutions ~~Florida College System~~
 394 ~~institution boards of trustees~~, and registered program sponsors
 395 are encouraged to shall cooperate in developing and establishing
 396 programs that include career instruction and general education
 397 ~~courses required to obtain a high school diploma.~~

398 (3) The department, ~~the~~ district school boards, and
 399 postsecondary educational institutions ~~the Florida College~~
 400 ~~System institution boards of trustees~~ shall work together with
 401 existing registered apprenticeship programs in order that
 402 individuals completing the preapprenticeship programs may be
 403 able to receive credit toward ~~towards~~ completing a registered
 404 apprenticeship program. In addition, postsecondary educational
 405 institutions are encouraged to work together with existing
 406 associate of science programs, associate of applied science

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407 programs, career certification programs, or degree programs to
 408 ensure that individuals completing a registered apprenticeship
 409 program may be able to receive college credit toward a technical
 410 degree.

411 Section 8. Section 446.071, Florida Statutes, is amended to
 412 read:

413 446.071 Apprenticeship sponsors.—

414 (1) One or more ~~local~~ apprenticeship sponsors must ~~shall~~ be
 415 approved in any apprenticeable occupation ~~trade~~ or multiple
 416 apprenticeable occupations ~~group of trades~~ by the department,
 417 upon a determination of need, if the apprenticeship sponsor
 418 meets all of the uniform minimum standards established by the
 419 department. ~~The term "need" refers to the need of state~~
 420 ~~residents for apprenticeship training. In the absence of proof~~
 421 ~~to the contrary, it shall be presumed that there is need for~~
 422 ~~apprenticeship and preapprenticeship training in each county in~~
 423 ~~this state.~~

424 (2) ~~An A~~ ~~local~~ apprenticeship sponsor may be a committee, a
 425 group of employers, an employer, or a group of employees, an
 426 educational institution, a local workforce board, a community or
 427 faith-based organization, or any entity preapproved by the
 428 department as being in accordance with the requirements of this
 429 chapter ~~combination thereof.~~

430 (3) The department may grant a variance from the uniform
 431 minimum standards upon a showing of good cause for the variance
 432 by program sponsors in nonconstruction trades. The purpose of
 433 this subsection is to recognize the unique and varying training
 434 requirements in nontraditional apprenticeable occupations and to
 435 authorize the department to adapt the standards to the needs of

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436 the programs.

437 Section 9. Subsection (4) of section 446.081, Florida
 438 Statutes, is amended to read:

439 446.081 Limitation.—

440 (4) Nothing in ss. 446.011-446.092 or in any rules adopted
 441 or contained in any approved apprentice agreement under such
 442 sections invalidates any special provision for veterans,
 443 minority persons, or women in the standards, qualifications, or
 444 operation of the apprenticeship program which is not otherwise
 445 prohibited by any applicable general law, executive order, rule,
 446 or regulation.

447 Section 10. Section 446.091, Florida Statutes, is repealed.

448 Section 11. Section 446.092, Florida Statutes, is amended
 449 to read:

450 446.092 Criteria for apprenticeship occupations.—At a
 451 minimum, an apprenticeable occupation must possess ~~is a skilled~~
 452 ~~trade which possesses~~ all of the following characteristics:

453 (1) It is customarily learned in a practical way through a
 454 structured, systematic program of on-the-job, supervised
 455 training.

456 (2) It is clearly identified and commonly recognized
 457 throughout an industry.

458 (3) It involves manual, mechanical, or technical skills and
 459 knowledge which, in accordance with the industry standards for
 460 the occupation, require ~~would require~~ a minimum of 2,000 hours
 461 of on-the-job training, which hours are excluded from the time
 462 spent at related technical or supplementary instruction.

463 (4) It requires related technical instruction to supplement
 464 on-the-job training. Such instruction may be given in a

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465 classroom, through occupational or industrial courses or
 466 correspondence courses of equivalent value, through electronic
 467 media, or through other forms of self-study approved by the
 468 department.

469 Section 12. Section 446.54, Florida Statutes, is created to
 470 read:

471 446.54 Work-based learning.—

472 (1) It is the intent of the Legislature that, to the extent
 473 possible, school districts place students in paid work
 474 experiences, including apprenticeships and preapprenticeships,
 475 for purposes of educational training and work-based learning.

476 (2) For purposes of this section, "work-based learning"
 477 includes "on-the-job training" as defined in s. 446.021 and
 478 means sustained interactions with industry or community
 479 professionals in off-campus workplace settings that foster in-
 480 depth firsthand engagement with the tasks required in a given
 481 career or field and are aligned to curriculum and instruction.

482 (3) (a) A student in grades 6 through 12 who is enrolled in
 483 a course identified in the Course Code Directory which
 484 incorporates a work-based learning component or an activity that
 485 is unpaid and who suffers a work-related injury in the course of
 486 his or her enrollment is deemed to be an employee of the state
 487 for purposes of workers' compensation coverage. Such coverage
 488 applies only to medically necessary care rendered as a direct
 489 result of that injury.

490 (b) An individual 18 years of age or younger who is
 491 enrolled in a preapprenticeship program as defined in s. 446.021
 492 which requires work-based learning and who suffers a work-
 493 related injury in the course of his or her enrollment is deemed

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494 to be an employee of the state for purposes of workers'
 495 compensation coverage. Such coverage applies only to medically
 496 necessary care rendered as a direct result of that injury.

497 Section 13. Subsection (17) is added to section 1003.01,
 498 Florida Statutes, to read:

499 1003.01 Definitions.—As used in this chapter, the term:

500 (17) "Work-based learning" means sustained interactions
 501 with industry or community professionals in workplace settings,
 502 to the extent practicable, or simulated environments that foster
 503 in-depth, firsthand engagement with the tasks required in a
 504 given career field, that align with curriculum and instruction,
 505 and that are provided in partnership with an educational
 506 institution. Work-based learning may be paid or unpaid and may
 507 be delivered in a stand-alone, work-based learning course that
 508 results in high school credit or may be a component of an
 509 existing course which may use the cooperative method of
 510 instruction as defined in s. 1004.02(27).

511 Section 14. Subsection (6) is added to section 1003.491,
 512 Florida Statutes, to read:

513 1003.491 Florida Career and Professional Education Act.—The
 514 Florida Career and Professional Education Act is created to
 515 provide a statewide planning partnership between the business
 516 and education communities in order to attract, expand, and
 517 retain targeted, high-value industry and to sustain a strong,
 518 knowledge-based economy.

519 (6) The Department of Education may adopt rules to
 520 administer this section.

521 Section 15. Subsection (27) is added to section 1004.02,
 522 Florida Statutes, to read:

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523 1004.02 Definitions.—As used in this chapter:
 524 (27) “Cooperative method of instruction” means an
 525 instructional methodology that provides students enrolled in
 526 career education programs an opportunity to extend their
 527 employment preparation beyond the classroom through
 528 participation in concurrent career education instruction through
 529 regularly scheduled on-the-job training experiences.

530 Section 16. Present subsections (3) through (8) of section
 531 1007.23, Florida Statutes, are redesignated as subsections (4)
 532 through (9), respectively, and a new subsection (3) is added to
 533 that section, to read:

534 1007.23 Statewide articulation agreement.—

535 (3) To facilitate seamless transfer of credits, reduce
 536 excess credit hours, and ensure that students are taking the
 537 courses needed for their future careers, the articulation
 538 agreement must establish three mathematics pathways for students
 539 by aligning mathematics courses to programs, meta-majors, and
 540 careers. A representative committee of State University System,
 541 career centers established under s. 1001.44, and Florida College
 542 System faculty shall collaborate to identify the three
 543 mathematics pathways and the mathematics course sequence within
 544 each pathway which align to the mathematics skills needed for
 545 success in the corresponding academic programs and careers.

546 Section 17. Subsection (1) and paragraph (a) of subsection
 547 (2) of section 1007.263, Florida Statutes, are amended to read:
 548 1007.263 Florida College System institutions; admissions of
 549 students.—Each Florida College System institution board of
 550 trustees is authorized to adopt rules governing admissions of
 551 students subject to this section and rules of the State Board of

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552 Education. These rules shall include the following:

553 (1) Admissions counseling shall be provided to all students
 554 entering college or career credit programs. For students who are
 555 not otherwise exempt from testing under s. 1008.30, counseling
 556 must use the tests or alternative methods established by the
 557 State Board of Education pursuant to s. 1008.30 to measure
 558 achievement of college-level communication and computation
 559 competencies by students entering college credit programs ~~or~~
 560 ~~tests to measure achievement of basic skills for career~~
 561 ~~education programs as prescribed in s. 1004.91.~~ Counseling must
 562 measure achievement of basic skills for career education
 563 programs under s. 1004.91 and include ~~includes~~ providing
 564 developmental education options for students whose ~~assessment~~
 565 results, determined under s. 1008.30, indicate that they need to
 566 improve communication or computation skills that are essential
 567 to perform college-level work.

568 (2) Admission to associate degree programs is subject to
 569 minimum standards adopted by the State Board of Education and
 570 shall require:

571 (a) A standard high school diploma; ~~r~~ a State of Florida
 572 high school equivalency diploma awarded under s. 1003.435(2); a
 573 high school equivalency diploma issued by another state which is
 574 recognized as equivalent by State Board of Education rule and is
 575 based on an assessment recognized by the United States
 576 Department of Education; ~~as prescribed in s. 1003.435,~~
 577 previously demonstrated competency in college credit
 578 postsecondary coursework; ~~r~~ or, in the case of a student who is
 579 home educated, a signed affidavit submitted by the student’s
 580 parent or legal guardian attesting that the student has

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581 completed a home education program pursuant to the requirements
 582 of s. 1002.41. Students who are enrolled in a dual enrollment or
 583 early admission program pursuant to s. 1007.271 are exempt from
 584 this requirement.

585
 586 Each board of trustees shall establish policies that notify
 587 students about developmental education options for improving
 588 their communication or computation skills that are essential to
 589 performing college-level work, including tutoring, extended time
 590 in gateway courses, free online courses, adult basic education,
 591 adult secondary education, or private provider instruction.

592 Section 18. Subsection (3) and paragraph (b) of subsection
 593 (13) of section 1007.271, Florida Statutes, are amended to read:
 594 1007.271 Dual enrollment programs.—

595 (3) Student eligibility requirements for initial enrollment
 596 in college credit dual enrollment courses must include a 3.0
 597 unweighted high school grade point average and a demonstrated
 598 level of achievement of college-level communication and
 599 computation skills as provided under s. 1008.30(1) or (2) the
 600 minimum score on a common placement test adopted by the State
 601 Board of Education which indicates that the student is ready for
 602 college-level coursework. Student eligibility requirements for
 603 continued enrollment in college credit dual enrollment courses
 604 must include the maintenance of a 3.0 unweighted high school
 605 grade point average and the minimum postsecondary grade point
 606 average established by the postsecondary institution. Regardless
 607 of meeting student eligibility requirements for continued
 608 enrollment, a student may lose the opportunity to participate in
 609 a dual enrollment course if the student is disruptive to the

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610 learning process such that the progress of other students or the
 611 efficient administration of the course is hindered. Student
 612 eligibility requirements for initial and continued enrollment in
 613 career certificate dual enrollment courses must include a 2.0
 614 unweighted high school grade point average. Exceptions to the
 615 required grade point averages may be granted on an individual
 616 student basis if the educational entities agree and the terms of
 617 the agreement are contained within the dual enrollment
 618 articulation agreement established pursuant to subsection (21).
 619 Florida College System institution boards of trustees may
 620 establish additional initial student eligibility requirements,
 621 which shall be included in the dual enrollment articulation
 622 agreement, to ensure student readiness for postsecondary
 623 instruction. Additional requirements included in the agreement
 624 may not arbitrarily prohibit students who have demonstrated the
 625 ability to master advanced courses from participating in dual
 626 enrollment courses or limit the number of dual enrollment
 627 courses in which a student may enroll based solely upon
 628 enrollment by the student at an independent postsecondary
 629 institution.

630 (13)

631 (b) Each public postsecondary institution eligible to
 632 participate in the dual enrollment program pursuant to s.
 633 1011.62(1)(i) must enter into a home education articulation
 634 agreement with each home education student seeking enrollment in
 635 a dual enrollment course and the student's parent. By August 1
 636 of each year, the eligible postsecondary institution shall
 637 complete and submit the home education articulation agreement to
 638 the Department of Education. The home education articulation

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639 agreement must include, at a minimum:

640 1. A delineation of courses and programs available to
641 dually enrolled home education students. Courses and programs
642 may be added, revised, or deleted at any time by the
643 postsecondary institution. Any course or program limitations may
644 not exceed the limitations for other dually enrolled students.

645 2. The initial and continued eligibility requirements for
646 home education student participation, not to exceed those
647 required of other dually enrolled students. A high school grade
648 point average may not be required for home education students
649 who demonstrate achievement of college-level communication and
650 computation skills as provided under s. 1008.30(1) or (2) meet
651 the minimum score on a common placement test adopted by the
652 State Board of Education which indicates that the student is
653 ~~ready for college-level coursework~~; however, home education
654 student eligibility requirements for continued enrollment in
655 dual enrollment courses must include the maintenance of the
656 minimum postsecondary grade point average established by the
657 postsecondary institution.

658 3. The student's responsibilities for providing his or her
659 own transportation.

660 4. A copy of the statement on transfer guarantees developed
661 by the Department of Education under subsection (15).

662 Section 19. Section 1008.30, Florida Statutes, is amended
663 to read:

664 1008.30 Common placement testing for public postsecondary
665 education.—

666 (1) The State Board of Education, in conjunction with the
667 Board of Governors, shall develop and implement a common

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668 placement test for the purpose of assessing the basic
669 computation and communication skills of students who intend to
670 enter a degree program at any public postsecondary educational
671 institution. Alternative assessments that may be accepted in
672 lieu of the common placement test shall also be identified in
673 rule. Public postsecondary educational institutions shall
674 provide appropriate modifications of the test instruments or
675 test procedures for students with disabilities.

676 (2) By January 31, 2022, the State Board of Education shall
677 adopt rules to develop and implement alternative methods for
678 assessing the basic computation and communication skills of
679 students who intend to enter a degree program at a Florida
680 College System institution. Florida College System institutions
681 may use these alternative methods in lieu of common placement
682 tests as described in subsection (1) to assess student readiness
683 for college-level work in computation and communication ~~The~~
684 ~~common placement testing program shall include the capacity to~~
685 ~~diagnose basic competencies in the areas of English, reading,~~
686 ~~and mathematics which are essential for success in meta-majors~~
687 ~~and to provide test information to students on the specific~~
688 ~~skills the student needs to attain.~~

689 (3) ~~By October 31, 2013, the State Board of Education shall~~
690 ~~establish by rule the test scores a student must achieve to~~
691 ~~demonstrate readiness to perform college-level work, and The~~
692 ~~rules~~ required by subsection (2) must specify the following:

693 (a) A student who entered 9th grade in a Florida public
694 school in the 2003-2004 school year, or any year thereafter, and
695 earned a Florida standard high school diploma or a student who
696 is serving as an active duty member of any branch of the United

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697 States Armed Services shall not be required to be assessed for
 698 readiness for college-level work in computation and
 699 communication ~~take the common placement test~~ and shall not be
 700 required to enroll in developmental education instruction in a
 701 Florida College System institution. However, a student who is
 702 not required to be assessed for readiness for college-level work
 703 in computation and communication ~~take the common placement test~~
 704 and is not required to enroll in developmental education under
 705 this paragraph may opt to be assessed and to enroll in
 706 developmental education instruction, and the college shall
 707 provide such assessment and instruction upon the student's
 708 request.

709 (b) A student who is assessed for readiness for college-
 710 level computation and communication and whose assessment results
 711 indicate ~~takes the common placement test and whose score on the~~
 712 ~~test indicates~~ a need for developmental education must be
 713 advised of all the developmental education options offered at
 714 the institution and, after advisement, shall be allowed to
 715 enroll in the developmental education option of his or her
 716 choice.

717 (c) A student who demonstrates readiness by achieving or
 718 exceeding the test scores established by the state board and
 719 enrolls in a Florida College System institution within 2 years
 720 after achieving such scores shall not be required to retest or
 721 complete developmental education when admitted to any Florida
 722 College System institution.

723 (4) ~~(a) By December 31, 2013, the State Board of Education,~~
 724 ~~in consultation with the Board of Governors, shall approve a~~
 725 ~~series of meta-majors and the academic pathways that identify~~

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726 ~~the gateway courses associated with each meta-major. Florida~~
 727 ~~College System institutions shall use placement test results to~~
 728 ~~determine the extent to which each student demonstrates~~
 729 ~~sufficient communication and computation skills to indicate~~
 730 ~~readiness for his or her chosen meta major. Florida College~~
 731 ~~System institutions shall counsel students into college credit~~
 732 ~~courses as quickly as possible, with developmental education~~
 733 ~~limited to that content needed for success in the meta-major.~~

734 ~~(5)(a) Each Florida College System institution board of~~
 735 ~~trustees shall develop a plan to implement the developmental~~
 736 ~~education strategies defined in s. 1008.02 and rules established~~
 737 ~~by the State Board of Education. The plan must be submitted to~~
 738 ~~the Chancellor of the Florida College System for approval no~~
 739 ~~later than March 1, 2014, for implementation no later than the~~
 740 ~~fall semester 2014. Each plan must include, at a minimum, local~~
 741 ~~policies that outline:~~

742 1. ~~Documented student achievements such as grade point~~
 743 ~~averages, work history, military experience, participation in~~
 744 ~~juried competitions, career interests, degree major declaration,~~
 745 ~~or any combination of such achievements that the institution may~~
 746 ~~consider, in addition to common placement test scores, for~~
 747 ~~advising students regarding enrollment options.~~

748 2. ~~Developmental education strategies available to~~
 749 ~~students.~~

750 3. ~~A description of student costs and financial aid~~
 751 ~~opportunities associated with each option.~~

752 4. ~~Provisions for the collection of student success data.~~

753 5. ~~A comprehensive plan for advising students into~~
 754 ~~appropriate developmental education strategies based on student~~

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755 ~~success data.~~

756 (b) ~~Beginning October 31, 2015,~~ Each Florida College System
 757 institution shall use placement test results or alternative
 758 methods as established by the State Board of Education to
 759 determine the extent to which each student demonstrates
 760 sufficient computation and communication skills to indicate
 761 readiness for his or her chosen meta-major. Florida College
 762 System institutions shall counsel students into college credit
 763 courses as quickly as possible, with developmental education
 764 limited to that content needed for success in the meta-major
 765 annually prepare an accountability report that includes student
 766 success data relating to each developmental education strategy
 767 implemented by the institution. The report shall be submitted to
 768 the Division of Florida Colleges by October 31 in a format
 769 determined by the Chancellor of the Florida College System. By
 770 December 31, the chancellor shall compile and submit the
 771 institutional reports to the Governor, the President of the
 772 Senate, the Speaker of the House of Representatives, and the
 773 State Board of Education.

774 (c) A university board of trustees may contract with a
 775 Florida College System institution board of trustees for the
 776 Florida College System institution to provide developmental
 777 education on the state university campus. Any state university
 778 in which the percentage of incoming students requiring
 779 developmental education equals or exceeds the average percentage
 780 of such students for the Florida College System may offer
 781 developmental education without contracting with a Florida
 782 College System institution; however, any state university
 783 offering college-preparatory instruction as of January 1, 1996,

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784 may continue to provide developmental education instruction as
 785 defined in s. 1008.02(1).

786 ~~(5)(6)~~ A student may not be enrolled in a college credit
 787 mathematics or English course on a dual enrollment basis unless
 788 the student has demonstrated adequate precollegiate preparation
 789 ~~in on the section of~~ the basic computation and communication
 790 ~~skills assessment required pursuant to subsection (1) that is~~
 791 appropriate for successful student participation in the course.

792 Section 20. Paragraph (a) of subsection (1) and paragraph
 793 (b) of subsection (4) of section 1008.44, Florida Statutes, are
 794 amended, and paragraph (f) is added to subsection (1) of that
 795 section, to read:

796 1008.44 CAPE Industry Certification Funding List and CAPE
 797 Postsecondary Industry Certification Funding List.—

798 (1) Pursuant to ss. 1003.4203 and 1003.492, the Department
 799 of Education shall, at least annually, identify, under rules
 800 adopted by the State Board of Education, and the Commissioner of
 801 Education may at any time recommend adding the following
 802 certificates, certifications, and courses:

803 (a) CAPE industry certifications identified on the CAPE
 804 Industry Certification Funding List that must be applied in the
 805 distribution of funding to school districts pursuant to s.
 806 1011.62(1)(o). The CAPE Industry Certification Funding List
 807 shall incorporate by reference the industry certifications on
 808 the career pathways list approved for the Florida Gold Seal CAPE
 809 Vocational Scholars award. In addition, by August 1 of each
 810 year, the not-for-profit corporation established pursuant to s.
 811 445.004 may annually select one industry certification, that
 812 does not articulate for college credit, for inclusion on the

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813 CAPE Industry Certification Funding List for a period of 3 years
814 unless otherwise approved by the curriculum review committee
815 pursuant to s. 1003.491. Such industry certifications, if earned
816 by a student, shall be eligible for additional full-time
817 equivalent membership, pursuant to s. 1011.62(1)(o)1.

818 (f) Industry certifications leading to occupations in
819 critical industry sectors which, if earned by a student, are
820 eligible for additional full-time equivalent student membership
821 pursuant to s. 1011.62(1)(o)1.e.

822 (4)

823 (b) For the purpose of calculating additional full-time
824 equivalent membership pursuant to s. 1011.62(1)(o)1.e., the
825 Commissioner of Education may limit CAPE industry certifications
826 and CAPE Digital Tool certificates to students in certain grades
827 ~~based on formal recommendations by providers of CAPE industry~~
828 ~~certifications and CAPE Digital Tool certificates.~~

829 Section 21. Paragraphs (b) and (f) of subsection (1) of
830 section 1009.25, Florida Statutes, are amended to read:

831 1009.25 Fee exemptions.—

832 (1) The following students are exempt from the payment of
833 tuition and fees, including lab fees, at a school district that
834 provides workforce education programs, Florida College System
835 institution, or state university:

836 (b) A student enrolled in an ~~approved~~ apprenticeship
837 program, as defined in s. 446.021. A technical center operated
838 by a school district, a Florida College System institution, or a
839 state university may enter into an agreement with another entity
840 to cover the approved apprenticeship program student tuition and
841 fees, including lab fees.

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842 (f) A student who lacks a fixed, regular, and adequate
843 nighttime residence or whose primary nighttime residence is a
844 public or private shelter designed to provide temporary
845 residence, a public or private transitional living program, or a
846 public or private place not designed for, or ordinarily used as,
847 a regular sleeping accommodation for human beings. This includes
848 a student who would otherwise meet the requirements of this
849 paragraph, as determined by a college or university, but for his
850 or her residence in college or university dormitory housing. The
851 State Board of Education may adopt rules and the Board of
852 Governors may adopt regulations regarding documentation and
853 procedures to implement this paragraph.

854 Section 22. Paragraph (o) of subsection (1) of section
855 1011.62, Florida Statutes, is amended to read:

856 1011.62 Funds for operation of schools.—If the annual
857 allocation from the Florida Education Finance Program to each
858 district for operation of schools is not determined in the
859 annual appropriations act or the substantive bill implementing
860 the annual appropriations act, it shall be determined as
861 follows:

862 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
863 OPERATION.—The following procedure shall be followed in
864 determining the annual allocation to each district for
865 operation:

866 (o) *Calculation of additional full-time equivalent*
867 *membership based on successful completion of a career-themed*
868 *course pursuant to ss. 1003.491, 1003.492, and 1003.493, or*
869 *courses with embedded CAPE industry certifications or CAPE*
870 *Digital Tool certificates, and issuance of industry*

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871 certification identified on the CAPE Industry Certification
 872 Funding List pursuant to rules adopted by the State Board of
 873 Education or CAPE Digital Tool certificates pursuant to s.
 874 1003.4203.-

875 1.a. A value of 0.025 full-time equivalent student
 876 membership shall be calculated for CAPE Digital Tool
 877 certificates earned by students in elementary and middle school
 878 grades.

879 b. A value of 0.1 or 0.2 full-time equivalent student
 880 membership shall be calculated for each student who completes a
 881 course as defined in s. 1003.493(1)(b) or courses with embedded
 882 CAPE industry certifications and who is issued an industry
 883 certification identified annually on the CAPE Industry
 884 Certification Funding List approved under rules adopted by the
 885 State Board of Education. For a CAPE industry certification that
 886 has a statewide articulation agreement for 4 to 14 college
 887 credits and for a CAPE industry certification that has a
 888 statewide articulation agreement for 1 to 3 college credits and
 889 that is deemed by the department to be of sufficient rigor and
 890 to be linked to a high-skill occupation, a value of 0.2 full-
 891 time equivalent membership shall be calculated. For all other
 892 CAPE industry certifications with a statewide articulation
 893 agreement for 1 to 3 college credits, a value of 0.1 full-time
 894 equivalent membership shall be calculated ~~A value of 0.2 full-~~
 895 ~~time equivalent membership shall be calculated for each student~~
 896 ~~who is issued a CAPE industry certification that has a statewide~~
 897 ~~articulation agreement for college credit approved by the State~~
 898 ~~Board of Education.~~ For CAPE industry certifications that do not
 899 articulate for college credit, the Department of Education shall

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900 ~~calculate assign~~ a full-time equivalent value of 0.1 for each
 901 certification. Middle grades students who earn additional FTE
 902 membership for a CAPE Digital Tool certificate pursuant to sub-
 903 subparagraph a. may not use the previously funded examination to
 904 satisfy the requirements for earning an industry certification
 905 under this sub-subparagraph. ~~Additional FTE membership for an~~
 906 ~~elementary or middle grades student may not exceed 0.1 for~~
 907 ~~certificates or certifications earned within the same fiscal~~
 908 ~~year.~~ The State Board of Education shall include the assigned
 909 values on the CAPE Industry Certification Funding List under
 910 rules adopted by the state board. Such value shall be added to
 911 the total full-time equivalent student membership for grades 6
 912 through 12 in the subsequent year. CAPE industry certifications
 913 earned through dual enrollment must be reported and funded
 914 pursuant to s. 1011.80. However, if a student earns a
 915 certification through a dual enrollment course and the
 916 certification is not a fundable certification on the
 917 postsecondary certification funding list, or the dual enrollment
 918 certification is earned as a result of an agreement between a
 919 school district and a nonpublic postsecondary institution, the
 920 bonus value shall be funded in the same manner as other nondual
 921 enrollment course industry certifications. In such cases, the
 922 school district may provide for an agreement between the high
 923 school and the technical center, or the school district and the
 924 postsecondary institution may enter into an agreement for
 925 equitable distribution of the bonus funds.

926 c. A value of 0.3 full-time equivalent student membership
 927 shall be calculated for student completion of the courses and
 928 the embedded certifications identified on the CAPE Industry

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929 Certification Funding List and approved by the commissioner
 930 pursuant to ss. 1003.4203(5) (a) and 1008.44.

931 d. A value of 0.5 full-time equivalent student membership
 932 shall be calculated for CAPE Acceleration Industry
 933 Certifications that articulate for 15 to 29 college credit
 934 hours, and 1.0 full-time equivalent student membership shall be
 935 calculated for CAPE Acceleration Industry Certifications that
 936 articulate for 30 or more college credit hours pursuant to CAPE
 937 Acceleration Industry Certifications approved by the
 938 commissioner pursuant to ss. 1003.4203(5) (b) and 1008.44.

939 e. In addition to the full-time equivalent student
 940 membership calculated under paragraphs (a)-(d), a supplemental
 941 value of 0.2 full-time equivalent student membership shall be
 942 calculated for industry certifications identified on the CAPE
 943 Industry Certification Funding List as leading to employment in
 944 occupations in critical industry sectors.

945 2. Each district must allocate at least 80 percent of the
 946 funds provided for CAPE industry certification, in accordance
 947 with this paragraph, to the program that generated the funds.
 948 The remaining 20 percent may be used for other CAPE program
 949 expenses, such as administrative costs and new industry
 950 certification programs; however, administrative costs may not
 951 exceed 5 percent of the total funds provided for CAPE industry
 952 certification. Funds provided for CAPE industry certification
 953 may not be used for any other purpose and, specifically, This
 954 allocation may not be used to supplant funds provided for basic
 955 operation of the program, such as teacher salaries and other
 956 costs that are funded for other courses with non-CAPE funds.

957 3. For CAPE industry certifications earned in the 2013-2014

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958 school year and in subsequent years, the school district shall
 959 distribute to each classroom teacher who provided direct
 960 instruction toward the attainment of a CAPE industry
 961 certification that qualified for additional full-time equivalent
 962 membership under subparagraph 1.:

963 a. A bonus of \$25 for each student taught by a teacher who
 964 provided instruction in a course that led to the attainment of a
 965 CAPE industry certification on the CAPE Industry Certification
 966 Funding List with a weight of 0.1.

967 b. A bonus of \$50 for each student taught by a teacher who
 968 provided instruction in a course that led to the attainment of a
 969 CAPE industry certification on the CAPE Industry Certification
 970 Funding List with a weight of 0.2.

971 c. A bonus of \$75 for each student taught by a teacher who
 972 provided instruction in a course that led to the attainment of a
 973 CAPE industry certification on the CAPE Industry Certification
 974 Funding List with a weight of 0.3.

975 d. A bonus of \$100 for each student taught by a teacher who
 976 provided instruction in a course that led to the attainment of a
 977 CAPE industry certification on the CAPE Industry Certification
 978 Funding List with a weight of 0.5 or 1.0.

979 Bonuses awarded pursuant to this paragraph ~~must shall be~~
 980 ~~provided to teachers who are employed by the district in the~~
 981 ~~year in which the additional FTE membership calculation is~~
 982 ~~included in the calculation. Bonuses shall~~ be calculated based
 983 upon the associated weight of a CAPE industry certification on
 984 the CAPE Industry Certification Funding List for the year in
 985 which the certification is earned by the student. Any bonus
 986

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987 awarded to a teacher pursuant to this paragraph is in addition
 988 to any regular wage or other bonus the teacher received or is
 989 scheduled to receive. A bonus may not be awarded to a teacher
 990 who fails to maintain the security of any CAPE industry
 991 certification examination or who otherwise violates the security
 992 or administration protocol of any assessment instrument that may
 993 result in a bonus being awarded to the teacher under this
 994 paragraph.

995 Section 23. Paragraph (b) of subsection (7) and paragraph
 996 (a) of subsection (8) of section 1011.80, Florida Statutes, are
 997 amended to read:

998 1011.80 Funds for operation of workforce education
 999 programs.—

1000 (7)

1001 (b) Performance funding for industry certifications for
 1002 school district workforce education programs is contingent upon
 1003 specific appropriation in the General Appropriations Act and
 1004 shall be determined as follows:

1005 1. Occupational areas for which industry certifications may
 1006 be earned, as established in the General Appropriations Act, are
 1007 eligible for performance funding. Priority shall be given to the
 1008 occupational areas emphasized in state, national, or corporate
 1009 grants provided to Florida educational institutions.

1010 2. The Chancellor of Career and Adult Education shall
 1011 identify the industry certifications eligible for funding on the
 1012 CAPE Postsecondary Industry Certification Funding List approved
 1013 by the State Board of Education pursuant to s. 1008.44, based on
 1014 the occupational areas specified in the General Appropriations
 1015 Act.

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1016 3.a. Except as provided in sub-subparagraph b., each school
 1017 district shall be provided \$1,000 for each industry
 1018 certification earned by a workforce education student. If funds
 1019 are insufficient to fully fund the calculated total award, such
 1020 funds shall be prorated.

1021 b. For each industry certification earned by a workforce
 1022 education student which is identified as leading to employment
 1023 in occupations in critical industry sectors, each school
 1024 district shall be provided a total of \$3,000. If funds are
 1025 insufficient to fully fund the calculated total award, such
 1026 funds shall be prorated.

1027 (8) (a) A school district or Florida College System
 1028 institution that receives workforce education funds must use the
 1029 money to benefit the workforce education programs it provides.
 1030 The money may be used for equipment upgrades, program
 1031 expansions, or any other use that would result in workforce
 1032 education program improvement. The district school board or
 1033 Florida College System institution board of trustees may not
 1034 withhold any portion of the performance funding for indirect
 1035 costs. A district school board or Florida College System
 1036 institution board of trustees that receives workforce
 1037 performance funding must use at least 70 percent of the funds
 1038 received to directly support the program that generated the
 1039 funds.

1040 Section 24. Present subsection (4) of section 1011.802,
 1041 Florida Statutes, is redesignated as subsection (5), a new
 1042 subsection (4) is added to that section, and subsection (3) of
 1043 that section is amended, to read:

1044 1011.802 Florida Pathways to Career Opportunities Grant

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1045 Program.-

1046 (3) The department shall give priority to apprenticeship
 1047 programs with demonstrated regional demand. Grant funds may be
 1048 used for instructional equipment, supplies, instructional
 1049 personnel, student services, and other expenses associated with
 1050 the creation or expansion of an apprenticeship program. Grant
 1051 funds may not be used for recurring instructional costs or for
 1052 indirect costs. Grant recipients must submit quarterly reports
 1053 in a format prescribed by the department.

1054 (4) Up to \$200,000 of the total amount allocated may be
 1055 used by the department to administer the grant program.

1056 Section 25. Paragraph (c) of subsection (2) of section
 1057 1011.81, Florida Statutes, is amended to read:

1058 1011.81 Florida College System Program Fund.-

1059 (2) Performance funding for industry certifications for
 1060 Florida College System institutions is contingent upon specific
 1061 appropriation in the General Appropriations Act and shall be
 1062 determined as follows:

1063 (c)1. Except as provided in subparagraph 2., each Florida
 1064 College System institution shall be provided \$1,000 for each
 1065 industry certification earned by a student. If funds are
 1066 insufficient to fully fund the calculated total award, such
 1067 funds shall be prorated.

1068 2. For each industry certification earned by a workforce
 1069 education student which is identified as leading to employment
 1070 in occupations in critical industry sectors, each Florida
 1071 College System institution shall be provided a total of \$3,000.
 1072 If funds are insufficient to fully fund the calculated total
 1073 award, such funds shall be prorated.

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1074 Section 26. This act shall take effect July 1, 2021.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 468

INTRODUCER: Judiciary Committee and Senator Bracy

SUBJECT: Expunction of Criminal History Records Relating to Certain Cannabis Offenses

DATE: April 14, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 468 creates section 943.0586, Florida Statutes, providing for the expunction of certain criminal history records relating to the misdemeanor offense of possession of 20 grams or less of cannabis, regardless of disposition. The language in the bill closely mirrors the procedures and requirements for court ordered expunction under section 943.0585, Florida Statutes.

The bill provides that a person may only receive one expunction under this section, and may only petition the court for an expunction after at least one year has elapsed since the disposition of the criminal activity to which the petition pertains, and he or she is no longer under court supervision. A person who receives an expunction under this section is not precluded from seeking a sealing or expunction provided under any other section of law.

The bill's fiscal impact to the Florida Department of Law Enforcement is significant; most of these costs will be offset by expunction application fees. See Section V. Fiscal Impact Statement for additional information.

The bill is effective July 1, 2021.

II. Present Situation:

There are several limited forms of relief that may be sought in order to seal or expunge a criminal history record. The public will not have access to a criminal history record that has been

sealed or expunged. Certain government or related entities have access to records even after they are sealed. Most of the entities who have access to sealed records also have access to see whether a person has had an expunction. However, those entities do not have access to the expunged criminal history record without a court order.¹

Expunction of Criminal History Records

A criminal history record includes any non-judicial record maintained by a criminal justice agency² that contains criminal history information.³ Criminal history information is information collected by criminal justice agencies and consists of identifiable descriptions of individuals and notations of arrests, detentions, indictments, information, other formal criminal charges, and criminal dispositions.⁴

State courts have continuing jurisdiction over their own procedures, including the expunction and sealing of judicial records that contain criminal history information.⁵ Pursuant to statute, judges have the discretion to order criminal records maintained by the court system and records held by law enforcement agencies to be sealed⁶ or expunged for either a minor or an adult.⁷ However, no one has a right to have a record expunged and the request may be denied at the sole discretion of the court.⁸

A person may have his or her criminal history record⁹ expunged under certain enumerated circumstances.¹⁰ When a record is expunged, the criminal justice agencies¹¹ that possess the record must physically destroy or obliterate it. However, a criminal justice agency may retain a notation indicating compliance with an order to expunge.¹² The FDLE maintains a copy of the

¹ *Florida Department of Law Enforcement Frequently Asked Questions*, Florida Department of Law Enforcement, available at http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Frequently-Asked-Questions#Sealed_vs_Expunged (last visited March 22, 2021).

² Section 943.045(11), F.S., provides that criminal justice agencies include the court, the FDLE, the Department of Juvenile Justice, components of the Department of Children and Families, and other governmental agencies that administrate criminal justice.

³ Section 943.045(6), F.S.

⁴ Section 943.045(5), F.S.

⁵ Sections 943.0585(4)(a) and 943.059(4)(a), F.S. The procedures, however, must be consistent with the duties established in statute. *See also* Henry P. Trawick, Jr., *Florida Pleading and Practice Forms* 11B. Fla. Pl. & Pr. Forms s. 97:14 (May 2020).

⁶ In general terms, sealing makes records confidential in most cases while expunction requires the actual physical destruction of records held by courts and most law enforcement agencies. When a record is sealed, it is preserved so that it is secure and inaccessible to any person who does not have a legal right to access the record or the information contained within the record. A court may order a criminal history record sealed, rendering it confidential and exempt from Florida's public records laws. Sections 943.045(19), 943.059(6), and 119.07(1), F.S., and Art. I, s. 24(a), Fla. Const.

⁷ Sections 943.0585(4)(b) and 943.059(4)(b), F.S.

⁸ Section 943.0585(4)(b) and (e), F.S.

⁹ Section 943, 045(6), F.S., provides that a "criminal history record" is any judicial record maintained by a criminal justice agency containing criminal history information.

¹⁰ Sections 943.0581, 943.0582, 943.0583, and 943.0585, F.S.

¹¹ Section 943.045(11), F.S., provides that "criminal justice agency," means: (1) A court; (2) the FDLE; (3) The Department of Juvenile Justice; (4) The protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and (5) Any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

¹² Section 943.0585(6)(a), F.S.

record to evaluate subsequent requests for sealing or expunction, and to recreate the record in the event a court vacates the order to expunge.¹³ The criminal history record retained by the FDLE is confidential and exempt.¹⁴ Once the record is expunged, a person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, subject to exceptions.^{15, 16}

Court-Ordered Expunction

A court, in its discretion, may order the expunction of a person's criminal history record if the FDLE issues the person a certificate of eligibility for expunction.¹⁷ Generally, a person is eligible for expunction if:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record.
- An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the State, was dismissed by the court, a judgment of acquittal was rendered, or a verdict of not guilty was rendered.
- The person is not seeking to expunge a criminal history record that is ineligible under s. 943.0584, F.S.¹⁸

¹³ Section 943.045(16), F.S.

¹⁴ Section 943.0585(6)(a), F.S.

¹⁵ Section 943.0585(6), F.S.

¹⁶ Section 943.0585(6), F.S., provides that enumerated entities include criminal justice agencies, The Florida Bar, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, the Department of Juvenile Justice, the Department of Education, a district school board, a university laboratory school, a charter school, a private or parochial school, a local governmental entity that licenses child care facilities, the Division of Insurance Agent and Agency Services within the Department of Financial Services, and the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services.

¹⁷ Section 943.0585(4), F.S.

¹⁸ Section 943.0584, F.S., A criminal history record is not eligible for court-ordered sealing if it relates to: Sexual misconduct (Sections 393.135, 394.4593, and 916.1075, F.S.); Illegal use of explosives (Chapter 552, F.S.); Terrorism (Section 775.30, F.S.); Murder (Sections 782.04, 782.065, and 782.09, F.S.); Manslaughter or homicide (Sections 782.07, 782.071, and 782.072, F.S.); Assault or battery of one family or household member by another family or household member (Sections 784.011 and 784.03, F.S.); Aggravated assault (Section 784.021, F.S.); Felony battery, domestic battery by strangulation, or aggravated battery (Sections 784.03, 784.041, and 784.045, F.S.); Stalking or aggravated stalking (Section 784.048, F.S.); Luring or enticing a child (Section 787.025, F.S.); Human trafficking (Section 787.06, F.S.); Kidnapping or false imprisonment (Sections 787.01 and 787.02, F.S.); Sexual battery, unlawful sexual activity with a minor, or female genital mutilation (Chapter 794, F.S.); Procuring a person under the age of 18 for prostitution (Section 796.03, F.S. (2013) (repealed by ch. 2014-160, s. 10, L.O.F.)); Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (Section 800.04, F.S.); Arson (Section 806.01, F.S.); Burglary of a dwelling (Section 810.02, F.S.); Voyeurism or video voyeurism (Sections 810.14 and 810.145, F.S.); Robbery or robbery by sudden snatching (Sections 812.13 and 812.131, F.S.); Carjacking (Section 812.133, F.S.); Home invasion robbery (Section 812.135, F.S.); A violation of the Florida Communications Fraud Act (Section 817.034, F.S.); Abuse of an elderly person or disabled adult or aggravated abuse of an elderly person or disabled adult (Section 825.102, F.S.); Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person (Section 825.1025, F.S.); Child abuse or aggravated child abuse (Section 827.03, F.S.); Sexual performance by a child (Section 827.071, F.S.); Offenses by public officers and employees (Chapter 839, F.S.); Certain acts in connection with obscenity (Section 847.0133, F.S.); A violation of the Computer Pornography and Child Exploitation Prevention Act (Section 893.0135, F.S.); Selling or buying of minors (Section 847.0145, F.S.); Aircraft piracy (Section 860.16, F.S.); Manufacturing a controlled substance (Chapter 893, F.S.); Drug trafficking (Section 893.135, F.S.); Any violation specified as a predicate offense for registration as a sexual predator or sexual offender. (Sections 775.21 and 943.0535, F.S.).

- The person is not seeking to seal a criminal history record relating to a violation of certain enumerated offenses.¹⁹
- The person has never, prior to filing the application for a certificate of eligibility, been either:
 - Adjudicated guilty of any criminal offense or comparable ordinance violation; or
 - Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- The person has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.
- The person has never secured a prior sealing or expunction, unless:
 - Expunction is sought of a criminal history record previously sealed for at least 10 years; and
 - The record was sealed because adjudication was withheld, or because a judgment of acquittal or verdict of not guilty was rendered.²⁰

Certificate of Eligibility

A person must first apply to the FDLE for a certificate of eligibility. The FDLE must issue a certificate of eligibility for court-ordered expunction to a person who:²¹

- Is eligible for expunction, as described above.
- Has submitted to the department a written certified statement from the appropriate state attorney or statewide prosecutor which confirms the criminal history record complies with certain requirements described above.
- Has submitted to the FDLE a certified copy of the disposition of the charge to which the petition pertains.
- Pays a \$75 processing fee to the FDLE for placement in the FDLE Operating Trust Fund, unless the executive director waives such fee.²²

Upon receiving a certificate of eligibility from the FDLE, a person must petition the court to expunge the record.²³ A complete petition contains both a valid certificate of eligibility, issued within the previous 12 months, and a sworn statement from the petitioner attesting to his or her eligibility.²⁴ It is solely within the court's discretion to grant or deny a petition to expunge.²⁵

¹⁹ Section 943.0585(1)(d)1.-13., F.S. Assault, as defined in s. 784.011, F.S.; battery, as defined in s. 784.03, F.S.; assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a), F.S.; carrying a concealed weapon, as defined in s. 790.01(1), F.S.; open carrying of a weapon, as defined in s. 790.053, F.S.; unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as defined in s. 790.115, F.S.; unlawful use of destructive devices or bombs, as defined in s. 790.1615(1), F.S.; unlawful possession of a firearm, as defined in s. 790.22(5), F.S.; exposure of sexual organs, as defined in s. 800.03, F.S.; arson, as defined in s. 806.031(1), F.S.; petit theft, as defined in s. 812.014(3), F.S.; or cruelty to animals, as defined in s. 828.12(1), F.S.

²⁰ Section 943.0585(1), F.S.

²¹ Section 943.0585(2), F.S.

²² Section 943.0585(2), F.S.

²³ Section 943.0585(3), F.S.

²⁴ Section 943.0585(3), F.S.

²⁵ Section 943.0585(4), F.S.

Fees to Expunge Records

The application for a certificate of eligibility to seal or expunge under either statute must include a certified copy of the disposition. The clerk charges \$2 per document for a certification fee²⁶ plus \$1 a page for copying²⁷ the disposition. The FDLE charges \$75 for the certificate of eligibility.²⁸

Other Types of Expunction

Other types of expunction include:

- Lawful self-defense expunction.²⁹
- Human trafficking victim expunction.³⁰
- Automatic Juvenile expunction.³¹
- Early juvenile expunction.³²
- Administrative expunction.³³
- Juvenile diversion program expunction.³⁴

III. Effect of Proposed Changes:

The bill creates s. 943.0586, F.S., providing for the expunction of certain criminal history records relating to the misdemeanor offense of possession of 20 grams or less of cannabis.

A person is eligible to petition the court for an expunction if:

- The person was arrested or given a notice to appear for a misdemeanor offense for obtaining, purchasing, or possessing 20 grams or less of cannabis, regardless of disposition.
- The person was not convicted of, nor pled no contest to, a contemporaneous offense other than the misdemeanor offense for obtaining, purchasing, or possessing 20 grams or less of cannabis.
- At least 1 year has elapsed since disposition of the offense or alleged criminal activity.
- The person is no longer under court supervision related to the cannabis offense.
- The person has not previously received this type of expunction.

A person must apply to the FDLE for a certificate of eligibility before he or she petitions a court to expunge a criminal history record. The bill directs the FDLE to establish procedures for applying for and issuing a certificate of eligibility. The FDLE must issue a certificate of eligibility to a person who is the subject of a criminal history record if that person:

- Satisfies the criteria listed above, and is not ineligible under s. 943.0584, F.S.³⁵

²⁶ Section 28.24(2), F.S.

²⁷ Section 28.24(5)(a), F.S.

²⁸ Section 943.0585(2)(a)4., F.S.

²⁹ Section 943.0578, F.S.

³⁰ Section 943.0583, F.S.

³¹ Section 943.0515(1)(b)1., F.S.

³² Section 943.0515(1)(b)2., F.S.

³³ Section 943.0581, F.S.

³⁴ Section 943.0582, F.S.

³⁵ See footnote 21.

- Has submitted to the FDLE a written certified statement from the appropriate state attorney or statewide prosecutor that confirms the criminal history record complies with the criteria listed above.
- Has submitted a certified copy of the disposition of the charge.
- Remits a processing fee.

A certificate of eligibility is valid for 12 months after the date it is issued by the FDLE.

The following must be submitted with the petition to expunge a criminal history record:

- A valid certificate of eligibility.
- The petitioner's sworn statement that he or she satisfies the eligibility requirements for expunction, and is eligible for expunction and to the best of his or her knowledge does not have any other petition to seal or expunge pending before any court.

A person who knowingly provides false information commits a third degree felony.

The bill further provides that courts have jurisdiction over their own procedures to the extent that such procedures are not inconsistent with the conditions, responsibilities, and duties established in the bill. A court may order a criminal justice agency to expunge a criminal history record of a person who complies with the requirements established in the bill.

The court may order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. However, the court may order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest.

The bill provides that it does not confer any right to expunction of any criminal history record and any request for expunction may be denied at the sole discretion of the court.

A copy of the completed petition must be served upon the state attorney or the statewide prosecutor, who, with the arresting agency, may respond to the petition. If the expunction is granted, the clerk must certify copies of the order to:

- The appropriate state attorney or statewide prosecutor.
- The arresting agency who must forward the order to any agency to which the arresting agency disseminated the criminal history record information.
- Any other agency which the court records reflect has received the criminal history record from the court.

Additionally, the FDLE must forward the order to the Federal Bureau of Investigations.

The FDLE and any other criminal justice agency is only required to act on a court order if the order is in compliance with the criteria described above. Upon receipt of an order that is not in compliance, the FDLE must notify:

- The appropriate state attorney or statewide prosecutor.
- The petitioner or the petitioner's attorney.
- The arresting agency.

The appropriate state attorney or statewide prosecutor must take action within 60 days to correct the record and petition the court to void the order. A cause of action, including contempt of court, may not arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility or comply with other requirements.

A person who has received an expunction may lawfully deny or fail to acknowledge the arrests and notices to appear covered by the expunged record, except in specified circumstances.³⁶

Except as provided above, a person who has been granted an expunction under this bill may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by a person's failure to recite or acknowledge an expunged criminal history record.

The bill provides that a person who receives an expunction under this section is not precluded from seeking a sealing or expunction provided under ss. 943.0583, 943.0585, and 943.059, F.S., if the person is otherwise eligible.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in article VII, section 18 of the Florida 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.

³⁶ Exceptions include, when the person is a defendant in a criminal prosecution; Is a candidate for admission to The Florida Bar; Is seeking employment or licensing with specified entities; Is seeking to be appointed as a guardian pursuant to s. 744.3125, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE will experience an increase in workload associated with this bill; however, the \$75 application fee will provide revenue to support additional staffing to address this workload. This bill allows the FDLE to collect a \$75 application processing fee to be deposited into the department's Operating Trust Fund. Currently, the Computerized Criminal History (CCH) repository contains 729,070 unique state identification numbers (SIDs) with 1,016,255 charges for a qualifying marijuana offense of possession under 20 grams. Assuming 10 percent of those individuals seek relief, there would be an increase of 72,907 applications @ \$75 for a total of \$5,468,025 in increased revenue.³⁷ The FDLE estimates the bill's provision will result in the need to hire 88 additional staff to manage the workload, at a recurring cost of \$5,425,716. The department also estimates additional nonrecurring costs of \$1 million for technology modifications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.0586 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 Judiciary on March 16, 2021:

The committee substitute re-drafted the bill in order to closely follow existing expungement law codified at s. 943.0585, F.S. Significant policy changes made by the Committee Substitute include:

- The process is no longer completely free to the applicant, but will require a \$75 fee to the Department of Law Enforcement for a certificate of eligibility.

³⁷ The FDLE, 2021 Agency Analysis for Cs/SB 468, p. 4, February 16, 2021 (Revised March 23, 2021).

- The one year wait and the probation limitation are added.
- The petition must be filed with the sentencing court.
- The clerk of court is not responsible for service on the state attorney.
- Expungement is limited to one time under this new section.
- No other contemporaneous offense is allowed.
- Expungement is not automatic, it may be denied by the court.
- The exceptions allowing future access for select agencies was added.
- The CS specifies that expungement under this new section is not a bar to sealing or expungement of a different offense under another law.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Bracy

590-02872-21

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1 A bill to be entitled
 2 An act relating to expunction of criminal history
 3 records relating to certain cannabis offenses;
 4 creating s. 943.0586, F.S.; providing for eligibility;
 5 requiring a petitioner to obtain a certificate of
 6 eligibility from the Department of Law Enforcement;
 7 requiring the department to adopt rules; providing
 8 application requirements and contents of a certificate
 9 of eligibility for expunction; requiring the
 10 department to issue a certificate of eligibility for
 11 expunction if a person meets specified criteria;
 12 providing contents of a petition; providing court
 13 procedures for expungement; providing that the subject
 14 of an expungement order may lawfully deny or fail to
 15 acknowledge the arrest and notice to appear; providing
 16 exceptions; providing that a petition for expunction
 17 of certain cannabis offenses does not foreclose the
 18 petitioner from applying to seal or expunge other
 19 criminal arrests; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 943.0586, Florida Statutes, is created
 24 to read:

25 943.0586 Expunction of criminal history records relating to
 26 qualifying cannabis offenses.-

27 (1) ELIGIBILITY.-A person is eligible to petition a court
 28 to expunge a criminal history record under this section if all
 29 of the following apply:

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30 (a) The person was arrested or given a notice to appear for
 31 a misdemeanor offense for obtaining, purchasing, or possessing
 32 20 grams or less of cannabis, regardless of disposition.

33 (b) The person was not convicted of, or did not plead no
 34 contest to, a contemporaneous offense other than the misdemeanor
 35 offense for obtaining, purchasing, or possessing 20 grams or
 36 less of cannabis.

37 (c) At least one year has elapsed since the disposition of
 38 the arrest or alleged criminal activity to which the petition to
 39 expunge pertains.

40 (d) The person is no longer under court supervision
 41 applicable to the disposition of the arrest or alleged criminal
 42 activity to which the petition to expunge pertains.

43 (e) The person has not previously been granted relief under
 44 this section.

45 (2) CERTIFICATE OF ELIGIBILITY.-Before petitioning a court
 46 to expunge a criminal history record, a person seeking to
 47 expunge a criminal history record must apply to the department
 48 for a certificate of eligibility for expunction. The department
 49 shall adopt rules to establish procedures for applying for and
 50 issuing a certificate of eligibility for expunction.

51 (a) The department shall issue a certificate of eligibility
 52 for expunction to a person who is the subject of a criminal
 53 history record if that person:

54 1. Satisfies the eligibility criteria in paragraphs (1) (a)-
 55 (e) and is not ineligible under s. 943.0584;

56 2. Has submitted to the department a written certified
 57 statement from the appropriate state attorney or statewide
 58 prosecutor which confirms the criminal history record complies

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59 with the criteria in paragraphs (1)(a)-(d);

60 3. Has submitted to the department a certified copy of the
61 disposition of the charge to which the petition to expunge
62 pertains; and

63 4. Remits a processing fee, equal to that fee charged
64 pursuant to s. 943.0585(2)(a)4., to the department for placement
65 in the Department of Law Enforcement Operating Trust Fund,
66 unless the executive director waives such fee.

67 (b) A certificate of eligibility for expunction is valid
68 for 12 months after the date stamped on the certificate when
69 issued by the department. After that time, the petitioner must
70 reapply to the department for a new certificate of eligibility.
71 The petitioner's status and the law in effect at the time of the
72 renewal application determine the petitioner's eligibility.

73 (3) PETITION.—Each petition to expunge a criminal history
74 record must be accompanied by all of the following:

75 (a) A valid certificate of eligibility issued by the
76 department.

77 (b) The petitioner's sworn statement that he or she:

78 1. Satisfies the eligibility requirements for expunction in
79 subsection (1).

80 2. Is eligible for expunction to the best of his or her
81 knowledge and does not have any other petition to seal or
82 expunge a criminal history record pending before any court.

83
84 A person who knowingly provides false information on such sworn
85 statement commits a felony of the third degree, punishable as
86 provided in s. 775.082, s. 775.083, or s. 775.084.

87 (4) COURT AUTHORITY.—

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88 (a) The courts of this state have jurisdiction over their
89 own procedures, including the maintenance, expunction, and
90 correction of judicial records containing criminal history
91 information, to the extent that such procedures are not
92 inconsistent with the conditions, responsibilities, and duties
93 established by this section.

94 (b) A court of competent jurisdiction may order a criminal
95 justice agency to expunge the criminal history record of a minor
96 or an adult who complies with the requirements of this section.
97 The court may not order a criminal justice agency to expunge a
98 criminal history record until the person seeking to expunge a
99 criminal history record has applied for and received a
100 certificate of eligibility under subsection (2).

101 (c) The court may order expunction of a criminal history
102 record pertaining to one arrest or one incident of alleged
103 criminal activity only, except that the court may order the
104 expunction of a criminal history record pertaining to more than
105 one arrest if the additional arrests directly relate to the
106 original arrest. If the court intends to order the expunction of
107 records pertaining to such additional arrests, such intent must
108 be specified in the order. A criminal justice agency may not
109 expunge any record pertaining to such additional arrests if the
110 order to expunge does not articulate the intention of the court
111 to expunge a record pertaining to more than one arrest. This
112 section does not prevent the court from ordering the expunction
113 of only a portion of a criminal history record pertaining to one
114 arrest or one incident of alleged criminal activity.

115 (d) This section does not confer any right to expunction of
116 any criminal history record, and any request for expunction of a

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117 criminal history record may be denied at the sole discretion of
 118 the court.

119 (5) PROCESSING OF A PETITION OR AN ORDER.—

120 (a) In judicial proceedings under this section, a copy of
 121 the completed petition to expunge shall be served upon the
 122 appropriate state attorney or the statewide prosecutor and upon
 123 the arresting agency; however, it is not necessary to make any
 124 agency other than the state a party. The appropriate state
 125 attorney or the statewide prosecutor and the arresting agency
 126 may respond to the court regarding the completed petition to
 127 expunge.

128 (b) If relief is granted by the court, the clerk of the
 129 court shall certify copies of the order to the appropriate state
 130 attorney or the statewide prosecutor and the arresting agency.
 131 The arresting agency shall forward the order to any other agency
 132 to which the arresting agency disseminated the criminal history
 133 record information to which the order pertains. The department
 134 shall forward the order to expunge to the Federal Bureau of
 135 Investigation. The clerk of the court shall certify a copy of
 136 the order to any other agency which the records of the court
 137 reflect has received the criminal history record from the court.

138 (c) The department or any other criminal justice agency is
 139 not required to act on an order to expunge entered by a court
 140 when such order does not comply with the requirements of this
 141 section. Upon receipt of such an order, the department must
 142 notify the issuing court, the appropriate state attorney or
 143 statewide prosecutor, the petitioner or the petitioner's
 144 attorney, and the arresting agency of the reason for
 145 noncompliance. The appropriate state attorney or statewide

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146 prosecutor shall take action within 60 days to correct the
 147 record and petition the court to void the order. No cause of
 148 action, including contempt of court, shall arise against any
 149 criminal justice agency for failure to comply with an order to
 150 expunge when the petitioner for such order failed to obtain the
 151 certificate of eligibility as required by this section or such
 152 order does not otherwise comply with the requirements of this
 153 section.

154 (6) EFFECT OF EXPUNCTION ORDER.—

155 (a) The person who is the subject of a criminal history
 156 record that is expunged under this section may lawfully deny or
 157 fail to acknowledge the arrests and notices to appear covered by
 158 the expunged record, except when the subject of the record:

- 159 1. Is a candidate for employment with a criminal justice
 160 agency;
- 161 2. Is a defendant in a criminal prosecution;
- 162 3. Is a candidate for admission to The Florida Bar;
- 163 4. Is seeking to be employed or licensed by or to contract
 164 with the Department of Children and Families, the Division of
 165 Vocational Rehabilitation within the Department of Education,
 166 the Agency for Health Care Administration, the Agency for
 167 Persons with Disabilities, the Department of Health, the
 168 Department of Elderly Affairs, or the Department of Juvenile
 169 Justice or to be employed or used by such contractor or licensee
 170 in a sensitive position having direct contact with children, the
 171 disabled, or the elderly;
- 172 5. Is seeking to be employed or licensed by the Department
 173 of Education, any district school board, any university
 174 laboratory school, any charter school, any private or parochial

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175 school, or any local governmental entity that licenses child
176 care facilities;

177 6. Is seeking to be licensed by the Division of Insurance
178 Agent and Agency Services within the Department of Financial
179 Services; or

180 7. Is seeking to be appointed as a guardian pursuant to s.
181 744.3125.

182 (b) Subject to the exceptions in paragraph (a), a person
183 who has been granted an expunction under this section may not be
184 held under any provision of law of this state to commit perjury
185 or to be otherwise liable for giving a false statement by reason
186 of such person's failure to recite or acknowledge an expunged
187 criminal history record.

188 (7) RELATION TO OTHER LAWS ON EXPUNCTION OR SEALING.—
189 Expunction or sealing granted under this section does not
190 prevent the person who receives such relief from petitioning for
191 the expunction or sealing of a criminal history record as
192 provided for in ss. 943.0583, 943.0585, and 943.059, if the
193 person is otherwise eligible under those sections.

194 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 Appropriations

BILL: CS/SB 470

INTRODUCER: Judiciary Committee and Senator Bracy

SUBJECT: Public Records/Expunged Criminal History Records

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 470 is the public records exemption bill linked to CS/SB 468. The bill provides that criminal history records relating to certain misdemeanor cannabis offenses that have been expunged and are retained by the Florida Department of Law Enforcement (FDLE) are confidential and exempt from public disclosure. Exceptions permit specified entities to access such records for limited purposes. CS/SB 468 creates section 943.0586, Florida Statutes, providing for the expunction of certain criminal history records relating to the misdemeanor offense of possession of 20 grams or less of cannabis, regardless of disposition.

Additionally, the bill provides that it is a first degree misdemeanor for any employee of a specified entity to disclose information relating to the existence of an expunged criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to:

- The person to whom the record relates.
- Persons having direct responsibility for employment, access authorization, or licensure decisions.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

This bill takes effect on the same date as CS/SB 468 or similar legislation takes effect. CS/SB 468 is effective on 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, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

¹ FLA. CONST. art. I, s. 24(a).

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*, Edition 1, (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.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

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

Open Government Sunset Review Act

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

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

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

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

¹⁶ Section 119.15, F.S.

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

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

¹⁹ Section 119.15(3), F.S.

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

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption; however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to 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.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Expunction

A criminal history record includes any non-judicial record maintained by a criminal justice agency²⁷ that contains criminal history information.²⁸ Criminal history information is information collected by criminal justice agencies and consists of identifiable descriptions of

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ 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?

²⁵ *See generally* s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 943.045(11), F.S., provides that criminal justice agencies include the court, the FDLE, the Department of Juvenile Justice, components of the Department of Children and Families, and other governmental agencies that administrate criminal justice.

²⁸ Section 943.045(6), F.S.

individuals and notations of arrests, detentions, indictments, information, other formal criminal charges, and criminal dispositions.²⁹

A person may have his or her criminal history record expunged under certain circumstances.³⁰ When a record is expunged, the criminal justice agencies possessing such record must physically destroy or obliterate it. The FDLE maintains a copy of the record to evaluate subsequent requests for sealing or expunction, and to recreate the record in the event a court vacates the order to expunge.³¹ The criminal history record retained by the FDLE is confidential and exempt.³² Once the record is expunged, a person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, subject to exceptions.³³

SB 468 Expunction of Criminal History Records Relating to Certain Cannabis Offenses

CS/SB 468 creates s. 943.0586, F.S., providing for the expunction of certain criminal history records relating to the misdemeanor offense of possession of 20 grams or less of cannabis, regardless of disposition. The language in the bill closely mirrors the procedures and requirements for court ordered expunction under s. 943.0585, F.S.

The bill provides that a person may only receive one expunction under this section, and may only petition the court for an expunction after at least one year has elapsed since the disposition of the criminal activity to which the petition pertains, and he or she is no longer under court supervision. A person who receives an expunction under this section is not precluded from seeking a sealing or expunction provided under any other section of law.

III. Effect of Proposed Changes:

CS/SB 470 is the public records exemption bill linked to CS/SB 468. The bill provides that criminal history records relating to certain misdemeanor cannabis offenses that have been expunged and are retained by the FDLE are confidential and exempt from s. 119.07(1), F.S., and article I, section 24(a) of the State Constitution. The bill provides exceptions to permit specified entities to access such records for limited purposes. The FDLE must disclose the existence of a criminal history record ordered expunged to specified entities for their respective licensing, access authorization, employment purposes, and to criminal justice agencies for criminal justice purposes. Such entities include:

- Criminal justice agencies.
- The Florida Bar.
- The Department of Children and Families.
- The Division of Vocational Rehabilitation with the Department of Education.
- The Agency for Health Care Administration.
- The Agency for Persons with Disabilities.
- The Department of Health.
- The Department of Elderly Affairs.

²⁹ Section 943.045(5), F.S.

³⁰ Sections 943.0581, 943.0582, 943.0583, and 943.0585, F.S.

³¹ Section 943.045(16), F.S.

³² Section 943.0585(6)(a), F.S.

³³ Section 943.0585(6), F.S.

- The Department of Juvenile Justice.
- Any district school board, university laboratory school, charter school, private or parochial school, or local governmental entity that licenses child care facilities.
- The Division of Insurance Agent and Agency Services within the Department of Financial Services.
- The guardian ad litem program.

The bill creates a first degree misdemeanor for any employee of an entity listed above to disclose information relating to the existence of an expunged criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to:

- The person to whom the record relates.
- Persons having direct responsibility for employment, access authorization, or licensure decisions.

This subsection is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

This bill provides a public necessity statement as required by article I, section 24(c) of the State Constitution. The public necessity statement provides that:

The Legislature finds that it is a public necessity that individuals who petition a court and are granted expunction of certain low-level and nonviolent criminal history records have such criminal history records made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature recognizes the disproportionate harm that criminalizing the purchase or possession of small amounts of cannabis has had on minorities and disadvantaged communities. The Legislature further recognizes the trends in this state, and nationally, of counties and localities decriminalizing the purchase or possession of small amounts of cannabis. Without this public records exemption, individuals with such low-level and nonviolent criminal history records who are granted expunction of such records might not be able to seek gainful employment and become productive, contributing members of this state. For these reasons, the Legislature finds that it is a public necessity that such records be made confidential and exempt.

This bill takes effect on the same date as CS/SB 468 or similar legislation takes effect. As currently in the Senate, CS/SB 468 is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in article VII, section 18 of the Florida Constitution.

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 newly created or expanded public records or public meeting exemption. The bill creates a public record exemption for a judicial record that is expunged, and therefore, requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption for a judicial record that is expunged. Section 2 of the bill provides a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes confidential and exempt limited criminal history records. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

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:

VI. None. Technical Deficiencies:

The Open Government Sunset Review repeal language refers to repeal of the entire section, but perhaps should only repeal subsection (8) of s. 943.0586, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates subsection (8) in section 943.0586, Florida Statutes, which section is created by companion bill, CS/SB 468.

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 March 15, 2020:

The committee substitute added references to the companion bill SB 468, added exceptions to the public records exemption consistent with changes made by amendment to SB 468 at the same committee meeting, and added a first degree misdemeanor related to those exceptions, which is consistent with similar public records laws.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Bracy

590-02873-21

2021470c1

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 943.0586, F.S.; providing an exemption from public
 4 records requirements for specified expunged criminal
 5 history records; providing exceptions; providing
 6 criminal penalties; providing for future legislative
 7 review and repeal of the exemption; providing a
 8 statement of public necessity; providing a contingent
 9 effective date.

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

12
 13 Section 1. Subsection (8) is added to section 943.0586,
 14 Florida Statutes, as created by SB 468 or similar legislation,
 15 2021 Regular Session, to read:

16 943.0586 Expunction of criminal history records relating to
 17 qualifying cannabis offenses.—

18 (8) PUBLIC RECORDS.—A criminal history record ordered
 19 expunged under this section which is retained by the department
 20 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 21 I of the State Constitution, except that the department shall
 22 disclose the existence of a criminal history record ordered
 23 expunged to the entities set forth in subparagraphs (6) (a)1. and
 24 3.-7. for their respective licensing, access authorization, and
 25 employment purposes and to criminal justice agencies for their
 26 respective criminal justice purposes. It is unlawful for any
 27 employee of an entity set forth in subparagraph (6) (a)1.,
 28 subparagraph (6) (a)3., subparagraph (6) (a)4., subparagraph
 29 (6) (a)5., subparagraph (6) (a)6., or subparagraph (6) (a)7. to

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30 disclose information relating to the existence of an expunged
 31 criminal history record of a person seeking employment, access
 32 authorization, or licensure with such entity or contractor,
 33 except to the person to whom the criminal history record relates
 34 or to persons having direct responsibility for employment,
 35 access authorization, or licensure decisions. A person who
 36 violates this subsection commits a misdemeanor of the first
 37 degree, punishable as provided in s. 775.082 or s. 775.083. This
 38 section is subject to the Open Government Sunset Review Act in
 39 accordance with s. 119.15 and shall stand repealed on October 2,
 40 2026, unless reviewed and saved from repeal through reenactment
 41 by the Legislature.

42 Section 2. The Legislature finds that it is a public
 43 necessity that individuals who petition a court and are granted
 44 expunction of certain low-level and nonviolent criminal history
 45 records have such criminal history records made confidential and
 46 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 47 Article I of the State Constitution. The Legislature recognizes
 48 the disproportionate harm that criminalizing the purchase or
 49 possession of small amounts of cannabis has had on minorities
 50 and disadvantaged communities. The Legislature further
 51 recognizes the trends in this state, and nationally, of counties
 52 and localities decriminalizing the purchase or possession of
 53 small amounts of cannabis. The Legislature also recognizes the
 54 need for certain limited exceptions are necessary for public
 55 safety. Without this public records exemption, individuals
 56 having such low-level and nonviolent criminal history records
 57 who are granted expunction of such records might not be able to
 58 seek gainful employment and become productive, contributing

Page 2 of 3

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590-02873-21

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59 members of this state. For these reasons, the Legislature finds
60 that it is a public necessity that such records be made
61 confidential and exempt.

62 Section 3. This act shall take effect on the same date that
63 SB 468 or similar legislation takes effect, if such legislation
64 is adopted in the same legislative session or an extension
65 thereof and becomes 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 Appropriations

BILL: CS/SB 506

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Garcia

SUBJECT: Transparency in Government Spending

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 506 requires a nongovernmental entity that receives at least 50 percent of its annual revenue from state funds or that receives \$750,000 or more from state funds in a fiscal year to submit a report to the Department of Management Services (DMS) by January 15 of each year that includes the name, position, and total annual compensation of, including bonuses, exit bonuses, accrued paid time off, severance payments, and incentive payments paid to, each director, board member, chief executive officer, chief financial officer, chief operating officer, or any other person performing equivalent functions. The report must be verified by a director, board member, chief executive officer, chief financial officer, or chief operating officer of the nongovernmental entity.

The bill provides definitions for the terms “nongovernmental entity” and “state funds.”

The bill requires the DMS to include on its Florida Has a Right to Know website the information reported by the nongovernmental entities beginning February 1, 2022, and annually thereafter.

The bill requires a nongovernmental entity to post the reported information on its own website, if the nongovernmental entity maintains a website.

The bill provides that, before receiving funds from a governmental entity, a nongovernmental entity that received state funds in the previous year must submit to the governmental entity an attestation verifying that the nongovernmental entity has submitted the required report. A

nongovernmental entity that did *not* receive state funds in the previous year must submit, before receiving funds from a governmental entity, to the governmental entity an attestation verifying that the nongovernmental entity did not receive funding in the previous year.

The bill establishes that, beginning January 15, 2022, a governmental entity may not expend, transfer, or distribute funds to a nongovernmental entity until the nongovernmental entity has complied with the reporting and posting requirements. This prohibition is applicable to payments associated with contracts executed, amended, extended, or renewed on or after July 1, 2021, and any transfers or distributions authorized on or after July 1, 2021.

The bill will have an indeterminate negative fiscal impact. *See* Part V, Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

Transparency Florida Act

Section 215.985, F.S., is referred to as the Transparency Government Act (the act). The act mandates the Executive Office of the Governor, in consultation with the appropriations committees of the Senate and the House of Representatives, to establish and maintain a single website that provides access to all other websites required under s. 215.985, F.S. The single website, and other websites must:

- Be constructed for usability and provide an intuitive user experience.
- Provide a consistent visual design, interaction or navigation design, and information or data presentation.
- Be deployed in compliance with the Americans with Disabilities Act.
- Be compatible with all major web browsers.

The outcome of this requirement has been the single webpage known as “Transparency Florida,”¹ an initiative to ensure accountability in how the state spends its money. The Transparency Florida website allows for Florida citizens to view state budgets, payments, and contracts in order to hold state government accountable. The website provides links to:

- State Financials (budget, spending, and related information);
- State Payments;
- Florida State Contract Search (FACTS);
- State Contract Audits;
- State Economic Incentives Program;
- Quasi Government Spending;
- Estimated state taxes paid based on income;
- State Financial Reports;
- Local Government Financial Reporting; and
- State Employee Data (Florida Has a Right to Know).

¹ Department of Financial Services, *Transparency Florida*, available at <https://www.myfloridacfo.com/Transparency/> (last visited Apr. 5, 2021).

Florida Fiscal Portal

Section 215.985(5), F.S., requires the Executive Office of the Governor to establish and maintain a website that provides information relating to fiscal planning for the state.² This website is known as the “Florida Fiscal Portal” and houses a collection of documents that detail the fiscal status of the state. The website includes agency legislative budget requests, the long-range financial outlook, the Governor’s budget recommendation, and other fiscal publications.³ The Office of Policy and Budget in the Executive Office of the Governor ensures all data added to the website remains accessible to the public for 10 years.

Florida Has a Right to Know Website

The DMS is required to maintain a website that provides current information regarding each employee or officer of a state agency, a state university, a Florida College System institution, or the State Board of Administration, regardless of the appropriation category.⁴ This website, known as “Florida Has a Right to Know,” provides current information relating to each employee or officer including the:

- Name;
- Salary or hourly rate of pay;
- Position number, class code, and class title; and
- Employing agency and budget entity.⁵

The information must be searchable by state agency, state university, Florida College System institution, and State Board Administration, and by employee name, salary range, or class code, and must be downloadable in a format that allows offline analysis.⁶

Florida Accountability Contract Tracking System

The Chief Financial Officer (CFO) is required to establish and maintain a secure contract tracking system available for viewing and downloading by the public through a secure website.⁷ The Department of Financial Services (DFS) maintains and updates the contract tracking system. The tracking system contains contracts, grant awards, and amendments to contracts.

Within 30 days after executing a contract, each state entity is required to post the following information relating to the contract on the contract tracking system:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;

² Section 215.985(5), F.S.

³ Florida Fiscal Portal, available at <http://floridafiscalportal.state.fl.us/Home.aspx> (last visited Apr. 5, 2021).

⁴ Section 215.985(6), F.S.

⁵ Section 215.985(6)(a), F.S.

⁶ Section 215.985(6)(b), F.S.

⁷ Section 215.985(14), F.S.

- Applicable contract performance measures;
- If a competitive solicitation was not used to procure the goods and services, the justification of the action, including citation to a statutory exemption from competitive solicitation if any; and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential information or exempt information.⁸

Within 30 calendar days after an amendment to an existing contract, the state entity that is a party to the contract must update the information on the contract tracking system.

Records made available on the contract tracking system may not reveal information made confidential or exempt by law. Each state entity that is a party to a contract must redact confidential and exempt information from the contract and procurement documents before posting an electronic copy on the contract tracking system.⁹ A request to redact confidential and exempt information must be made in writing and delivered by mail, facsimile, electronic transmission, or in person to the state entity. The CFO, and the DFS, or an employee thereof, is not responsible for redacting confidential or exempt information contained on the system or the failure of a state entity to redact the confidential or exempt information. The CFO may regulate and prohibit the posting of records that could facilitate identity theft or fraud. Such action by the CFO does not supersede the duty of a public entity to provide a copy of a public record upon request.¹⁰

Verification of Documents

Section 92.525, F.S., specifies that the requirement that a document be verified means that the document must be signed or executed by a person and that the person must state under oath (affirmation) that the facts or matters stated or recited in the document are true or other words to that effect. A document may be verified in three ways:

- Under oath or affirmation taken or administered before an officer authorized under s. 92.50, F.S., to administer oaths;
- Under oath or affirmation taken or administered by an officer authorized under s. 117.10, F.S., to administer oaths; or
- By the signing of the written declaration prescribed in s. 92.525(2), F.S.^{11,12}

III. Effect of Proposed Changes:

Section 1 amends s. 215.985, F.S., to expand transparency in government spending.

⁸ Section 215.985(14)(a), F.S.

⁹ Section 215.985(14)(d), F.S.

¹⁰ Section 215.985(14)(f), F.S.

¹¹ Section 92.525(2), F.S., provides that a written declaration means the following statement: “Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true,” followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words “to the best of my knowledge and belief” may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

¹² Section 92.525(1), F.S.

The term “nongovernmental entity” is defined as a nonprofit corporation.

The term “state funds” is defined to mean funds paid from the General Revenue Fund or any state trust fund, funds allocated by the Federal Government and distributed by the state, or funds appropriated by the state for distribution through any grant program.

This section requires a nongovernmental entity that receives at least 50 percent of its annual revenue, calculated using the nongovernmental entity’s fiscal year, from state funds or that receives \$750,000 or more from state funds in a fiscal year, to submit a report to the DMS by January 15 of each year that lists the name, position, and total annual compensation of, including bonuses, exit bonuses, accrued paid time off, severance payments, and incentive payments paid to each director, board member, chief executive officer, chief financial officer, chief operating officer, or any other person performing equivalent functions of the nongovernmental entity. The report must be verified as provided in s. 92.525, F.S., by a director, board member, chief executive officer, chief financial officer, or chief operating officer of the nongovernmental entity. Beginning February 1, 2022, and annually thereafter, the DMS must post the submitted information on its Florida Has a Right to Know website. In addition, the nongovernmental entity must post the same information on its own website if it maintains a website.

Before receiving funds from a governmental entity, a nongovernmental entity must attest that it has received state funds above the applicable thresholds in the previous year and has submitted the report required to the DMS, or that it did not receive funding meeting those thresholds in the previous year.

Beginning January 15, 2022, a governmental entity may not expend, transfer, or distribute funds to a nongovernmental entity until the nongovernmental entity has complied with the requirements of the bill. This prohibition is applicable to payments associated with contracts executed, amended, extended, or renewed on or after July 1, 2021, and any transfers or distributions authorized on or after July 1, 2021.

Section 2 provides that the bill take 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have an indeterminate fiscal impact on private sector organizations. A nonprofit corporation may experience costs associated with complying with the reporting requirement and including the reported information on its own website, if it maintains one. Further, nongovernmental entities will incur additional workload and costs associated with verifying the attestation being submitted to the affiliated governmental entity.

C. Government Sector Impact:

The DMS will incur additional workload and associated costs resulting from the processing and posting of the data provided by nongovernmental entities. The DMS estimates costs, based on current technology spending for the Florida Has a Right to Know website, will result in a net increase of at least \$1,000 annually to maintain the data on the portal.¹³

The bill prohibits governmental entities from expending, transferring, or distributing funds to a nongovernmental entity that is in noncompliance with the requirements of the bill. Governmental entities will experience increased workload and associated costs relating to the determination or confirmation of a nongovernmental entity's compliance before expending, transferring, or distributing funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill as currently drafted does not appear to provide to noncompliant nongovernmental entities notice or an opportunity to be heard prior to the suspension of funding.

¹³ Department of Management Services, *2021 Agency Legislative Bill Analysis for CS/SB 506*, at 4 (Mar. 22, 2021) (on file with the Senate Subcommittee on Agriculture, Environment, and General Government).

VIII. Statutes Affected:

This bill substantially amends section 215.985 of the Florida Statutes.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 17, 2021:

The CS:

- Provides a definition for “nongovernmental entity” and “state funds.”
- Requires a nonprofit corporation that receives at least 50 percent of its annual revenue from state funds or that receives \$750,000 or more from state funds in a fiscal year, to submit to the DMS a report providing compensation information of the nongovernmental entities executives.
- Requires the DMS to include on the Florida Has a Right to Know website the information provided by the nongovernmental entity.
- Requires nongovernmental entities, before they receive funds from a governmental entity, to submit to the governmental entity an attestation verifying whether or not the nongovernmental entity submitted the required report if they received funding the previous year.
- Requires nongovernmental entities, before they receive funds from a governmental entity, which did not receive funding in the previous year, to submit to the governmental entity an attestation verifying that the nongovernmental entity did not receive funding in the previous year.
- Prohibits governmental entities from expending, transferring, or distributing funds to a nongovernmental entity until the nongovernmental entity has complied with the reporting requirements.
- Establishes that the provisions of the bill are applicable to payments associated with contracts executed, amended, extended, or renewed on or after July 1, 2021.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Garcia

585-02992-21

2021506c1

1 A bill to be entitled
2 An act relating to transparency in government
3 spending; amending s. 215.985, F.S.; defining terms;
4 requiring nongovernmental entities that have received
5 a specified amount of state funds to submit an annual
6 report detailing certain compensation data to the
7 Department of Management Services; requiring such
8 reports to be verified under penalty of perjury;
9 requiring the department to post the information
10 received through such reports on a specified website;
11 requiring a nongovernmental entity to post the
12 reported compensation information on its website;
13 requiring a nongovernmental entity to take certain
14 actions before receiving funds from a governmental
15 entity; prohibiting a governmental entity from
16 expending, transferring, or distributing funds to a
17 nongovernmental entity if compliance with reporting
18 requirements is not met; specifying applicability;
19 providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (2) and (6) of section 215.985,
24 Florida Statutes, are amended to read:
25 215.985 Transparency in government spending.—
26 (2) As used in this section, the term:
27 (a) "Committee" means the Legislative Auditing Committee.
28 (b) "Contract" means a written agreement or purchase order
29 issued for the purchase of goods or services or a written

Page 1 of 4

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

585-02992-21

2021506c1

30 agreement for the receipt of state or federal financial
31 assistance.
32 (c) "Governmental entity" means a state, regional, county,
33 municipal, special district, or other political subdivision
34 whether executive, judicial, or legislative, including, but not
35 limited to, a department, division, bureau, commission,
36 authority, district, or agency thereof, or public school,
37 Florida College System institution, state university, or
38 associated board.
39 (d) "Nongovernmental entity" means a nonprofit corporation.
40 (e) "State funds" means funds paid from the General Revenue
41 Fund or any state trust fund, funds allocated by the Federal
42 Government and distributed by the state, or funds appropriated
43 by the state for distribution through any grant program.
44 (f) "Website" means a site on the Internet which is easily
45 accessible to the public at no cost and does not require the
46 user to provide information.
47 (6) (a) The Department of Management Services shall
48 establish and maintain a website that provides current
49 information relating to each employee or officer of a state
50 agency, a state university, a Florida College System
51 institution, or the State Board of Administration, regardless of
52 the appropriation category from which the person is paid.
53 1. (a) For each employee or officer, the information must
54 include, at a minimum, his or her:
55 a. 1- Name and salary or hourly rate of pay.
56 b. 2- Position number, class code, and class title.
57 c. 3- Employing agency and budget entity.
58 2. (b) The information must be searchable by state agency,

Page 2 of 4

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

585-02992-21 2021506c1

59 state university, Florida College System institution, and the
60 State Board of Administration, and by employee name, salary
61 range, or class code and must be downloadable in a format that
62 allows offline analysis.

63 (b)1. A nongovernmental entity that receives at least 50
64 percent of its annual revenue, calculated using the
65 nongovernmental entity's fiscal year, from state funds or that
66 receives \$750,000 or more in state funds in a fiscal year, must
67 submit to the Department of Management Services by January 15 of
68 each year a report that includes the name, position, and total
69 annual compensation of, including bonuses, exit bonuses, accrued
70 paid time off, severance payments, and incentive payments paid
71 to, each director, board member, chief executive officer, chief
72 financial officer, or chief operating officer or any other
73 person performing equivalent functions. The report must be
74 verified as provided in s. 92.525 by a director, board member,
75 chief executive officer, chief financial officer, or chief
76 operating officer of the nongovernmental entity.

77 2. Beginning February 1, 2022, and each February 1
78 thereafter, the Department of Management Services shall include
79 the information reported in subparagraph 1. on the website
80 established under paragraph (a).

81 3. A nongovernmental entity required to submit a report
82 under subparagraph 1. must post the reported information on its
83 website if the entity maintains a website.

84 4. Before receiving funds from a governmental entity, a
85 nongovernmental entity that:

86 a. Received funding subject to this paragraph in the
87 preceding year must submit to the governmental entity an

585-02992-21 2021506c1

88 attestation verified as provided in s. 92.525, that the
89 nongovernmental entity has submitted the report required in
90 subparagraph 1.

91 b. Did not receive funding subject to this paragraph in the
92 preceding year must submit to the governmental entity an
93 attestation verified as provided in s. 92.525, that the
94 nongovernmental entity has not received funding in the preceding
95 year.

96 5.a. Beginning January 15, 2022, a governmental entity may
97 not expend, transfer, or distribute funds to a nongovernmental
98 entity until the nongovernmental entity has complied with the
99 requirements of this paragraph.

100 b. This subparagraph is applicable to payments associated
101 with contracts executed, amended, extended, or renewed on or
102 after July 1, 2021, and any transfers or distributions
103 authorized on or after July 1, 2021.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 17, 2021

I respectfully request that **Senate Bill #506**, relating to Transparency in Government Spending, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ileana Garcia".

Senator Ileana Garcia
Florida Senate, District 37

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 Appropriations

BILL: CS/CS/SB 694

INTRODUCER: Appropriation Committee; Community Affairs Committee; and Senator Rodrigues and others

SUBJECT: Waste Management

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Paglialonga</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	<u>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 694 amends the requirement that a local government must either provide three years' notice before its solid waste collection service displaces a private waste company or pay the displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service. The bill requires a local government that displaces a solid waste collection service to provide a three-year notice period *and* pay the displaced company an amount equal to the company's preceding 18 months' gross receipts at the end of the notice period. The bill specifies that this does not apply to any displacement where the local government provided three years notice on or before December 31, 2020.

The bill defines the term "storm-generated yard trash" to expressly include storm-generated debris. It further provides that a private solid waste or debris management service provider is not required to collect such debris unless it is otherwise specified in a contract or agreement with a local government.

The bill also requires the Department of Environmental Protection (DEP) to review and update their 2010 Retail Bags Report. The DEP must submit the updated report with conclusions and recommendations to the Legislature by December 31, 2021. Until such time that the Legislature adopts the recommendations of the DEP, a local government, local governmental agency, or state governmental agency may not enact any rule, regulation, or ordinance regarding use, disposition,

sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

The DEP may incur nominal costs while reviewing and updating its 2010 Retail Bags Report.

The bill takes effect July 1, 2021.

II. Present Situation:

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.² Likewise, municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide services, and exercise any power for municipal purposes except as otherwise provided by law.³

County governments have authority to provide fire protection, ambulance services, parks and recreation, libraries, museums and other cultural facilities, waste and sewage collection and disposal, and water and alternative water supplies.⁴ Municipalities are afforded broad home rule powers with the exception of annexation, merger, exercise of extraterritorial power, or subjects prohibited or preempted by the Federal or State Constitution, county charter, or statute.⁵

Solid Waste

Counties have the authority to provide and regulate waste and sewage collection and disposal.⁶ A county may require that any person within the county demonstrate the existence of some arrangement or contract by which the person's solid waste⁷ will be disposed of in a manner consistent with county ordinance or state or federal law.⁸ Counties also have authority to adopt ordinances that govern the disposal of solid waste generated outside the county at the county's solid waste disposal facility.⁹

The DEP is responsible for implementing and enforcing the solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and

¹ FLA. CONST., art. VIII, s. 1.(f).

² FLA. CONST., art. VIII, s. 1.(g).

³ FLA. CONST., art. VIII, s. 2.(b); *see also* s. 166.021(1), F.S.

⁴ Sections 125.01(1)(d)(e)(f) and (k)1., F.S.

⁵ Section 166.021(3), F.S.

⁶ Section 125.01(1)(k), F.S.

⁷ Section 403.703(36), F.S. "Solid waste" is defined as sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

⁸ Section 125.01(1)(k)2., F.S.

⁹ Section 403.706(1), F.S.

disposal of solid waste throughout the state.¹⁰ The program is required to include procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.¹¹

Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county¹² and may contract with other persons to fulfill some or all of its solid waste responsibilities.¹³ Each county must ensure that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means.¹⁴ In providing services or programs for solid waste management, local governments and state agencies are encouraged to use the most cost-effective means for providing services and are encouraged to contract with private entities for any or all such services or programs to assure that those services are provided on the most cost-effective basis.¹⁵ Local governments are expressly prohibited from discriminating against privately owned solid waste management facilities solely because they are privately owned.¹⁶

Competition with Private Companies

Section 403.70605, F.S., was enacted in 2000 to address concerns of private waste management companies regarding competition with local governments' solid waste departments for third party service contracts.¹⁷ Private companies were concerned that public entities were able to subsidize their costs with funds from other government operations, allowing the public entities to unfairly compete for contracts.¹⁸

Solid Waste Collection Services in Direct Competition

Under s. 403.70605, F.S., local governments providing specific solid waste collection services in direct competition with a private company must comply with local environmental, health, and safety standards applicable to private companies providing competitive collection services.¹⁹ Local governments may not enact or enforce any license, permit, registration procedure, or associated fee that:

- Does not apply to the local government and for which there is not a substantially similar requirement that applies to the local government; and
- Provides the local government with a material advantage in its ability to compete with a private company in terms of cost or ability to promptly or efficiently provide such collection services, excluding zoning, land use, or comprehensive plan requirements.²⁰

¹⁰ Section 403.705, F.S.

¹¹ Section 403.705(2)(a), F.S.

¹² Section 403.706(1), F.S.

¹³ Section 403.706(8), F.S.

¹⁴ Section 403.706(3), F.S.

¹⁵ Section 403.7063, F.S.

¹⁶ *Id.*

¹⁷ Chapter 2000-304, s. 1, Laws of Fla.

¹⁸ See Florida House of Representatives, Committee on Community Affairs, *CS/HB 1425 Final Analysis*, p. 2 (May 12, 2000), available at <http://archive.flsenate.gov/data/session/2000/House/bills/analysis/pdf/HB1425S1Z.CA.pdf> (last visited Feb. 5, 2021).

¹⁹ Section 403.70605(1)(a), F.S.

²⁰ Section 403.70605(1)(a)2., F.S.

When providing solid waste collection services outside of their jurisdiction in competition with private companies, local governments are prohibited from instituting predatory pricing schemes.²¹

A private company in competition with a local government has legal remedies against local government action that violates the statute, including injunctive relief.²² The private company must notify the local government of the violation and give them 30 days to respond.²³ No injunctive relief is granted if the official action has a reasonable relationship to the health, safety, or welfare of the citizens of the local government, unless a court finds the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.²⁴

Displacement of Private Garbage, Trash, and Refuse Collection Services

A local government, or group of local governments, may not displace a private company²⁵ that provides garbage, trash, or refuse collection without following the requirements under s. 403.70605, F.S. “Displacement” means a local government’s provision of a collection service which prohibits a private company from continuing to provide the same service it was providing when the decision to displace was made.²⁶

Displacement does not include:

- Public and private sector competition for individual contracts;
- A local government refusing to renew an expiring contract with a private company;
- Local government action in response to an act by a private company that is a threat to public health or safety, or results in a substantial public nuisance;
- Local government action in response to material breach by a private company of its contract with the local government;
- Refusal by a private company to continue operations under the terms and conditions of existing agreement during the three-year notice period;
- Contracts between local governments and private waste companies absent an ordinance that displaces another private company;
- A majority of property owners in the displacement area petitioning for the local governing body to take over collection services;
- Municipal annexations honoring existing solid waste contracts pursuant to law; or
- A private company licensed to provide service for a limited time whose license expires and is not renewed by the local government.²⁷

Before displacing a private company, a local government must first hold at least one public hearing, publicly noticed with a separate notice to private companies providing the service within

²¹ Section 403.70605(2), F.S.; *see also* ss. 542.18 and 542.19, F.S.

²² Sections 403.70605(1)(b) and (2)(c), F.S.

²³ Section 403.70605(1)(b), F.S.

²⁴ *Id.*

²⁵ Section 403.70605(4)(b), F.S. “Private company” is defined as “any entity other than a local government or other unit of government that provides solid waste collection services.”

²⁶ Section 403.70605(3)(a), F.S.

²⁷ *Id.*

the jurisdiction, on the advisability of the local government providing the service.²⁸ The local government must take measures to provide services within one year of the final public hearing.²⁹ The local governments must provide three years' notice to a private company before it engages in the actual provision of the service that displaces the company.³⁰ As an alternative to delaying displacement three years, the local government may pay a displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service in the displacement area.³¹ The local government and the private company are not prohibited from voluntarily negotiating a different notice period or amount of compensation.³²

If a private company refuses to continue operations under the terms and conditions of its existing agreement during the three-year notice period, the company is no longer considered displaced and the notice period lapses.³³

Department of Environmental Protection Retail Bag Report

In response to growing concerns regarding the impact of retail plastic bags on the environment, the Legislature enacted s. 403.7033, F.S., in 2008 to require the DEP to analyze "the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments." Section 403.7033, F.S., required the DEP to submit a report with its conclusions and recommendations to the Legislature by February 1, 2010.³⁴

Additionally, s. 403.7033, F.S., includes a prohibition on local governments, local governmental agencies, and state government agencies from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts the DEP's recommendations.³⁵ To date, the Legislature has not adopted any recommendations contained in the report and the prohibition on any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags remains in effect.

III. Effect of Proposed Changes:

Section 1 amends s. 403.7033, F.S., to require the DEP to review and update their 2010 Retail Bags Report. The DEP must submit the updated report with conclusions and recommendations to the Legislature by December 31, 2021. Until such time that the Legislature adopts the recommendations of the DEP, a local government, local governmental agency, or state governmental agency may not enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

²⁸ Section 403.70605(3)(b), F.S.

²⁹ Section 403.70605(3)(c), F.S.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Section 403.70605(3)(a)5., F.S.

³⁴ Section 403.7033, F.S.

³⁵ *Id.*

Section 2 amends s. 403.70605, F.S., which establishes the process a local government must follow when its provision of a solid waste collection service displaces a private waste company. Under current law, a local government must either provide three years' notice to the private company before beginning the displacing service, or, as an alternative to delaying displacement for three years, the local government may pay the displaced company an amount equal to the company's preceding 15 months' gross receipts for the displaced service. The bill requires local governments to provide the three years' notice *and* pay the private company an amount equal to its preceding 18 months' gross receipts at the end of the three-year notice period.

Section 3 provides that this act does not apply to any displacement if the local government provided three years' notice to the displaced private company or companies on or before December 31, 2020.

Section 4 provides a definition in s. 403.703, F.S., for the term "storm-generated yard trash" as vegetative matter that:

- Results from a tropical storm, a hurricane, a tornado, or any other significant weather event and is located or placed within a federally designated disaster area on public property or a public right-of-way;
- Is eligible for federal reimbursement; and
- Is placed curbside or on public property or a public right-of-way within the 15-day period after the tropical storm, hurricane, tornado, or other significant weather event that is the subject of the federally declared disaster.

The bill further provides the definition expressly includes storm-generated debris, as described in existing law, which is solid waste generated as a result of a storm event that is the subject of an emergency order issued by the DEP.

Section 5 amends s. 403.7071, F.S., to provide that a private solid waste or debris management service provider is not required to collect storm-generated yard trash, unless otherwise specified in a contract or franchise agreement between a local government and a private service provider.

Section 6 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be an indeterminate, positive economic impact on the private sector because the bill deletes the authorization in current law for local governments to pay the displaced company 15 months of gross receipts instead of providing three year's notice so that the displaced companies are assured three years' notice prior to displacement and 18 months of gross receipts when their service ends.

C. Government Sector Impact:

There may be an indeterminate, negative fiscal impact on local governments because the bill deletes the authorization in current law for local governments to pay the displaced company 15 months of gross receipts instead of providing three year's notice so that the displaced companies are assured three years' notice prior to displacement and 18 months of gross receipts when their service ends.

The DEP may incur nominal costs while reviewing and updating its 2010 Retail Bags Report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.7033 and 403.70605.

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

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

CS by Appropriations Committee on April 15, 2021:

The committee substitute:

- Removes a deletion to retain a provision authorizing local governments and displaced private waste companies to voluntarily negotiate a notice period or amount of compensation different from those provided in statute.
- Specifies that the bill does not apply to any displacement where the local government provided three years' notice to the displaced private company(s) on or before December 31, 2020.
- Creates a new definition for part IV of ch. 403, F.S., defining “storm-generated yard trash” as vegetative matter that:
 - Results from a tropical storm, a hurricane, a tornado, or any other significant weather event and is located or placed within a federally designated disaster area on public property or a public right-of-way;
 - Is eligible for federal reimbursement; and
- Is placed curbside or on public property or a public right-of-way within the 15-day period after the tropical storm, hurricane, tornado, or other significant weather event that is the subject of the federally declared disaster.
- Provides the definition expressly includes storm-generated debris, as described in existing law, which is solid waste generated as a result of a storm event that is the subject of an emergency order issued by the Department of Environmental Protection.
- Provides that a private solid waste or debris management service provider is not required to collect storm-generated yard trash, unless otherwise specified in a contract or franchise agreement between a local government and a private service provider.

CS by Community Affairs on March 30, 2021:

The committee substitute adds the provision requiring the DEP to review and update the its 2010 Retail Bags Report and changes the title of the bill to “an act relating to waste management.”

B. Amendments:

None.



426204

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 62 - 64

and insert:

~~in~~ This paragraph does not prohibit ~~prohibits~~ the local government and the company from voluntarily negotiating a different notice period or amount of compensation.

Section 3. This act does not apply to any displacement as defined in s. 403.70605(3)(a), Florida Statutes, if the local government provided 3 years' notice to the displaced private



426204

11 company or companies on or before December 31, 2020.

12

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

14 And the title is amended as follows:

15 Delete lines 13 - 16

16 and insert:

17 delaying displacement for a specified period;

18 providing applicability; providing an effective date.



403980

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Between lines 64 and 65
insert:

Section 3. Present subsections (42) through (47) of section 403.703, Florida Statutes, are redesignated as subsections (43) through (48), respectively, and a new subsection (42) is added to that section, to read:

403.703 Definitions.—As used in this part, the term:
(42) (a) "Storm-generated yard trash" means vegetative



403980

11 matter that:

12 1. Results from a tropical storm, a hurricane, a tornado,
13 or any other significant weather event and is located or placed
14 within a federally designated disaster area on public property
15 or a public right-of-way;

16 2. Is eligible for federal reimbursement under 42 U.S.C. s.
17 5121 et seq.; and

18 3. Is placed curbside or on public property or a public
19 right-of-way within the 15-day period after the tropical storm,
20 hurricane, tornado, or other significant weather event that is
21 the subject of the federally declared disaster.

22 (b) The term includes storm-generated debris under s.
23 403.7071.

24 Section 4. Subsection (7) is added to section 403.7071,
25 Florida Statutes, and subsection (6) of that section is
26 reenacted, to read:

27 403.7071 Management of storm-generated debris.—Solid waste
28 generated as a result of a storm event that is the subject of an
29 emergency order issued by the department may be managed as
30 follows:

31 (6) Local governments or their agents may conduct the
32 burning of storm-generated yard trash, other storm-generated
33 vegetative debris, or untreated wood from construction and
34 demolition debris in air-curtain incinerators without prior
35 notice to the department. Within 10 days after commencing such
36 burning, the local government shall notify the department in
37 writing describing the general nature of the materials burned;
38 the location and method of burning; and the name, address, and
39 telephone number of the representative of the local government



403980

40 to contact concerning the work. The operator of the air-curtain
41 incinerator is subject to any requirement of the Florida Forest
42 Service or of any other agency concerning authorization to
43 conduct open burning. Any person conducting open burning of
44 vegetative debris is also subject to such requirements.

45 (7) Unless otherwise specified in a contract or franchise
46 agreement between a local government and a private solid waste
47 or debris management service provider, a private solid waste or
48 debris management service provider is not required to collect
49 storm-generated yard trash.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete line 16

54 and insert:

55 notice; amending s. 403.703, F.S.; defining the term
56 "storm-generated yard trash"; reenacting and amending
57 s. 403.7071, F.S.; providing that private solid waste
58 or debris management service providers are not
59 required to collect storm-generated yard trash unless
60 required to do so by contract or franchise agreement
61 with a local government; providing an effective date.

By the Committee on Community Affairs; and Senators Rodrigues
and Perry

578-03606-21

2021694c1

1 A bill to be entitled
2 An act relating to waste management; amending s.
3 403.7033, F.S.; requiring the Department of
4 Environmental Protection to review and update its
5 report on retail bags and submit the updated report to
6 the Legislature by a specified date; amending s.
7 403.70605, F.S.; requiring a local government to pay a
8 specified amount of compensation to a displaced
9 private waste company at the end of a specified notice
10 period; removing a provision authorizing a local
11 government to pay a specified amount of compensation
12 to a private waste company as an alternative to
13 delaying displacement for a specified period; removing
14 a provision authorizing a local government and private
15 waste company to negotiate such compensation and
16 notice; providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Section 403.7033, Florida Statutes, is amended
21 to read:
22 403.7033 Departmental analysis of particular recyclable
23 materials.—The Legislature finds that prudent regulation of
24 recyclable materials is crucial to the ongoing welfare of
25 Florida's ecology and economy. As such, the Department of
26 Environmental Protection shall review and update its 2010 report
27 on retail bags analyzing ~~undertake an analysis of~~ the need for
28 new or different regulation of auxiliary containers, wrappings,
29 or disposable plastic bags used by consumers to carry products

Page 1 of 3

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

578-03606-21

2021694c1

30 from retail establishments. The updated report must analysis
31 ~~shall~~ include input from state and local government agencies,
32 stakeholders, private businesses, and citizens, and ~~must shall~~
33 evaluate the efficacy and necessity of both statewide and local
34 regulation of these materials. To ensure consistent and
35 effective implementation, the department shall submit the
36 updated a report with conclusions and recommendations to the
37 Legislature no later than December 31, 2021 ~~February 1, 2010~~.
38 Until such time that the Legislature adopts the recommendations
39 of the department, a ~~no~~ local government, local governmental
40 agency, or state governmental ~~government~~ agency may not enact
41 any rule, regulation, or ordinance regarding use, disposition,
42 sale, prohibition, restriction, or tax of such auxiliary
43 containers, wrappings, or disposable plastic bags.
44 Section 2. Paragraph (c) of subsection (3) of section
45 403.70605, Florida Statutes, is amended to read:
46 403.70605 Solid waste collection services in competition
47 with private companies.—
48 (3) DISPLACEMENT OF PRIVATE WASTE COMPANIES.—
49 (c) Following the final public hearing held under paragraph
50 (b), but not later than 1 year after the hearing, the local
51 government may proceed to take those measures necessary to
52 provide the service. The A local government shall provide 3
53 years' notice to the a private company before it engages in the
54 actual provision of the service that displaces the company. At
55 the end of the 3-year notice period ~~As an alternative to~~
56 ~~delaying displacement 3 years,~~ the a local government shall may
57 pay the a displaced company an amount equal to the company's
58 preceding 18 ~~15~~ months' gross receipts for the displaced service

Page 2 of 3

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

578-03606-21

2021694c1

59 in the displacement area. The 3-year notice period shall lapse
60 as to any private company being displaced when the company
61 ceases to provide service within the displacement area. ~~Nothing~~
62 ~~in this paragraph prohibits the local government and the company~~
63 ~~from voluntarily negotiating a different notice period or amount~~
64 ~~of compensation.~~

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES

27th District

April 7, 2021

The Honorable Kelli Stargel
Senate Appropriations Committee, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 694- Waste Management

Dear Madam Chair:

Please allow this letter to serve as my respectful request to place CS/SB 694, relating to Waste Management, on the next committee agenda.

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

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodrigues".

Ray Rodrigues
Senate District 27

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Administrative Assistant

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

55694

Bill Number (if applicable)

403980

Amendment Barcode (if applicable)

Topic WASTE MANAGEMENT - STORM GENERATED

YALD TRASH

Name KEYNA CORY

Job Title

Address 730 EAST PARK AVE

Phone 8506811065

Street

TANANAWASSEE

FL

32301

Email Keynacory@paconsultants.com

City

State

Zip

Speaking: For Against Information

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

Representing NATIONAL WASTE & RECYCLING ASSN - FL CHAPTER

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)

4/15/21

Meeting Date

SB 694

Bill Number (if applicable)

426204

Amendment Barcode (if applicable)

Topic WASTE MANAGEMENT

Name KEYNA CORY

Job Title _____

Address 730 EAST PARK AVE

Street

Phone 850 681-1065

TALLAHASSEE FL 32301

City

State

Zip

Email keynacory@pacconsultants.com

Speaking: For Against Information

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

Representing NATIONAL WASTE RECYCLING ASSN - FL CHAPTER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

SB 694

Bill Number (if applicable)

Topic WASTE MANAGEMENT

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title _____

Address 730 EAST PARK AVE

Phone 850 681 1065

Street

TAUAHASSEE 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 NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

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 Appropriations

BILL: PCS/CS/SB 748 (236698)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senator Brandes

SUBJECT: Courts

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 748 revises a broad range of statutes that govern the operation of the court system. Some of the diverse changes are made to accommodate developments in technology, some reflect the impact COVID-19 has had on the court system, and one change recognizes the effect of inflation on the monetary jurisdictional thresholds in the county courts.

- The bill updates provisions controlling the maintenance of appellate court records to allow the electronic storage of court records at a remote location. These provisions are updated to keep pace with electronic technology rather than require the court clerk to keep manual control of the records.
- The clerks of court, working with the Florida Courts Technology Commission, must prepare a plan to procure or develop a statewide electronic solution that identifies all civil and criminal mandatory financial assessments required by statute.
- The jurisdictional amount of county courts will be adjusted beginning in 2030, and every 10 years afterwards, to account for inflation based on changes in the Consumer Price Index.
- The jurisdictional limit must be rounded to the nearest \$5,000, but no lower than \$50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter.
- The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

- The bill authorizes a person to postpone for jury service for up to 1 year when a public health emergency or a state of emergency is declared.
- Finally, the bill revises three criminal statutes to authorize the taking and certification of fingerprints when a guilty judgment is entered in a proceeding that is conducted remotely. The fingerprints no longer must be taken in open court and in the judge's presence.

The bill takes effect July 1, 2021.

II. Present Situation:

Responsibilities of the Clerk of the Florida Supreme Court

Chapter 25, F.S., is devoted to the organization and operation of the Florida Supreme Court. Among the provisions in the chapter are two statutes detailing the responsibilities of the Clerk of the Supreme Court. The clerk must keep all books, papers, records, files, and the seal of the Court in the clerk's office in the Supreme Court Building and in his or her custody.¹

Additionally, any decisions and opinions delivered by the Court or any justice must be filed and remain in the clerk's office. These decisions and opinions may not be removed unless ordered by the Court. The clerk is required to furnish certified copies of the decisions and opinions to any person who requests them and pays the necessary fees.² These statutes do not accommodate the developments in technology that allow for digital storage in a remote location.

Mandatory Monetary Assessments

The clerks of the circuit courts were required, by October 1, 2012, to develop a uniform form for the identification and imposition of all assessments mandated by statute. The clerks were required to work with their association and in consultation with the Office of the State Courts Administrator to develop the form. An assessment includes, but is not limited to, a fine or other monetary penalty, fee, service charge, or cost. The clerks are currently required to submit that form by October 1 of each year to the Supreme Court for approval. The form must contain updates to reflect recent changes made in the law. Once a form is approved by the Court, all circuit and county courts must use the form.³

According to information supplied in the *Judicial Branch 2021 Legislative Agenda*, the clerks' association, the Florida Court Clerks and Comptrollers, submitted the initial form matrix as required on October 1, 2012, and updated the form annually. The matrix is a catalogue of mandatory and discretionary fines, fees, charges, and costs in many areas, both civil and criminal. It provides the necessary statutory authority for each item with a brief description, states whether the item is mandatory or discretionary, provides the minimum and maximum amounts authorized, and often contains brief comments on the assessment.⁴ *The Judicial Branch 2021 Legislative Agenda* further states that the Supreme Court has never approved the form

¹ Section 25.221, F.S.

² Section 25.301, F.S.

³ Section 28.2457(1), (2), and (3), F.S.

⁴ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, (January 21, 2021) (on file with the Senate Committee on Judiciary).

matrix because of “concerns that it is not a form within the meaning of the statute.” However, the chief justice has provided the document each year to the chief judges of the trial courts for their use as a possible resource.⁵

The Judicial Management Council’s Workgroup on Court Costs and Fines⁶ was established on December 31, 2018, within the Judicial Management Council. Its purpose is to review monetary assessments and identify methods that will reduce the disproportionate impact the assessments have on low income individuals.⁷ In June 2020, the Workgroup finalized its report, *Court Costs and Fines in Florida*, and the report was approved by the Judicial Management Council on August 31, 2020. The Workgroup recommended:

- Removing from statute the requirement for a uniform form for identifying and imposing assessments that the clerks produce; and
- Working in cooperation with the clerks of court to develop reforms, using an electronic system, to standardize the ability to identify and impose assessments and payments.

The Supreme Court approved these recommendations on November 4, 2020, at the Court Conference for consideration by the Legislature.⁸

Jurisdictional Amount of County Courts

A county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional or monetary limits:

- All criminal misdemeanor cases not cognizable by the circuit courts.
- All violations of municipal and county ordinances.
- Disputes occurring in homeowner associations, but this jurisdiction is concurrent with the jurisdiction of the circuit courts.⁹

The statute governing the jurisdiction of county courts was amended in 2018 to increase the maximum jurisdictional amount of county courts in a three-step process. For all actions, except those within the exclusive jurisdiction of the circuit courts, in which the matter in controversy does not exceed, exclusive of interest, costs, and attorney fees, the jurisdictional amount is:

- \$15,000 if filed on or before December 31, 2019.
- \$30,000 if filed on or after January 1, 2020.
- \$50,000 if filed on or after January 1, 2023.¹⁰

⁵ *Id.*, at 13.

⁶ The Judicial Management Councils are described as “high-level management consultants” to the Florida Supreme Court. The first Judicial Management Council was established in 2012 and the current council is the Court’s fifth council. Each council is composed of 15 voting members including the Chief Justice and one other justice, members of each level of the court system, and members from the public. The council meets at least quarterly and is tasked with identifying potential crisis situations for the judiciary and developing strategies to meet those concerns; evaluating information that will improve the effectiveness and performance of the judicial branch; developing and monitoring the judiciary’s long-range planning work; reviewing the charges of the courts and Florida Bar commissions and committees, making revisions and proposing ways to coordinate the work of these groups; and addressing issues that the Supreme Court brings before the council.

<https://www.flcourts.org/Administration-Funding/Judicial-Management-Council>

⁷ Fla. Admin. Order No. AOSC18-77.

⁸ *Judicial Branch Legislative Agenda*, *supra* note 4, at 15.

⁹ Section 34.01(1), F.S.

¹⁰ *Id.*; Ch. 2019-58, s. 9, Laws of Fla.

When the statute was amended in 2018, an additional provision was included requiring the Office of the State Courts Administrator to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by February 1, 2021. The report was to include recommendations regarding the adjustment of county court jurisdiction that considered the claim value of filings in both county and circuit courts, case events, the timeliness in processing cases, as well as any fiscal impact to the state resulting from the adjusted jurisdictional limits. The clerks of the county and circuit courts were tasked with providing data to assist in developing the report. The report was to include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district and circuit courts, including the use of appellate panels by circuit courts.

The Office of the State Courts Administrator issued its report entitled “Recommendations Regarding the Adjustment of County Court Jurisdiction” on February 1, 2021.¹¹

Maintenance of Appellate Court Records in the District Courts of Appeal

The statutes contain a number of provisions directing how court records are to be stored. Unfortunately, many of these provisions have become outdated and have not kept pace with changes in electronic technology and storage. Section 35.15, F.S., states that all decisions and opinions delivered by the district courts of appeal or one its judges must be filed and remain in the office of the clerk. The decisions and opinions may not be taken from the clerk’s office except by court order. However, the clerk must furnish to anyone who desires certified copies of the opinions and decision upon payment of the appropriate fees.

Section 35.24, F.S., requires each clerk for a district court of appeal to physically keep his or her records at the headquarters of the court. This provision does not envision advancements in technology and electronic storage that would permit a clerk to store records electronically at a remote location.

In a similar manner, s. 35.24, F.S., requires that all books, papers, records, files, and the court seal be kept in the clerk’s office. This also precludes electronic storage of these items at a remote location.

Jury Duty Postponement

The clerks of the court are responsible for summoning prospective jurors at least 14 days before they are to appear in court for jury selection.¹² If a person is summoned to attend as a juror and fails to attend without providing a sufficient excuse, he or she may be required to pay a fine that does not exceed \$100 and may be held in contempt of court.¹³

If someone has been summoned for jury duty, jury service may be postponed for up to 6 months once a written or oral request is made. The request may specify a date or time period to which

¹¹ Office of the State Courts Administrator, *Recommendations Regarding the Adjustment of County Court Jurisdiction*, (February 1, 2021) (on file with the Senate Committee on Judiciary).

¹² Section 40.23(1), F.S.

¹³ Section 40.23(3), F.S.

the service is to be postponed, and if that is stated, he or she will be given consideration for service once the assignment of the postponed date of jury service is made.¹⁴

According to the *Judicial Branch 2021 Legislative Agenda*, jury service in Florida has been postponed since March 2020 because of the COVID-19 pandemic. Once jury service resumes, some people who are summoned may not be able to attend on a particular date due to complications created by the pandemic. The examples are given that the person summoned might recently have returned to work after being unemployed during the pandemic or might be responsible for the care of someone who is at greater risk of health complications if he or she is exposed to COVID-19.¹⁵

Fingerprinting a Defendant upon Conviction

The criminal law statutes detail procedures that must be followed when a judgment is entered in certain misdemeanor and all felony offenses. A judgment of guilty or not guilty for a misdemeanor petit theft offense¹⁶ or a felony offense¹⁷ must contain:

- A written record, signed by the judge, and recorded by the clerk of the circuit court; or
- An electronic record that contains the judge's electronic signature and is recorded by the clerk of the circuit court.

To enter a written or electronic judgment of guilt involving petit theft and all felonies, the judge must, in open court, and in the judge's presence, have the defendant's fingerprints taken either manually or electronically, sign a certificate certifying that the fingerprints on the judgment are the defendant's fingerprints and that they were placed on the certificate in the judge's presence, and for a felony judgment, cause the defendant's social security number to be recorded. It is the opinion of some practitioners that these statutes do not appear to allow for a proceeding to be conducted remotely.

III. Effect of Proposed Changes:

Responsibilities of the Clerk of the Florida Supreme Court (Sections 1 and 2)

The requirement that the clerk keep all books, papers, records, files, and the seal in his or her office and custody is amended. The revised language reflects developments in technology and electronic storage and requires that those items be "maintained" by the clerk and in the clerk's "control" as prescribed by the Supreme Court. The clerk is no longer required to physically keep them in the clerk's office and custody but is permitted to electronically store records at a remote location.

¹⁴ Section 40.23(2), F.S.

¹⁵ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, 9 (January 21, 2021) (on file with the Senate Committee on Judiciary.)

¹⁶ Section 812.014(3)(d), F.S.

¹⁷ Section 921.241, F.S.

Mandatory Monetary Assessments (Section 3)

Section 28.2457(2), F.S., is amended to delete the requirements that the uniform form developed by the circuit court clerks be updated and submitted annually to the Supreme Court for approval and later distribution. Under the bill, the clerks of the circuit courts must collaborate with the state courts through the Florida Courts Technology Commission¹⁸ to prepare a plan to procure or develop a statewide electronic solution that will accurately identify all civil and criminal assessments required by statute. At a minimum, the plan must address operational, technological, and fiscal considerations involved in implementing the electronic solution. The clerks must submit the plan to the President of the Senate and the Speaker of the House of Representatives by January 1, 2022.

Jurisdiction Amount of County Courts (Section 4)

The statute defining the jurisdiction of the county courts is amended to delete the now obsolete provision requiring the Office of the State Courts Administrator to publish a report by February 1, 2021.

A new provision is added requiring the \$50,000 jurisdictional amount for cases that will be filed on or after January 1, 2023, to be adjusted in accordance with changes in the Consumer Price Index. Effective January 1, 2030, and every 10 years after, the \$50,000 limit will be adjusted by The Office of Economic and Demographic Research (EDR), and certified to the Chief Justice of the Supreme Court. The percentage change must be adjusted and increased by the Consumer Price Index for all Urban Consumers, U.S. Average, All Items 1982-84=100, or successor reports, as initially reported by the United States Department of Labor, Bureau of Labor Statistics. . The jurisdictional limit must be rounded to the nearest \$5,000, but may not be lower than \$50,000. The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

Maintenance of Appellate Court Records in the District Courts of Appeal (Sections 5, 6, and 7)

Section 35.15, F.S., as amended, no longer requires that decisions and opinions be kept in the physical office of the clerks, but requires them to be kept under the clerk's "maintenance or control." The decisions and opinions, however, may be taken from the clerk's maintenance or control when ordered by the court. These revisions permit the electronic storage of records at a remote location and reflects an adaptation to advancements in technology.

Section 35.23, F.S., is amended to provide that a clerk must no longer "keep his or her records" at the headquarters of the district court of appeal, but rather to "have an office" at the headquarters of the court. This revision permits the use of electronic technology to store records at a remote location in accordance with the revision to s. 35.24, F.S., which no longer requires

¹⁸ The Florida Courts Technology Commission was created by the Florida Supreme Court in 2010. The Commission is composed of 25 members who are tasked with the responsibility of "overseeing, managing, and directing the development and use of technology within the judicial branch under the direction of the Court." The Commission must submit an annual report by April 1 each year.

<https://www.flcourts.org/content/download/579375/file/FCTC%20Operational%20Procedures%20-%20Feb%202020.pdf>.

the clerk to keep the books, papers, records, files, and the seal of the court in his or her office. As amended, these items must be maintained by, and in the control of, the clerk.

Jury Duty Postponement (Section 8)

The bill creates an additional postponement period of up to 12 months for someone who has been summoned for jury service. If the State Health Officer declares a public health emergency pursuant to s. 381.00315, F.S., or the Governor declares a state of emergency pursuant to s. 252.36(2), F.S., a person who has been summoned may have his or her service postponed from for up to 12 months upon a written or oral request. As with the existing 6 month postponement in statute, the request may specify a date or time period to which the service is to be postponed and may be given consideration when an assignment of jury service is made.

Fingerprinting a Defendant upon Conviction (Sections 9, 10, and 11)

The pandemic has significantly limited the number of in-person criminal court proceedings, which is creating a backlog of pending cases. The Florida Supreme Court's COVID-19 workgroup has studied options for resolving criminal cases remotely without the requirement of proceedings conducted in court. The Workgroup determined that the Florida Rules of Criminal Procedure could be adopted to authorize a criminal defendant to expressly request and be given approval by the court to either enter a plea of guilty or nolo contendere in a remote proceeding using audio-visual technology. To make this possible, the Workgroup has recommended that several statutes be amended.¹⁹

Because current law requires that a defendant be fingerprinted in open court in the judge's presence, it appears that current laws must be amended to establish a court's authority to take fingerprints at the time a judgment is entered in a remotely conducted proceeding.²⁰

Section 812.014, F.S., relating to petit theft, s. 921.241, F.S., relating to felony judgments, and s. 921.242, F.S., relating to prostitution offenses, are amended to:

- Authorize the fingerprinting of a defendant, either manually or electronically, when a guilty judgment is entered in a proceeding that is conducted outside of court or outside of the judge's presence.
- Delete the requirement that a judge must certify that a defendant's fingerprints were taken in open court and in the judge's presence.
- Require that the certification be entered by a court officer, employee of the court, or the employee of a criminal justice agency who captured the fingerprints. If taken manually, the person who took the fingerprints must place his or her written signature on the certification. If taken electronically, he or she must place a written or electronic signature on the certification. The fingerprints and certification must be filed in the case.
- Delete the requirement that a defendant's social security number be taken when his or her fingerprints are taken.

¹⁹ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, 10-12 (January 21, 2021) (on file with the Senate Committee on Judiciary).

²⁰ *Id.* at 11.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.221, 25.301, 28.2457, 34.01, 35.15, 35.23, 35.24, 40.23, 812.014, 921.241, and 921.242.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on March 24, 2021:

The committee substitute requires the jurisdictional limit be rounded to the nearest \$5,000, but no lower than \$50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter. EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their respective websites.

CS by Judiciary Committee on March 2, 2021:

The committee substitute makes changes to the underlying bill in two areas: mandatory monetary assessments and fingerprinting defendants. The clerks of court must work with the Florida Courts Technology Commission to develop a plan for a technology solution that tracks all civil and criminal monetary assessments. The plan must be submitted to legislative leaders by January 1, 2022. The fingerprinting section now permits fingerprints to be taken manually or electronically, regardless of whether the judgment is a written judgment or electronic judgment. The defendant's fingerprints and the certification of the person who took the fingerprints must be filed in the case in which the judgment is entered.

- B. **Amendments:**

None.



236698

576-03365-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to courts; amending s. 25.221, F.S.; deleting the requirement that the Clerk of the Supreme Court physically keep books, records, and other materials in the clerk's office; amending s. 25.301, F.S.; deleting the requirement that Supreme Court decisions and orders remain in the clerk's office; amending s. 28.2457, F.S.; requiring the clerks of the circuit court, with specified entities, to prepare a plan to procure or develop a statewide electronic solution to accurately identify all assessments mandated by statute; requiring the plan to address certain considerations relating to the implementation of the electronic solution; requiring the clerks to submit the plan to the Legislature by a specified date; deleting a provision requiring the clerks to annually submit a uniform form for identification and imposition of mandated assessments to the Supreme Court; amending s. 34.01, F.S.; providing for the periodic inflationary adjustment of the monetary jurisdictional limit applicable to all actions at law in county courts filed on or after a specified date, beginning in 2030; requiring the Office of Economic and Demographic Research to periodically calculate and certify such jurisdictional limit to the Chief Justice of the Supreme Court by a specified date; requiring specified entities to publish the adjusted



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jurisdictional limit on their websites; deleting obsolete language; amending s. 35.15, F.S.; deleting the requirement that decisions and orders of district courts of appeal remain in the office of the clerk of any such court; amending s. 35.23, F.S.; requiring the clerk of a district court of appeal to have an office at the headquarters of the court; deleting a requirement that the clerk keep records at the headquarters office; amending s. 35.24, F.S.; deleting the requirement that the clerk of a district court of appeal physically keep books, records, and other materials in the clerk's office; amending s. 40.23, F.S.; authorizing any person who has been summoned for jury service to postpone such service for an additional timeframe in the event of a declared public health emergency or a state of emergency; specifying requirements for any such request; amending s. 812.014, F.S.; removing the requirement that fingerprints be taken in open court and in the judge's presence upon a judgment of guilt of petit theft; authorizing the electronic capture of fingerprints; requiring the court officer, the employee of the court, or the employee of a criminal justice agency who captures fingerprints to sign a specified certification; amending s. 921.241, F.S.; removing the requirement that fingerprints be taken in open court and in the judge's presence upon a judgment of guilt for a felony; authorizing the electronic capture of fingerprints; requiring the court officer, the



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57 employee of the court, or the employee of a criminal
58 justice agency who captures fingerprints to sign a
59 specified certification; conforming a provision to
60 changes made by the act; removing the requirement that
61 a judge obtain a defendant's social security number at
62 the time of fingerprinting; amending s. 921.242, F.S.;
63 removing the requirement that fingerprints be taken in
64 open court and in the judge's presence upon a judgment
65 of guilt for an offense under ch. 796, F.S.;
66 authorizing the electronic capture of fingerprints;
67 requiring the court officer, the employee of the
68 court, or the employee of a criminal justice agency
69 who captures fingerprints to sign a specified
70 certification; conforming a provision to changes made
71 by the act; providing an effective date.

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Section 25.221, Florida Statutes, is amended to
76 read:

77 25.221 Maintenance Custody of books, records, and other
78 materials etc.-All books, papers, records, files, and the seal
79 of the Supreme Court must be maintained by ~~shall be kept in the~~
80 ~~office of the clerk of said court~~ and be in the clerk's control,
81 as prescribed by the Supreme Court custody.

82 Section 2. Section 25.301, Florida Statutes, is amended to
83 read:

84 25.301 Decisions to be filed; copies to be furnished.-All
85 decisions and opinions delivered by the Supreme said Court, or



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86 any justice thereof, ~~relating in relation~~ to any action or
87 proceeding pending in ~~the said court~~ must shall be filed ~~and~~
88 ~~remain~~ in the office of the clerk and maintained by the clerk in
89 the manner prescribed by the Supreme Court. Such decisions or
90 opinions may, and shall not be taken out from the clerk's
91 maintenance or control except by order of the court; however,
92 the but said clerk must shall at all times ~~be required to~~
93 furnish certified copies of such opinions and decisions to any
94 person who makes such a request ~~may desire the same certified~~
95 ~~copies of such opinions and decisions,~~ upon receiving any
96 required fees ~~his or her fees therefor.~~

97 Section 3. Subsection (2) of section 28.2457, Florida
98 Statutes, is amended to read:

99 28.2457 Mandatory monetary assessments.-

100 (2) The clerks of the circuit courts shall collaborate with
101 the state courts through the Florida Courts Technology
102 Commission to prepare a plan to procure or develop a statewide
103 electronic solution that will accurately identify all
104 assessments mandated by statute. The plan must, at a minimum,
105 address operational, technological, and fiscal considerations
106 related to the implementation of the electronic solution. The
107 clerks shall submit the plan to the President of the Senate and
108 the Speaker of the House of Representatives no later than
109 January 1, 2022 ~~The clerks of court, through their association~~
110 ~~and in consultation with the Office of the State Courts~~
111 ~~Administrator, shall develop by October 1, 2012, a uniform form~~
112 ~~for the identification and imposition of all assessments~~
113 ~~mandated by statute. The clerks shall submit the form by that~~
114 ~~date, and by October 1 every year thereafter if necessary to~~



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115 ~~reflect changes in the law, to the Supreme Court for approval.~~
116 ~~Upon approval of the form by the Supreme Court, all circuit and~~
117 ~~county courts shall use the form.~~

118 Section 4. Subsection (1) of section 34.01, Florida
119 Statutes, is amended to read:

120 34.01 Jurisdiction of county court.—

121 (1) County courts shall have original jurisdiction:

122 (a) In all misdemeanor cases not cognizable by the circuit
123 courts.

124 (b) Of all violations of municipal and county ordinances.

125 (c) Of all actions at law, except those within the
126 exclusive jurisdiction of the circuit courts, in which the
127 matter in controversy does not exceed, exclusive of interest,
128 costs, and attorney fees:

129 1. If filed on or before December 31, 2019, the sum of
130 \$15,000.

131 2. If filed on or after January 1, 2020, the sum of
132 \$30,000.

133 3. If filed on or after January 1, 2023, the sum of
134 \$50,000.

135
136 Effective July 1, 2030, and every 10 years thereafter, the
137 \$50,000 jurisdictional limit in subparagraph 3. must be adjusted
138 and increased by the percentage change in the Consumer Price
139 Index for All Urban Consumers, U.S. City Average, All Items
140 1982-84=100, or successor reports, for the preceding 10 calendar
141 years as initially reported by the United States Department of
142 Labor, Bureau of Labor Statistics. The adjusted jurisdictional
143 limit must be rounded to the nearest \$5,000. However, the



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144 jurisdictional limit may not be lower than \$50,000. The Office
145 of Economic and Demographic Research must calculate the adjusted
146 jurisdictional limit and certify the adjusted jurisdictional
147 limit to the Chief Justice of the Supreme Court beginning
148 January 31, 2030, and every 10 years thereafter. The Office of
149 Economic and Demographic Research and the Office of the State
150 Courts Administrator must publish the adjusted jurisdictional
151 limit on their websites.

152 (d) Of disputes occurring in the homeowners' associations
153 as described in s. 720.311(2)(a), which shall be concurrent with
154 jurisdiction of the circuit courts.

155
156 ~~By February 1, 2021, the Office of the State Courts~~
157 ~~Administrator shall submit a report to the Governor, the~~
158 ~~President of the Senate, and the Speaker of the House of~~
159 ~~Representatives. The report must make recommendations regarding~~
160 ~~the adjustment of county court jurisdiction, including, but not~~
161 ~~limited to, consideration of the claim value of filings in~~
162 ~~county court and circuit court, case events, timeliness in~~
163 ~~processing cases, and any fiscal impact to the state as a result~~
164 ~~of adjusted jurisdictional limits. The clerks of the circuit~~
165 ~~court and county court shall provide claim value data and~~
166 ~~necessary case event data to the office to be used in~~
167 ~~development of the report. The report must also include a review~~
168 ~~of fees to ensure that the court system is adequately funded and~~
169 ~~a review of the appellate jurisdiction of the district courts~~
170 ~~and the circuit courts, including the use of appellate panels by~~
171 ~~circuit courts.~~

172 Section 5. Section 35.15, Florida Statutes, is amended to



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173 read:

174 35.15 Decisions to be filed; copies to be furnished.—All
175 decisions and opinions delivered by the district courts of
176 appeal, or any judge thereof, ~~relating in relation~~ to any action
177 or proceeding pending in ~~such said court must shall~~ be filed ~~and~~
178 ~~remain~~ in the office of the clerk ~~and maintained in the control~~
179 ~~of the clerk~~. Such decisions and opinions ~~may, and shall~~ not be
180 taken ~~from the clerk's maintenance or control therefrom~~ except
181 by order of the court; ~~however, the but~~ said clerk ~~must shall~~ at
182 all times ~~be required to~~ furnish certified copies of such
183 opinions and decisions to any person who makes such a request
184 ~~may desire the same certified copies of such opinions and~~
185 ~~decisions, upon receiving any required fees his or her fees~~
186 ~~therefor~~.

187 Section 6. Section 35.23, Florida Statutes, is amended to
188 read:

189 35.23 Location of clerk's office.—Each clerk shall have an
190 office ~~keep his or her records~~ at the headquarters of the
191 district court of appeal.

192 Section 7. Section 35.24, Florida Statutes, is amended to
193 read:

194 35.24 Maintenance Custody of books, records, and other
195 materials etc.—All books, papers, records, files and the seal of
196 each district court of appeal shall be maintained by, and in the
197 control of, kept in the office of the clerk of the said court.

198 Section 8. Subsection (2) of section 40.23, Florida
199 Statutes, is amended to read:

200 40.23 Summoning jurors.—

201 (2) The jury service of any person who has been summoned



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202 may be postponed for a period not to exceed 6 months upon
203 written or oral request. However, if either a public health
204 emergency has been declared by the State Health Officer pursuant
205 to s. 381.00315 or a state of emergency has been declared by the
206 Governor pursuant to s. 252.36(2), the jury service of any
207 person who has been summoned may be postponed for a period not
208 to exceed 12 months upon written or oral request. The request
209 may specify a date or period of time to which service is to be
210 postponed and, if so, shall be given consideration when the
211 assignment of the postponed date of jury service is made.

212 Section 9. Paragraph (d) of subsection (3) of section
213 812.014, Florida Statutes, is amended to read:

214 812.014 Theft.—

215 (3)

216 (d)1. A judgment of guilty or not guilty of a petit theft
217 ~~must shall~~ be in:

218 a. A written record that is signed by the judge and
219 recorded by the clerk of the circuit court; or

220 b. An electronic record that contains the judge's
221 electronic signature as defined in s. 933.40 and is recorded by
222 the clerk of the circuit court.

223 2. ~~A~~ ~~At the time a defendant is found guilty of petit~~
224 ~~theft, the judge shall cause the following to occur in open~~
225 ~~court and in the judge's presence:~~

226 a. ~~For a written judgment of guilty, the fingerprints of a~~
227 ~~the defendant who is found guilty of petit theft to against whom~~
228 ~~such judgment is rendered shall be manually taken or~~
229 ~~electronically captured and affixed beneath the judge's~~
230 ~~signature on the judgment. Beneath Such fingerprints must be~~



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231 certified and filed in the case in which the judgment of guilty
232 is entered as provided in s. 921.241(3). ~~shall be appended a~~
233 ~~certificate to the following effect:~~

234
235 ~~"I hereby certify that the above and foregoing fingerprints~~
236 ~~on this judgment are the fingerprints of the defendant, ...,~~
237 ~~and that they were placed thereon by said defendant in my~~
238 ~~presence, in open court, this the day of,~~
239 ~~... (year)...."~~

240
241 ~~Such certificate shall be signed by the judge, whose signature~~
242 ~~thereto shall be followed by the word "Judge."~~

243 ~~b. For an electronic judgment of guilty, the fingerprints~~
244 ~~of the defendant must be electronically captured and a~~
245 ~~certificate must be issued as provided in s. 921.241(3)(b).~~

246 3. A written or an electronic judgment of guilty of a petit
247 theft, or a certified copy thereof, is admissible in evidence in
248 the courts of this state as provided in s. 921.241(4).

249 Section 10. Section 921.241, Florida Statutes, is amended
250 to read:

251 921.241 Felony judgments ~~and~~ fingerprints ~~and social~~
252 ~~security number~~ required in record.-

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

254 (a) "Electronic signature" has the same meaning as in s.
255 933.40.

256 (b) "Transaction control number" means the unique
257 identifier comprised of numbers, letters, or other symbols for a
258 digital fingerprint record generated by the device used to
259 electronically capture the fingerprints.



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260 (2) A judgment of guilty or not guilty of a felony must
261 ~~shall~~ be in:

262 (a) A written record ~~that is~~ signed by the judge and
263 recorded by the clerk of the court; or

264 (b) An electronic record that contains the judge's
265 electronic signature and is recorded by the clerk of the court.

266 (3) A ~~At the time a defendant is found guilty of a felony,~~
267 ~~the judge shall cause the following to occur in open court and~~
268 ~~in the judge's presence:~~

269 (a) ~~For a written judgment of guilty, the fingerprints of a~~
270 ~~the defendant who is found guilty of a felony to shall be~~
271 ~~manually taken or electronically captured. If the fingerprints~~
272 ~~are:~~

273 (a) Manually taken, the fingerprints must be filed in the
274 case in which and affixed beneath the judge's signature on the
275 judgment of guilty is entered. Beneath such fingerprints shall
276 be appended a certification certificate to the following effect:
277

278 "I hereby certify that the above and foregoing fingerprints
279 ~~on this judgment~~ are the fingerprints of the defendant, ...,
280 and that they were placed thereon by said defendant in my
281 presence, ~~in open court,~~ this the day of,
282 ... (year)...."

283
284 The court officer, the employee of the court, or the employee of
285 a criminal justice agency who manually took the fingerprints
286 shall place his or her written signature on the certification.
287 ~~Such certificate shall be signed by the judge, whose signature~~
288 ~~thereto shall be followed by the word "Judge."~~



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289 (b) ~~For an electronic judgment of guilty, the fingerprints~~
290 ~~of the defendant shall be~~ Electronically captured, ~~and the~~
291 following certification must ~~certificate shall be~~ filed in the
292 case in which included in the electronic judgment of guilty is
293 entered:

294
295 "I hereby certify that the digital fingerprint record
296 associated with Transaction Control Number contains the
297 fingerprints of the defendant,, which were electronically
298 captured from the defendant in my presence, ~~in open court,~~ this
299 the day of, ...(year)...."

300
301 The court officer, the employee of the court, or the employee of
302 a criminal justice agency who electronically captured the
303 fingerprints judge shall place his or her written or electronic
304 signature, which shall be followed by the word "Judge," on the
305 certification certificate.

306 (4) A written or electronic judgment of guilty, or a
307 certified copy thereof, is shall be admissible in evidence in
308 the several courts of this state as prima facie evidence that
309 the:

310 (a) Manual fingerprints filed in the case in which the
311 judgment of guilty is entered appearing thereon and certified by
312 the judge as specified in this section aforesaid are the
313 fingerprints of the defendant against whom the judgment of
314 guilty was rendered.

315 (b) Digital fingerprint record associated with the
316 transaction control number specified in the certification
317 required by this section and filed in the case in which the



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318 judgment of guilty is entered judge's certificate contains the
319 fingerprints of the defendant against whom the judgment of
320 guilty was rendered.

321 ~~(5) At the time the defendant's fingerprints are manually~~
322 ~~taken or electronically captured, the judge shall also cause the~~
323 ~~defendant's social security number to be taken. The defendant's~~
324 ~~social security number shall be specified in each written or~~
325 ~~electronic judgment of guilty of a felony, in open court, in the~~
326 ~~presence of such judge, and at the time the judgment is~~
327 ~~rendered. If the defendant is unable or unwilling to provide his~~
328 ~~or her social security number, the reason for its absence shall~~
329 ~~be specified in the written or electronic judgment.~~

330 Section 11. Section 921.242, Florida Statutes, is amended
331 to read:

332 921.242 Subsequent offenses under chapter 796; method of
333 proof applicable.-

334 (1) A judgment of guilty with respect to any offense
335 governed by ~~the provisions of~~ chapter 796 ~~must shall~~ be in:

336 (a) A written record ~~that is~~ signed by the judge and
337 recorded by the clerk of the circuit court; or

338 (b) An electronic record that contains the judge's
339 electronic signature as defined in s. 933.40 and is recorded by
340 the clerk of the circuit court.

341 (2) A ~~At the time a defendant is found guilty, the judge~~
342 ~~shall cause the following to occur in open court and in the~~
343 ~~judge's presence:~~

344 ~~(a) For a written judgment of guilty, the fingerprints of a~~
345 ~~the defendant who is found guilty of any offense governed by~~
346 ~~chapter 796 to against whom such judgment is rendered shall be~~



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347 manually taken ~~or electronically captured, and affixed beneath~~
348 ~~the judge's signature on the judgment. Beneath~~ Such fingerprints
349 ~~must be certified and filed in the case in which the judgment of~~
350 ~~guilty is entered as provided in s. 921.241(3). shall be~~
351 ~~appended a certificate to the following effect:~~

352

353 ~~"I hereby certify that the above and foregoing fingerprints~~
354 ~~are of the defendant, ...(name)..., and that they were placed~~
355 ~~thereon by said defendant in my presence, in open court, this~~
356 ~~the day of, ...(year)...."~~

357

358 ~~Such certificate shall be signed by the judge, whose signature~~
359 ~~thereto shall be followed by the word "Judge."~~

360

361 ~~(b) For an electronic judgment of guilty, the fingerprints~~
362 ~~of the defendant must be electronically captured, and a~~
363 ~~certificate must be issued as provided in s. 921.241(3)(b).~~

364

365 (3) A written or an electronic judgment of guilty, or a
364 certified copy thereof, ~~is shall be~~ admissible in evidence in
365 the several courts of this state as provided in s. 921.241(4).

366

Section 12. 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 Appropriations

BILL: CS/CS/SB 748

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senator Brandes

SUBJECT: Courts

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 748 revises a broad range of statutes that govern the operation of the court system. Some of the diverse changes are made to accommodate developments in technology, some reflect the impact COVID-19 has had on the court system, and one change recognizes the effect of inflation on the monetary jurisdictional thresholds in the county courts.

- The bill updates provisions controlling the maintenance of appellate court records to allow the electronic storage of court records at a remote location. These provisions are updated to keep pace with electronic technology rather than require the court clerk to keep manual control of the records.
- The clerks of court, working with the Florida Courts Technology Commission, must prepare a plan to procure or develop a statewide electronic solution that identifies all civil and criminal mandatory financial assessments required by statute.
- The jurisdictional amount of county courts will be adjusted beginning in 2030, and every 10 years afterwards, to account for inflation based on changes in the Consumer Price Index.
- The jurisdictional limit must be rounded to the nearest \$5,000, but no lower than \$50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter.
- The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

- The bill authorizes a person to postpone for jury service for up to 1 year when a public health emergency or a state of emergency is declared.
- Finally, the bill revises three criminal statutes to authorize the taking and certification of fingerprints when a guilty judgment is entered in a proceeding that is conducted remotely. The fingerprints no longer must be taken in open court and in the judge's presence.

The bill takes effect July 1, 2021.

II. Present Situation:

Responsibilities of the Clerk of the Florida Supreme Court

Chapter 25, F.S., is devoted to the organization and operation of the Florida Supreme Court. Among the provisions in the chapter are two statutes detailing the responsibilities of the Clerk of the Supreme Court. The clerk must keep all books, papers, records, files, and the seal of the Court in the clerk's office in the Supreme Court Building and in his or her custody.¹

Additionally, any decisions and opinions delivered by the Court or any justice must be filed and remain in the clerk's office. These decisions and opinions may not be removed unless ordered by the Court. The clerk is required to furnish certified copies of the decisions and opinions to any person who requests them and pays the necessary fees.² These statutes do not accommodate the developments in technology that allow for digital storage in a remote location.

Mandatory Monetary Assessments

The clerks of the circuit courts were required, by October 1, 2012, to develop a uniform form for the identification and imposition of all assessments mandated by statute. The clerks were required to work with their association and in consultation with the Office of the State Courts Administrator to develop the form. An assessment includes, but is not limited to, a fine or other monetary penalty, fee, service charge, or cost. The clerks are currently required to submit that form by October 1 of each year to the Supreme Court for approval. The form must contain updates to reflect recent changes made in the law. Once a form is approved by the Court, all circuit and county courts must use the form.³

According to information supplied in the *Judicial Branch 2021 Legislative Agenda*, the clerks' association, the Florida Court Clerks and Comptrollers, submitted the initial form matrix as required on October 1, 2012, and updated the form annually. The matrix is a catalogue of mandatory and discretionary fines, fees, charges, and costs in many areas, both civil and criminal. It provides the necessary statutory authority for each item with a brief description, states whether the item is mandatory or discretionary, provides the minimum and maximum amounts authorized, and often contains brief comments on the assessment.⁴ *The Judicial Branch 2021 Legislative Agenda* further states that the Supreme Court has never approved the form

¹ Section 25.221, F.S.

² Section 25.301, F.S.

³ Section 28.2457(1), (2), and (3), F.S.

⁴ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, (January 21, 2021) (on file with the Senate Committee on Judiciary).

matrix because of “concerns that it is not a form within the meaning of the statute.” However, the chief justice has provided the document each year to the chief judges of the trial courts for their use as a possible resource.⁵

The Judicial Management Council’s Workgroup on Court Costs and Fines⁶ was established on December 31, 2018, within the Judicial Management Council. Its purpose is to review monetary assessments and identify methods that will reduce the disproportionate impact the assessments have on low income individuals.⁷ In June 2020, the Workgroup finalized its report, *Court Costs and Fines in Florida*, and the report was approved by the Judicial Management Council on August 31, 2020. The Workgroup recommended:

- Removing from statute the requirement for a uniform form for identifying and imposing assessments that the clerks produce; and
- Working in cooperation with the clerks of court to develop reforms, using an electronic system, to standardize the ability to identify and impose assessments and payments.

The Supreme Court approved these recommendations on November 4, 2020, at the Court Conference for consideration by the Legislature.⁸

Jurisdictional Amount of County Courts

A county court is a trial court that has jurisdiction over the following types of cases within its jurisdictional or monetary limits:

- All criminal misdemeanor cases not cognizable by the circuit courts.
- All violations of municipal and county ordinances.
- Disputes occurring in homeowner associations, but this jurisdiction is concurrent with the jurisdiction of the circuit courts.⁹

The statute governing the jurisdiction of county courts was amended in 2018 to increase the maximum jurisdictional amount of county courts in a three-step process. For all actions, except those within the exclusive jurisdiction of the circuit courts, in which the matter in controversy does not exceed, exclusive of interest, costs, and attorney fees, the jurisdictional amount is:

- \$15,000 if filed on or before December 31, 2019.
- \$30,000 if filed on or after January 1, 2020.
- \$50,000 if filed on or after January 1, 2023.¹⁰

⁵ *Id.*, at 13.

⁶ The Judicial Management Councils are described as “high-level management consultants” to the Florida Supreme Court. The first Judicial Management Council was established in 2012 and the current council is the Court’s fifth council. Each council is composed of 15 voting members including the Chief Justice and one other justice, members of each level of the court system, and members from the public. The council meets at least quarterly and is tasked with identifying potential crisis situations for the judiciary and developing strategies to meet those concerns; evaluating information that will improve the effectiveness and performance of the judicial branch; developing and monitoring the judiciary’s long-range planning work; reviewing the charges of the courts and Florida Bar commissions and committees, making revisions and proposing ways to coordinate the work of these groups; and addressing issues that the Supreme Court brings before the council.

<https://www.flcourts.org/Administration-Funding/Judicial-Management-Council>

⁷ Fla. Admin. Order No. AOSC18-77.

⁸ *Judicial Branch Legislative Agenda*, *supra* note 4, at 15.

⁹ Section 34.01(1), F.S.

¹⁰ *Id.*; Ch. 2019-58, s. 9, Laws of Fla.

When the statute was amended in 2018, an additional provision was included requiring the Office of the State Courts Administrator to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by February 1, 2021. The report was to include recommendations regarding the adjustment of county court jurisdiction that considered the claim value of filings in both county and circuit courts, case events, the timeliness in processing cases, as well as any fiscal impact to the state resulting from the adjusted jurisdictional limits. The clerks of the county and circuit courts were tasked with providing data to assist in developing the report. The report was to include a review of fees to ensure that the court system is adequately funded and a review of the appellate jurisdiction of the district and circuit courts, including the use of appellate panels by circuit courts.

The Office of the State Courts Administrator issued its report entitled “Recommendations Regarding the Adjustment of County Court Jurisdiction” on February 1, 2021.¹¹

Maintenance of Appellate Court Records in the District Courts of Appeal

The statutes contain a number of provisions directing how court records are to be stored. Unfortunately, many of these provisions have become outdated and have not kept pace with changes in electronic technology and storage. Section 35.15, F.S., states that all decisions and opinions delivered by the district courts of appeal or one its judges must be filed and remain in the office of the clerk. The decisions and opinions may not be taken from the clerk’s office except by court order. However, the clerk must furnish to anyone who desires certified copies of the opinions and decision upon payment of the appropriate fees.

Section 35.24, F.S., requires each clerk for a district court of appeal to physically keep his or her records at the headquarters of the court. This provision does not envision advancements in technology and electronic storage that would permit a clerk to store records electronically at a remote location.

In a similar manner, s. 35.24, F.S., requires that all books, papers, records, files, and the court seal be kept in the clerk’s office. This also precludes electronic storage of these items at a remote location.

Jury Duty Postponement

The clerks of the court are responsible for summoning prospective jurors at least 14 days before they are to appear in court for jury selection.¹² If a person is summoned to attend as a juror and fails to attend without providing a sufficient excuse, he or she may be required to pay a fine that does not exceed \$100 and may be held in contempt of court.¹³

If someone has been summoned for jury duty, jury service may be postponed for up to 6 months once a written or oral request is made. The request may specify a date or time period to which

¹¹ Office of the State Courts Administrator, *Recommendations Regarding the Adjustment of County Court Jurisdiction*, (February 1, 2021) (on file with the Senate Committee on Judiciary).

¹² Section 40.23(1), F.S.

¹³ Section 40.23(3), F.S.

the service is to be postponed, and if that is stated, he or she will be given consideration for service once the assignment of the postponed date of jury service is made.¹⁴

According to the *Judicial Branch 2021 Legislative Agenda*, jury service in Florida has been postponed since March 2020 because of the COVID-19 pandemic. Once jury service resumes, some people who are summoned may not be able to attend on a particular date due to complications created by the pandemic. The examples are given that the person summoned might recently have returned to work after being unemployed during the pandemic or might be responsible for the care of someone who is at greater risk of health complications if he or she is exposed to COVID-19.¹⁵

Fingerprinting a Defendant upon Conviction

The criminal law statutes detail procedures that must be followed when a judgment is entered in certain misdemeanor and all felony offenses. A judgment of guilty or not guilty for a misdemeanor petit theft offense¹⁶ or a felony offense¹⁷ must contain:

- A written record, signed by the judge, and recorded by the clerk of the circuit court; or
- An electronic record that contains the judge's electronic signature and is recorded by the clerk of the circuit court.

To enter a written or electronic judgment of guilt involving petit theft and all felonies, the judge must, in open court, and in the judge's presence, have the defendant's fingerprints taken either manually or electronically, sign a certificate certifying that the fingerprints on the judgment are the defendant's fingerprints and that they were placed on the certificate in the judge's presence, and for a felony judgment, cause the defendant's social security number to be recorded. It is the opinion of some practitioners that these statutes do not appear to allow for a proceeding to be conducted remotely.

III. Effect of Proposed Changes:

Responsibilities of the Clerk of the Florida Supreme Court (Sections 1 and 2)

The requirement that the clerk keep all books, papers, records, files, and the seal in his or her office and custody is amended. The revised language reflects developments in technology and electronic storage and requires that those items be "maintained" by the clerk and in the clerk's "control" as prescribed by the Supreme Court. The clerk is no longer required to physically keep them in the clerk's office and custody but is permitted to electronically store records at a remote location.

¹⁴ Section 40.23(2), F.S.

¹⁵ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, 9 (January 21, 2021) (on file with the Senate Committee on Judiciary.)

¹⁶ Section 812.014(3)(d), F.S.

¹⁷ Section 921.241, F.S.

Mandatory Monetary Assessments (Section 3)

Section 28.2457(2), F.S., is amended to delete the requirements that the uniform form developed by the circuit court clerks be updated and submitted annually to the Supreme Court for approval and later distribution. Under the bill, the clerks of the circuit courts must collaborate with the state courts through the Florida Courts Technology Commission¹⁸ to prepare a plan to procure or develop a statewide electronic solution that will accurately identify all civil and criminal assessments required by statute. At a minimum, the plan must address operational, technological, and fiscal considerations involved in implementing the electronic solution. The clerks must submit the plan to the President of the Senate and the Speaker of the House of Representatives by January 1, 2022.

Jurisdiction Amount of County Courts (Section 4)

The statute defining the jurisdiction of the county courts is amended to delete the now obsolete provision requiring the Office of the State Courts Administrator to publish a report by February 1, 2021.

A new provision is added requiring the \$50,000 jurisdictional amount for cases that will be filed on or after January 1, 2023, to be adjusted in accordance with changes in the Consumer Price Index. Effective January 1, 2030, and every 10 years after, the \$50,000 limit will be adjusted by The Office of Economic and Demographic Research (EDR), and certified to the Chief Justice of the Supreme Court. The percentage change must be adjusted and increased by the Consumer Price Index for all Urban Consumers, U.S. Average, All Items 1982-84=100, or successor reports, as initially reported by the United States Department of Labor, Bureau of Labor Statistics. . The jurisdictional limit must be rounded to the nearest \$5,000, but may not be lower than \$50,000. The EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their websites.

Maintenance of Appellate Court Records in the District Courts of Appeal (Sections 5, 6, and 7)

Section 35.15, F.S., as amended, no longer requires that decisions and opinions be kept in the physical office of the clerks, but requires them to be kept under the clerk's "maintenance or control." The decisions and opinions, however, may be taken from the clerk's maintenance or control when ordered by the court. These revisions permit the electronic storage of records at a remote location and reflects an adaptation to advancements in technology.

Section 35.23, F.S., is amended to provide that a clerk must no longer "keep his or her records" at the headquarters of the district court of appeal, but rather to "have an office" at the headquarters of the court. This revision permits the use of electronic technology to store records at a remote location in accordance with the revision to s. 35.24, F.S., which no longer requires

¹⁸ The Florida Courts Technology Commission was created by the Florida Supreme Court in 2010. The Commission is composed of 25 members who are tasked with the responsibility of "overseeing, managing, and directing the development and use of technology within the judicial branch under the direction of the Court." The Commission must submit an annual report by April 1 each year.

<https://www.flcourts.org/content/download/579375/file/FCTC%20Operational%20Procedures%20-%20Feb%202020.pdf>.

the clerk to keep the books, papers, records, files, and the seal of the court in his or her office. As amended, these items must be maintained by, and in the control of, the clerk.

Jury Duty Postponement (Section 8)

The bill creates an additional postponement period of up to 12 months for someone who has been summoned for jury service. If the State Health Officer declares a public health emergency pursuant to s. 381.00315, F.S., or the Governor declares a state of emergency pursuant to s. 252.36(2), F.S., a person who has been summoned may have his or her service postponed from for up to 12 months upon a written or oral request. As with the existing 6 month postponement in statute, the request may specify a date or time period to which the service is to be postponed and may be given consideration when an assignment of jury service is made.

Fingerprinting a Defendant upon Conviction (Sections 9, 10, and 11)

The pandemic has significantly limited the number of in-person criminal court proceedings, which is creating a backlog of pending cases. The Florida Supreme Court's COVID-19 workgroup has studied options for resolving criminal cases remotely without the requirement of proceedings conducted in court. The Workgroup determined that the Florida Rules of Criminal Procedure could be adopted to authorize a criminal defendant to expressly request and be given approval by the court to either enter a plea of guilty or nolo contendere in a remote proceeding using audio-visual technology. To make this possible, the Workgroup has recommended that several statutes be amended.¹⁹

Because current law requires that a defendant be fingerprinted in open court in the judge's presence, it appears that current laws must be amended to establish a court's authority to take fingerprints at the time a judgment is entered in a remotely conducted proceeding.²⁰

Section 812.014, F.S., relating to petit theft, s. 921.241, F.S., relating to felony judgments, and s. 921.242, F.S., relating to prostitution offenses, are amended to:

- Authorize the fingerprinting of a defendant, either manually or electronically, when a guilty judgment is entered in a proceeding that is conducted outside of court or outside of the judge's presence.
- Delete the requirement that a judge must certify that a defendant's fingerprints were taken in open court and in the judge's presence.
- Require that the certification be entered by a court officer, employee of the court, or the employee of a criminal justice agency who captured the fingerprints. If taken manually, the person who took the fingerprints must place his or her written signature on the certification. If taken electronically, he or she must place a written or electronic signature on the certification. The fingerprints and certification must be filed in the case.
- Delete the requirement that a defendant's social security number be taken when his or her fingerprints are taken.

¹⁹ Office of Legislative Affairs, Office of the State Courts Administrator, *Judicial Branch 2021 Legislative Agenda*, 10-12 (January 21, 2021) (on file with the Senate Committee on Judiciary).

²⁰ *Id.* at 11.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.221, 25.301, 28.2457, 34.01, 35.15, 35.23, 35.24, 40.23, 812.014, 921.241, and 921.242.

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 April 15, 2021:

The committee substitute requires the jurisdictional limit be rounded to the nearest \$5,000, but no lower than \$50,000. The Office of Economic and Demographic Research (EDR) must calculate the adjusted jurisdictional limit and certify it to the Chief Justice of the Supreme Court beginning January 31, 2030 and every 10 years thereafter. EDR and the Office of the State Courts Administrator (OSCA) must publish the adjusted jurisdictional limit to their respective websites.

CS by Judiciary Committee on March 2, 2021:

The committee substitute makes changes to the underlying bill in two areas: mandatory monetary assessments and fingerprinting defendants. The clerks of court must work with the Florida Courts Technology Commission to develop a plan for a technology solution that tracks all civil and criminal monetary assessments. The plan must be submitted to legislative leaders by January 1, 2022. The fingerprinting section now permits fingerprints to be taken manually or electronically, regardless of whether the judgment is a written judgment or electronic judgment. The defendant's fingerprints and the certification of the person who took the fingerprints must be filed in the case in which the judgment is entered.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Brandes

590-02342-21

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1 A bill to be entitled
 2 An act relating to courts; amending s. 25.221, F.S.;
 3 deleting the requirement that the Clerk of the Supreme
 4 Court physically keep books, records, and other
 5 materials in the clerk's office; amending s. 25.301,
 6 F.S.; deleting the requirement that Supreme Court
 7 decisions and orders remain in the clerk's office;
 8 amending s. 28.2457, F.S.; requiring the clerks of the
 9 circuit courts, with specified entities, to prepare a
 10 plan to procure or develop a statewide electronic
 11 solution to accurately identify all assessments
 12 mandated by statute; requiring the plan to address
 13 certain considerations relating to the implementation
 14 of the electronic solution; requiring the clerks to
 15 submit the plan to the Legislature by a specified
 16 date; deleting a provision requiring the clerks to
 17 annually submit a uniform form for identification and
 18 imposition of mandated assessments to the Supreme
 19 Court; amending s. 34.01, F.S.; providing for the
 20 periodic inflationary adjustment of the monetary
 21 jurisdictional limit applicable to all actions at law
 22 in county courts filed on or after a specified date,
 23 beginning in 2030; deleting obsolete language;
 24 amending s. 35.15, F.S.; deleting the requirement that
 25 decisions and orders of district courts of appeal
 26 remain in the office of the clerk of any such court;
 27 amending s. 35.23, F.S.; requiring the clerk of a
 28 district court of appeal to have an office at the
 29 headquarters of the court; deleting a requirement that

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30 the clerk keep records at the headquarters office;
 31 amending s. 35.24, F.S.; deleting the requirement that
 32 the clerk of a district court of appeal physically
 33 keep books, records, and other materials in the
 34 clerk's office; amending s. 40.23, F.S.; authorizing
 35 any person who has been summoned for jury service to
 36 postpone such service for an additional timeframe in
 37 the event of a declared public health emergency or a
 38 state of emergency; specifying requirements for any
 39 such request; amending s. 812.014, F.S.; removing the
 40 requirement that fingerprints be taken in open court
 41 and in the judge's presence upon a judgment of guilt
 42 of petit theft; authorizing the electronic capture of
 43 fingerprints; requiring the court officer, the
 44 employee of the court, or the employee of a criminal
 45 justice agency who captures fingerprints to sign a
 46 specified certification; amending s. 921.241, F.S.;
 47 removing the requirement that fingerprints be taken in
 48 open court and in the judge's presence upon a judgment
 49 of guilt for a felony; authorizing the electronic
 50 capture of fingerprints; requiring the court officer,
 51 the employee of the court, or the employee of a
 52 criminal justice agency who captures fingerprints to
 53 sign a specified certification; conforming a provision
 54 to changes made by the act; removing the requirement
 55 that a judge obtain a defendant's social security
 56 number at the time of fingerprinting; amending s.
 57 921.242, F.S.; removing the requirement that
 58 fingerprints be taken in open court and in the judge's

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59 presence upon a judgment of guilt for an offense under
60 ch. 796, F.S.; authorizing the electronic capture of
61 fingerprints; requiring the court officer, the
62 employee of the court, or the employee of a criminal
63 justice agency who captures fingerprints to sign a
64 specified certification; conforming a provision to
65 changes made by the act; providing an effective date.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Section 25.221, Florida Statutes, is amended to
70 read:

71 25.221 Maintenance Custody of books, records, and other
72 materials etc.-All books, records, files, and the seal
73 of the Supreme Court must be maintained by ~~shall be kept in the~~
74 office of the clerk of said court and be in the clerk's control,
75 as prescribed by the Supreme Court eustedy.

76 Section 2. Section 25.301, Florida Statutes, is amended to
77 read:

78 25.301 Decisions to be filed; copies to be furnished.-All
79 decisions and opinions delivered by the Supreme said Court, or
80 any justice thereof, relating in relation to any action or
81 proceeding pending in the said court must shall be filed and
82 ~~remain~~ in the office of the clerk and maintained by the clerk in
83 the manner prescribed by the Supreme Court. Such decisions or
84 opinions may, and shall not be taken out from the clerk's
85 maintenance or control except by order of the court; however,
86 the but said clerk must shall at all times be required to
87 furnish certified copies of such opinions and decisions to any

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88 person who makes such a request ~~may desire the same certified~~
89 ~~copies of such opinions and decisions,~~ upon receiving any
90 required fees ~~his or her fees therefor.~~

91 Section 3. Subsection (2) of section 28.2457, Florida
92 Statutes, is amended to read:

93 28.2457 Mandatory monetary assessments.-

94 (2) The clerks of the circuit courts shall collaborate with
95 the state courts through the Florida Courts Technology
96 Commission to prepare a plan to procure or develop a statewide
97 electronic solution that will accurately identify all
98 assessments mandated by statute. The plan must, at a minimum,
99 address operational, technological, and fiscal considerations
100 related to the implementation of the electronic solution. The
101 clerks shall submit the plan to the President of the Senate and
102 the Speaker of the House of Representatives no later than
103 January 1, 2022 ~~The clerks of court, through their association~~
104 ~~and in consultation with the Office of the State Courts~~
105 ~~Administrator, shall develop by October 1, 2012, a uniform form~~
106 ~~for the identification and imposition of all assessments~~
107 ~~mandated by statute. The clerks shall submit the form by that~~
108 ~~date, and by October 1 every year thereafter if necessary to~~
109 ~~reflect changes in the law, to the Supreme Court for approval.~~
110 ~~Upon approval of the form by the Supreme Court, all circuit and~~
111 ~~county courts shall use the form.~~

112 Section 4. Subsection (1) of section 34.01, Florida
113 Statutes, is amended to read:

114 34.01 Jurisdiction of county court.-

115 (1) County courts shall have original jurisdiction:

116 (a) In all misdemeanor cases not cognizable by the circuit

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117 courts.

118 (b) Of all violations of municipal and county ordinances.

119 (c) Of all actions at law, except those within the

120 exclusive jurisdiction of the circuit courts, in which the

121 matter in controversy does not exceed, exclusive of interest,

122 costs, and attorney fees:

123 1. If filed on or before December 31, 2019, the sum of

124 \$15,000.

125 2. If filed on or after January 1, 2020, the sum of

126 \$30,000.

127 3. If filed on or after January 1, 2023, the sum of

128 \$50,000.

129

130 The \$50,000 jurisdictional limit in subparagraph 3. shall be

131 adjusted, effective January 1, 2030, and every 10 years

132 thereafter, by the percentage change in the average of the

133 Consumer Price Index issued by the United States Department of

134 Labor for the most recent 12-month period ending on September

135 30, compared to the base year average, which is the average for

136 the 12-month period ending September 30, 2022. The adjusted

137 jurisdictional limit must be rounded to the nearest \$1,000.

138 (d) Of disputes occurring in the homeowners' associations

139 as described in s. 720.311(2)(a), which shall be concurrent with

140 jurisdiction of the circuit courts.

141

142 ~~By February 1, 2021, the Office of the State Courts~~

143 ~~Administrator shall submit a report to the Governor, the~~

144 ~~President of the Senate, and the Speaker of the House of~~

145 ~~Representatives. The report must make recommendations regarding~~

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146 ~~the adjustment of county court jurisdiction, including, but not~~

147 ~~limited to, consideration of the claim value of filings in~~

148 ~~county court and circuit court, case events, timeliness in~~

149 ~~processing cases, and any fiscal impact to the state as a result~~

150 ~~of adjusted jurisdictional limits. The clerks of the circuit~~

151 ~~court and county court shall provide claim value data and~~

152 ~~necessary case event data to the office to be used in~~

153 ~~development of the report. The report must also include a review~~

154 ~~of fees to ensure that the court system is adequately funded and~~

155 ~~a review of the appellate jurisdiction of the district courts~~

156 ~~and the circuit courts, including the use of appellate panels by~~

157 ~~circuit courts.~~

158 Section 5. Section 35.15, Florida Statutes, is amended to

159 read:

160 35.15 Decisions to be filed; copies to be furnished.—All

161 decisions and opinions delivered by the district courts of

162 appeal, or any judge thereof, relating in relation to any action

163 or proceeding pending in such said court must shall be filed and

164 remain in the office of the clerk and maintained in the control

165 of the clerk. Such decisions and opinions may, and shall not be

166 taken from the clerk's maintenance or control therefrom except

167 by order of the court; ~~however, the but said clerk must shall at~~

168 ~~all times be required to furnish certified copies of such~~

169 ~~opinions and decisions to any person who makes such a request~~

170 ~~may desire the same certified copies of such opinions and~~

171 ~~decisions, upon receiving any required fees his or her fees~~

172 ~~therefor.~~

173 Section 6. Section 35.23, Florida Statutes, is amended to

174 read:

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175 35.23 Location of clerk's office.—Each clerk shall have an
 176 office ~~keep his or her records~~ at the headquarters of the
 177 district court of appeal.
 178 Section 7. Section 35.24, Florida Statutes, is amended to
 179 read:
 180 35.24 Maintenance Custody of books, records, and other
 181 materials etc.—All books, papers, records, files and the seal of
 182 each district court of appeal shall be maintained by, and in the
 183 control of, kept in the office of the clerk of the said court.
 184 Section 8. Subsection (2) of section 40.23, Florida
 185 Statutes, is amended to read:
 186 40.23 Summoning jurors.—
 187 (2) The jury service of any person who has been summoned
 188 may be postponed for a period not to exceed 6 months upon
 189 written or oral request. However, if either a public health
 190 emergency has been declared by the State Health Officer pursuant
 191 to s. 381.00315 or a state of emergency has been declared by the
 192 Governor pursuant to s. 252.36(2), the jury service of any
 193 person who has been summoned may be postponed for a period not
 194 to exceed 12 months upon written or oral request. The request
 195 may specify a date or period of time to which service is to be
 196 postponed and, if so, shall be given consideration when the
 197 assignment of the postponed date of jury service is made.
 198 Section 9. Paragraph (d) of subsection (3) of section
 199 812.014, Florida Statutes, is amended to read:
 200 812.014 Theft.—
 201 (3)
 202 (d)1. A judgment of guilty or not guilty of a petit theft
 203 must ~~shall~~ be in:

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204 a. A written record that is signed by the judge and
 205 recorded by the clerk of the circuit court; or
 206 b. An electronic record that contains the judge's
 207 electronic signature as defined in s. 933.40 and is recorded by
 208 the clerk of the circuit court.
 209 2. ~~A~~ At the time a defendant is found guilty of petit
 210 theft, the judge shall cause the following to occur in open
 211 court and in the judge's presence:
 212 a. ~~For a written judgment of guilty,~~ the fingerprints of a
 213 the defendant who is found guilty of petit theft to against whom
 214 such judgment is rendered shall be manually taken or
 215 electronically captured and affixed beneath the judge's
 216 signature on the judgment. Beneath Such fingerprints must be
 217 certified and filed in the case in which the judgment of guilty
 218 is entered as provided in s. 921.241(3). ~~shall be appended a~~
 219 ~~certificate to the following effect:~~
 220
 221 "I hereby certify that the above and foregoing fingerprints
 222 on this judgment are the fingerprints of the defendant,,
 223 and that they were placed thereon by said defendant in my
 224 presence, in open court, this the day of
 225 ... (year)...."
 226
 227 ~~Such certificate shall be signed by the judge, whose signature~~
 228 ~~thereto shall be followed by the word "Judge."~~
 229 b. ~~For an electronic judgment of guilty, the fingerprints~~
 230 ~~of the defendant must be electronically captured and a~~
 231 ~~certificate must be issued as provided in s. 921.241(3)(b).~~
 232 3. A written or an electronic judgment of guilty of a petit

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233 theft, or a certified copy thereof, is admissible in evidence in
 234 the courts of this state as provided in s. 921.241(4).

235 Section 10. Section 921.241, Florida Statutes, is amended
 236 to read:

237 921.241 Felony judgments ~~and~~ fingerprints ~~and social~~
 238 ~~security number~~ required in record.—

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

240 (a) "Electronic signature" has the same meaning as in s.
 241 933.40.

242 (b) "Transaction control number" means the unique
 243 identifier comprised of numbers, letters, or other symbols for a
 244 digital fingerprint record generated by the device used to
 245 electronically capture the fingerprints.

246 (2) A judgment of guilty or not guilty of a felony must
 247 ~~shall~~ be in:

248 (a) A written record ~~that is~~ signed by the judge and
 249 recorded by the clerk of the court; or

250 (b) An electronic record that contains the judge's
 251 electronic signature and is recorded by the clerk of the court.

252 (3) A ~~At the time a defendant is found guilty of a felony,~~
 253 ~~the judge shall cause the following to occur in open court and~~
 254 ~~in the judge's presence:~~

255 ~~(a) For a written judgment of guilty, the fingerprints of a~~
 256 ~~the defendant who is found guilty of a felony to shall be~~
 257 ~~manually taken or electronically captured. If the fingerprints~~
 258 ~~are:~~

259 (a) Manually taken, the fingerprints must be filed in the
 260 case in which ~~and affixed beneath the judge's signature on the~~
 261 judgment of guilty is entered. Beneath such fingerprints shall

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262 be appended a certification ~~certificate~~ to the following effect:
 263

264 "I hereby certify that the above and foregoing fingerprints
 265 ~~on this judgment~~ are the fingerprints of the defendant, ...,
 266 and that they were placed thereon by said defendant in my
 267 presence, ~~in open court,~~ this the ... day of ...,
 268 ... (year)...."

269

270 The court officer, the employee of the court, or the employee of
 271 a criminal justice agency who manually took the fingerprints
 272 shall place his or her written signature on the certification.
 273 Such certificate shall be signed by the judge, whose signature
 274 thereto shall be followed by the word "Judge."

275 (b) ~~For an electronic judgment of guilty, the fingerprints~~
 276 ~~of the defendant shall be~~ Electronically captured, and the
 277 following certification must ~~certificate shall be~~ filed in the
 278 case in which ~~included in the electronic judgment of guilty is~~
 279 entered:

280

281 "I hereby certify that the digital fingerprint record
 282 associated with Transaction Control Number ... contains the
 283 fingerprints of the defendant, ..., which were electronically
 284 captured from the defendant in my presence, ~~in open court,~~ this
 285 the ... day of ..., ... (year)...."

286

287 The court officer, the employee of the court, or the employee of
 288 a criminal justice agency who electronically captured the
 289 fingerprints ~~judge shall place his or her written or electronic~~
 290 signature, which shall be followed by the word "Judge," on the

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291 certification certificate.

292 (4) A written or electronic judgment of guilty, or a
293 certified copy thereof, ~~is shall be~~ admissible in evidence in
294 the several courts of this state as prima facie evidence that
295 the:

296 (a) Manual fingerprints filed in the case in which the
297 judgment of guilty is entered appearing thereon and certified by
298 ~~the judge as specified in this section aforesaid~~ are the
299 fingerprints of the defendant against whom the judgment of
300 guilty was rendered.

301 (b) Digital fingerprint record associated with the
302 transaction control number specified in the certification
303 required by this section and filed in the case in which the
304 judgment of guilty is entered judge's certificate contains the
305 fingerprints of the defendant against whom the judgment of
306 guilty was rendered.

307 ~~(5) At the time the defendant's fingerprints are manually~~
308 ~~taken or electronically captured, the judge shall also cause the~~
309 ~~defendant's social security number to be taken. The defendant's~~
310 ~~social security number shall be specified in each written or~~
311 ~~electronic judgment of guilty of a felony, in open court, in the~~
312 ~~presence of such judge, and at the time the judgment is~~
313 ~~rendered. If the defendant is unable or unwilling to provide his~~
314 ~~or her social security number, the reason for its absence shall~~
315 ~~be specified in the written or electronic judgment.~~

316 Section 11. Section 921.242, Florida Statutes, is amended
317 to read:

318 921.242 Subsequent offenses under chapter 796; method of
319 proof applicable.-

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320 (1) A judgment of guilty with respect to any offense
321 governed by ~~the provisions of~~ chapter 796 ~~must shall~~ be in:

322 (a) A written record ~~that is~~ signed by the judge and
323 recorded by the clerk of the circuit court; or

324 (b) An electronic record that contains the judge's
325 electronic signature as defined in s. 933.40 and is recorded by
326 the clerk of the circuit court.

327 (2) ~~A At the time a defendant is found guilty, the judge~~
328 ~~shall cause the following to occur in open court and in the~~
329 ~~judge's presence:~~

330 ~~(a) For a written judgment of guilty, the fingerprints of a~~
331 ~~the defendant who is found guilty of any offense governed by~~
332 ~~chapter 796 to against whom such judgment is rendered shall be~~
333 ~~manually taken or electronically captured. and affixed beneath~~
334 ~~the judge's signature on the judgment. Beneath Such fingerprints~~
335 ~~must be certified and filed in the case in which the judgment of~~
336 ~~guilty is entered as provided in s. 921.241(3). shall be~~
337 ~~appended a certificate to the following effect:~~

338 "I hereby certify that the above and foregoing fingerprints
339 are of the defendant, ... (name) ..., and that they were placed
340 thereon by said defendant in my presence, in open court, this
341 the day of ..., ... (year)"

342 Such certificate shall be signed by the judge, whose signature
343 thereto shall be followed by the word "Judge."

344 (b) ~~For an electronic judgment of guilty, the fingerprints~~
345 ~~of the defendant must be electronically captured, and a~~
346 ~~certificate must be issued as provided in s. 921.241(3) (b).~~

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349 (3) A written or an electronic judgment of guilty, or a
350 certified copy thereof, is ~~shall be~~ admissible in evidence in
351 the several courts of this state as provided in s. 921.241(4).

352 Section 12. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill # 748**, relating to Courts, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

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

THE FLORIDA SENATE

APPEARANCE RECORD

04.15.21

Meeting Date

748

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name William Large

Job Title President

Address 210 South Monroe Street

Phone 850-222-0170

Street

Tallahassee

FL

32301

Email William@fljustice.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Justice Reform Institute

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

4-15-21

Meeting Date

SB 748

Bill Number (if applicable)

Topic Courts

Amendment Barcode (if applicable)

Name Eric Maclure

Job Title Deputy State Courts Administrator

Address 500 South Duval Street

Phone 850-414-1048

Street

Tallahassee

Florida

32399

Email macluree@flcourts.org

City

State

Zip

Speaking: For Against Information

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

Representing State Courts System

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 Appropriations

BILL: CS/CS/CS/SB 750

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senator Gruters and others

SUBJECT: Impact Fees

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u>Kim</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 750 makes a number of changes regarding limitations on, and requirements for, the imposition of impact fees by local governments to fund local infrastructure to meet the demands of population growth. The bill:

- Specifies that impact fees may be utilized only for fixed capital expenditures or fixed capital outlays for major capital improvements;
- Revises requirements for crediting contributions against the collection of impact fees;
- Specifies limitations and restrictions on certain impact fee increases;
- Specifies criteria that must be met to be exempted from certain fee increase limitations and restrictions; and
- Revises annual financial reporting requirements for local governments relating to impact fees.

The Revenue Estimating Conference determined that the bill will have a negative indeterminate fiscal impact on local governments and school districts.

The bill takes effect upon becoming a law.

II. Present Situation:

Local Government Authority

The State Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Under the State Constitution, local governments have no authority to levy taxes, other than ad valorem taxes, except as provided by general law.⁴ However, local governments have authority under their home rule authority to impose special assessments and user fees.⁵

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project's building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.⁶ Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.⁷ In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.⁸

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b); s. 166.021(1), F.S.

⁴ *Collier County v. State*, 733 So. 2d 1012, 1014 (Fla. 1999).

⁵ *Id.*

⁶ *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).

⁷ *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.

⁸ *See St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

Until 2006, the characteristics and limitations of impact fees in Florida were found in case law rather than state statute.⁹ In 2006, in response to local governments' reliance on impact fees and the growth of impact fee collections, the Legislature adopted the Florida Impact Fee Act¹⁰, found in s. 163.31801, F.S., which requires local governing authorities to satisfy certain requirements when imposing impact fees.¹¹ Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum, meet the following criteria:

- The fee must be calculated using the most recent and localized data.
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.
- Charges imposed for the collection of impact fees must be limited to the actual costs.
- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.
- The impact fee must be reasonably connected to, or have a rational nexus with the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with the increased impact generated by the new residential or commercial construction.

Meeting the dual rational nexus test requires the local government ordinance or resolution imposing the impact fee to earmark the funds collected for acquiring the new capital facilities necessary to benefit the new residents.

Some local governments impose impact fees specifically for local school facilities.¹² School districts have authority to impose ad valorem taxes within the district for school purposes¹³ but

⁹ Office of Economic and Demographic Research, The Florida Legislature, *2020 Local Government Financial Information Handbook*, Dec. 2020, 13, available at <http://edr.state.fl.us/Content/local-government/reports/lghfih20.pdf> (last visited April 15, 2021).

¹⁰ Ch. 2006-218, s. 9, Laws of Fla.

¹¹ *Supra* note 9.

¹² See, e.g., Miami-Dade County Code of Ordinances ch. 33K, *Educational Facilities Impact Fee Ordinance* and Orange County Code of Ordinances ch. 23, art. V, *School Impact Fees*.

¹³ FLA. CONST. art. VII, s. 9(a), and art. IX, s. 4(b); See s. 1011.71, F.S.

are not general purpose governments with home rule power¹⁴ and are not expressly authorized to impose impact fees.¹⁵ Local governments imposing specific impact fees for education capital improvements typically collect the fees for deposit directly into an account segregated for funding those improvements.¹⁶

Section 163.31801(4), F.S., provides that a local government must credit against the collection of an education-based impact fee any contribution for public education facilities on a dollar-for-dollar basis at fair market value.

Section 163.31801(5), F.S., provides that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under concurrency, developments of regional impact, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.

Financial Reporting

Counties, district school boards, municipalities with revenues or total expenditures and expenses exceeding \$250,000, and special districts with revenues or total expenditures and expenses exceeding \$100,000 must have an annual financial audit prepared by either the Auditor General or an independent certified public accountant.¹⁷ Municipalities with revenues or total expenditures and expenses between \$100,000 and \$250,000, and special districts with revenues or total expenditures and expenses between \$50,000 and \$100,000, must have a financial audit prepared every three fiscal years.¹⁸ Municipalities with revenues or total expenditures and expenses less than \$100,000 and special districts with revenues or total expenditures and expenses of less than \$50,000 are not required to have their financial statements audited.¹⁹ All local governmental entities are required to file an annual financial report with the Department of Financial Services no later than nine months from the end of the entity's fiscal year.²⁰

The financial audit report of a county, municipality, special district, or district school board filed with the Auditor General must include an affidavit signed by the chief financial officer²¹ of the

¹⁴ See FLA. CONST. art. VIII, ss. 1(f)-(g) and 2

¹⁵ Section 163.31801(2), F.S.

¹⁶ In Miami-Dade County, the education facility impact fee is paid to the County Planning & Zoning Director, who must then deposit that amount into a specific trust fund maintained by the county. See Miami-Dade County Code of Ordinances, ss. 33K-7(a), 33K-10(c). In Orange County, the school impact fee is paid to the county or municipality (if the land being developed is within a municipality), which then transfers the funds collected at least quarterly to the Orange County School District. The District is responsible for maintaining the trust into which the impact fee revenues must be deposited. See Orange County Code of Ordinances, s. 23-142.

¹⁷ Section 218.39(1), F.S.

¹⁸ Section 218.39(1), F.S.

¹⁹ Section 218.39(1), F.S.

²⁰ Section 218.39(1), F.S.

²¹ The term "chief financial officer" for a local government is not defined in statute. For counties, the county commission may designate a county budget officer, typically either the county comptroller or the clerk of the circuit court. Section 129.025, F.S. The finances of a municipality are under the authority of the governing body, which may designate a municipal budget officer. Section 166.241, F.S. Special district boards are responsible for district financial management. Section 189.016(3), F.S. District school boards are responsible to manage and oversee district finances. Section 1001.42(12), F.S.

reporting entity that the local governmental entity or district school board has complied with the requirements of the impact fee statute.²²

In addition to their annual financial reporting requirements, counties, municipalities, and special districts must report the following information on all impact fees charged:²³

- The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.
- The amount assessed for each purpose and for each type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of housing that is affordable.

III. Effect of Proposed Changes:

Definitions

The bill defines “infrastructure” as a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities with a life expectancy of at least 5 years; related land acquisition, land improvement, design, engineering, and permitting costs; and other related construction costs required to bring the public facility into service. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, a school bus, and the equipment necessary to outfit the vehicle or bus for its official use. For the independent special fire control districts, the term includes “new facilities” as defined in the independent special fire control district statute.²⁴ The bill also defines “public facilities” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, and recreational facilities, and expressly includes emergency medical, fire, and law enforcement facilities.

Impact Fee Credits

The bill expands the current requirement, added in 2019,²⁵ for local governments to credit against impact fees any contributions related to public education facilities. First, the bill subjects special districts to the requirement. Second, it expands the credit requirement to any contribution related to the improvement of public facilities or infrastructure, rather than only public education facilities under current law. Third, it provides that any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made, rather than only education-based impact fees under current law. However, if a local government or special district does not charge and collect an impact fee for the general category or class of public facilities or

²² Section 163.31801(6), F.S.

²³ Section 163.31801(11), F.S.

²⁴ Section 191.009(4), F.S. That statute defines “new facilities” as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radio telemetry equipment, and other firefighting or rescue equipment.

²⁵ Chapter 2019-165, s. 5, Laws of Fla.

infrastructure contributed to, the credit may not be applied. All credits against impact fee collections must be made regardless of any provision in a local government's or special district's charter, comprehensive plan policy, ordinance, resolution, or development order or permit.

The bill provides applicability for a current provision in s. 163.31801(8), F.S., which provides for the assignability and transferability of impact fee credits between developments and parcels within the same impact fee zone or district or within certain adjoining impact fee zones or parcels. The bill provides that the provision applies to all impact fee credits regardless of whether the credits were established before or after the effective date of this act. The bill directs the Division of Law Revision to replace the phrase "the effective date of this act" with the date the act becomes a law.

Impact Fee Increases

The bill provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees that complies with the provisions of this bill.

The bill limits impact fee increases as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

The bill provides an exception to the first four bulleted limitations above if a local government, school district, or special district:

- Completes, within the 12-month period before the adoption of the impact fee increase, a demonstrated-need study justifying the increase and expressly demonstrating the extraordinary circumstances necessitating the need to exceed the limitations;
- Holds at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the limitations; and
- Approves the impact fee increase ordinance by at least a two-thirds vote of the governing body.

A local government or school district that enacts new impact fees as a result of a current impact fee study may implement the total amount of those fees in up to four equal segments in up to four succeeding years.

The bill provides that the above provisions relating to impact fee increases operate retroactively to January 1, 2021.

Financial Reporting Requirements

The bill revises financial reporting requirements for a local government, school district, or special district by requiring its chief financial officer, or its executive officer if there is no chief financial officer, to attest in an affidavit separate from the local government's, school district's, or special district's annual financial report that:

- All impact fees were collected and expended by the local government, school district, or special district, or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution; and
- Funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs, as defined in s. 163.31801, F.S.

Additional Reporting Requirements

The bill adds school districts to the list of entities that must report the following information on all impact fees charged, in addition to the annual financial reporting requirements under s. 213.32, F.S.:

- The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.
- The amount assessed for each purpose and for each type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of housing that is affordable.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the State Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact. Based on joint guidelines of the Legislature, the insignificant impact limit for Fiscal Year 2020-2021 is approximately \$2.2 million.²⁶

²⁶ Neither the State Constitution nor the Florida Statutes define “insignificant fiscal impact” for purposes of s. 18(d), Art. VII of the State Constitution. Joint Senate and House guidelines define “insignificant” as an amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *Senate President Margolis and Speaker of the House Wetherell, County and Municipality Mandates Analysis* (1991), cited at Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 15, 2021). The \$2.2 million figure is based on the Florida Demographic Estimating Conference’s Nov. 13, 2020, population forecast for

The mandate provisions may apply because the bill imposes limitations on a county and municipality's ability to increase impact fees. However, the bill provides an exception to the limitations if the county or municipality can demonstrate the proposed impact fee increase complies with certain statutory impact fee provisions, including adherence to the rational nexus test. If the impact of the limitations in the bill is determined to exceed \$2.2 million in the aggregate, final passage of the bill may require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will have a negative indeterminate fiscal impact to local governments and school districts.²⁷

B. Private Sector Impact:

Private developers may avoid large future increases in local government impact fees with the impact fee increase limitations in the bill.

C. Government Sector Impact:

Local governments seeking to increase impact fees will be limited in the amount of such increase annually. However, the bill provides an exception to the limitation where a local government may increase impact fees beyond the bill's limitations if the local government can establish the need for the increase in full compliance with certain statutory impact fee provisions.

2021 of 21,893,919. The conference packet is available at:

<http://www.edr.state.fl.us/Content/conferences/population/archives/201113demographic.pdf> (last visited April 15, 2021).

²⁷ Revenue Estimating Conference, *Analysis of Proposed Language*, March 12, 2021, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page173-195.pdf> (last visited April 15, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.31801 of the Florida Statutes.

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

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

CS/CS/CS by Appropriations on April 15, 2021:

The committee substitute:

- Specifies that in order for a local government, school district, or special district to increase impact fees beyond specific limitations imposed by the bill, the governmental authority must:
 - Complete, within 12 months before the adoption of the increase, a demonstrated-need study justifying the increase and expressly demonstrating the extraordinary circumstances necessitating the need to exceed the limitations;
 - Hold at least 2 publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the limitations; and
 - Approve the impact fee ordinance by at least a two-thirds vote of the governing body.
- Authorizes a local government or school district that enacts new impact fees as the result of a current impact fee study to implement the total amount of fees in up to four equal segments in up to four succeeding years.
- Specifies that if a local government, school district, or special district does not have a chief financial officer to execute a required affidavit, an executive officer may perform the duty.
- Provides that an existing provision relating to the assignability and transferability of certain impact fee credits applies to all impact fee credits regardless of whether the credits were established before or after the effective date of the act.
- Makes technical and conforming changes.

CS/CS by Finance and Tax on March 31, 2021:

The committee substitute:

- Adds to the definition of “infrastructure” fire department vehicles, emergency medical service vehicles, sheriff’s office vehicles, police department vehicles, school buses, and the equipment necessary to outfit such vehicles or buses for their official use.
- Revises the requirement for local governments and special districts to credit certain contributions against the collection of an impact fee, in that:

- Contributions relating to the improvement of public facilities or infrastructure must be credited.
- Credits must be applied on impact fees collected for the general category or class of public facilities or infrastructure for which the contribution was made.
- Credits may not be applied if the local government or special district does not charge and collect an impact fee for the general category or class of public facility contributed to.

CS by Community Affairs on March 24, 2021:

The committee substitute:

- Removes the provision that impact fees may only be collected if the local government has planned or funded capital improvements.
- Removes the provision that local governments may not increase impact fees by more than 3 percent annually and instead institutes an alternative impact fee increase limitation scheme.
- Provides that an impact fee increase must be pursuant to a plan for the imposition, collection, and use of such fees.
- Provides an exception to the impact fee increase limitations if a proposed impact fee increase complies with certain statutory impact fee provisions, including adherence to the rational nexus test.
- Modifies the affidavit provision to remove the requirement that the local government's chief financial officer annually attest that impact fees collected were in full compliance with s. 163.31801, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 177

and insert:

Section 1. Section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(1) This section may be cited as the "Florida Impact Fee Act."



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11 (2) The Legislature finds that impact fees are an important
12 source of revenue for a local government to use in funding the
13 infrastructure necessitated by new growth. The Legislature
14 further finds that impact fees are an outgrowth of the home rule
15 power of a local government to provide certain services within
16 its jurisdiction. Due to the growth of impact fee collections
17 and local governments' reliance on impact fees, it is the intent
18 of the Legislature to ensure that, when a county or municipality
19 adopts an impact fee by ordinance or a special district adopts
20 an impact fee by resolution, the governing authority complies
21 with this section.

22 (3) For purposes of this section, the term:

23 (a) "Infrastructure" means a fixed capital expenditure or
24 fixed capital outlay, excluding the cost of repairs or
25 maintenance, associated with the construction, reconstruction,
26 or improvement of public facilities that have a life expectancy
27 of at least 5 years; related land acquisition, land improvement,
28 design, engineering, and permitting costs; and other related
29 construction costs required to bring the public facility into
30 service. The term also includes a fire department vehicle, an
31 emergency medical service vehicle, a sheriff's office vehicle, a
32 police department vehicle, a school bus as defined in s.
33 1006.25, and the equipment necessary to outfit the vehicle or
34 bus for its official use. For independent special fire control
35 districts, the term "infrastructure" includes new facilities as
36 defined in s. 191.009(4).

37 (b) "Public facilities" has the same meaning as in s.
38 163.3164 and includes emergency medical, fire, and law
39 enforcement facilities.



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40 ~~(4)-(3)~~ At a minimum, each local government that adopts and
41 collects an impact fee by ordinance and each special district
42 that adopts, collects, and administers an impact fee by
43 resolution must ~~an impact fee adopted by ordinance of a county~~
44 ~~or municipality or by resolution of a special district must~~
45 ~~satisfy all of the following conditions:~~

46 (a) Ensure that the calculation of the impact fee is ~~must~~
47 ~~be~~ based on the most recent and localized data.

48 (b) ~~The local government must~~ Provide for accounting and
49 reporting of impact fee collections and expenditures and. ~~If a~~
50 ~~local governmental entity imposes an impact fee to address its~~
51 ~~infrastructure needs, the entity must~~ account for the revenues
52 and expenditures of such impact fee in a separate accounting
53 fund.

54 (c) Limit administrative charges for the collection of
55 impact fees ~~must be limited~~ to actual costs.

56 (d) ~~The local government must~~ Provide notice at least not
57 ~~less than~~ 90 days before the effective date of an ordinance or
58 resolution imposing a new or increased impact fee. A local
59 government ~~county or municipality~~ is not required to wait 90
60 days to decrease, suspend, or eliminate an impact fee. Unless
61 the result is to reduce the total mitigation costs or impact
62 fees imposed on an applicant, new or increased impact fees may
63 not apply to current or pending permit applications submitted
64 before the effective date of ~~an ordinance or resolution imposing~~
65 a new or increased impact fee.

66 (e) Ensure that collection of the impact fee may not be
67 required to occur earlier than the date of issuance of the
68 building permit for the property that is subject to the fee.



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69 (f) Ensure that the impact fee is ~~must be~~ proportional and
70 reasonably connected to, or has ~~have~~ a rational nexus with, the
71 need for additional capital facilities and the increased impact
72 generated by the new residential or commercial construction.

73 (g) Ensure that the impact fee is ~~must be~~ proportional and
74 reasonably connected to, or has ~~have~~ a rational nexus with, the
75 expenditures of the funds collected and the benefits accruing to
76 the new residential or nonresidential construction.

77 (h) ~~The local government must~~ Specifically earmark funds
78 collected under the impact fee for use in acquiring,
79 constructing, or improving capital facilities to benefit new
80 users.

81 (i) Ensure that revenues generated by the impact fee are
82 ~~may not be~~ used, in whole or in part, to pay existing debt or
83 for previously approved projects unless the expenditure is
84 reasonably connected to, or has a rational nexus with, the
85 increased impact generated by the new residential or
86 nonresidential construction.

87 (5) (a) (4) Notwithstanding any charter provision,
88 comprehensive plan policy, ordinance, development order,
89 development permit, or resolution, the local government or
90 special district must credit against the collection of the
91 impact fee any contribution, whether identified in a
92 proportionate share agreement or other form of exaction, related
93 to public ~~education~~ facilities or infrastructure, including land
94 dedication, site planning and design, or construction. Any
95 contribution must be applied on a dollar-for-dollar basis at
96 fair market value to reduce any ~~education-based~~ impact fee
97 collected for the general category or class of public facilities



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98 or infrastructure for which the contribution was made fees on a
99 dollar-for-dollar basis at fair market value.

100 (b) If a local government or special district does not
101 charge and collect an impact fee for the general category or
102 class of public facilities or infrastructure contributed, a
103 credit may not be applied under paragraph (a).

104 (6)-(5) A local government, school district, or special
105 district may increase an impact fee only as provided in this
106 subsection.

107 (a) An impact fee may be increased only pursuant to a plan
108 for the imposition, collection, and use of the increased impact
109 fees which complies with this section.

110 (b) An increase to a current impact fee rate of not more
111 than 25 percent of the current rate must be implemented in two
112 equal annual increments beginning with the date on which the
113 increased fee is adopted.

114 (c) An increase to a current impact fee rate which exceeds
115 25 percent but is not more than 50 percent of the current rate
116 must be implemented in four equal installments beginning with
117 the date the increased fee is adopted.

118 (d) An impact fee increase may not exceed 50 percent of the
119 current impact fee rate.

120 (e) An impact fee may not be increased more than once every
121 4 years.

122 (f) An impact fee may not be increased retroactively for a
123 previous or current fiscal or calendar year.

124 (g) A local government, school district, or special
125 district may increase an impact fee rate beyond the phase-in
126 limitations established under paragraph (b), paragraph (c),



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127 paragraph (d), or paragraph (e) by establishing the need for
128 such increase in full compliance with the requirements of
129 subsection (4), provided the following criteria are met:

130 1. A demonstrated-need study justifying any increase in
131 excess of paragraph (b), paragraph (c), paragraph (d), or
132 paragraph (e) has been completed within the 12 months prior to
133 the adoption of the impact fee increase and expressly
134 demonstrates the extraordinary circumstances necessitating the
135 need to exceed the phase-in limitations;

136 2. The local government jurisdiction has held no less than
137 two publicly-noticed workshops dedicated to the extraordinary
138 circumstances necessitating the need to exceed the phase-in
139 limitations of paragraph (b), paragraph (c), paragraph (d), or
140 paragraph (e); and

141 3. The impact fee increase ordinance is approved by no less
142 than a two-thirds vote of the governing body.

143 (h) This subsection shall operate retroactively to January
144 1, 2021.

145 (7) If an impact fee is increased a local government
146 increases its impact fee rates, the holder of any impact fee
147 credits, whether such credits are granted under s. 163.3180, s.
148 380.06, or otherwise, which were in existence before the
149 increase, is entitled to the full benefit of the intensity or
150 density prepaid by the credit balance as of the date it was
151 first established. This subsection shall operate prospectively
152 and not retrospectively.

153 (8) ~~(6)~~ A local government, school district, or special
154 district must submit with its annual financial report required
155 under s. 218.32 or its financial audit report required under s.



783100

156 218.39 a separate affidavit signed by its chief financial
157 officer or, if there is no chief financial officer, its
158 executive officer attesting, to the best of his or her
159 knowledge, that all impact fees were collected and expended by
160 the local government, school district, or special district, or
161 were collected and expended on its behalf, in full compliance
162 with the spending period provision in the local ordinance or
163 resolution, and that funds expended from each impact fee account
164 were used only to acquire, construct, or improve specific
165 infrastructure needs as defined in this section ~~Audits of~~
166 ~~financial statements of local governmental entities and district~~
167 ~~school boards which are performed by a certified public~~
168 ~~accountant pursuant to s. 218.39 and submitted to the Auditor~~
169 ~~General must include an affidavit signed by the chief financial~~
170 ~~officer of the local governmental entity or district school~~
171 ~~board stating that the local governmental entity or district~~
172 ~~school board has complied with this section.~~

173 (9) ~~(7)~~ In any action challenging an impact fee or the
174 government's failure to provide required dollar-for-dollar
175 credits for the payment of impact fees as provided in s.
176 163.3180(6)(h)2.b., the government has the burden of proving by
177 a preponderance of the evidence that the imposition or amount of
178 the fee or credit meets the requirements of state legal
179 precedent and this section. The court may not use a deferential
180 standard for the benefit of the government.

181 (10) ~~(8)~~ Impact fee credits are assignable and transferable
182 at any time after establishment from one development or parcel
183 to any other that is within the same impact fee zone or impact
184 fee district or that is within an adjoining impact fee zone or



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185 impact fee district within the same local government
186 jurisdiction and which receives benefits from the improvement or
187 contribution that generated the credits. This subsection applies
188 to all impact fee credits regardless of whether the credits were
189 established before or after the effective date of this act.

190 ~~(11)(9)~~ A county, municipality, or special district may
191 provide an exception or waiver for an impact fee for the
192 development or construction of housing that is affordable, as
193 defined in s. 420.9071. If a county, municipality, or special
194 district provides such an exception or waiver, it is not
195 required to use any revenues to offset the impact.

196 ~~(12)(10)~~ This section does not apply to water and sewer
197 connection fees.

198 ~~(13)(11)~~ In addition to the items that must be reported in
199 the annual financial reports under s. 218.32, a local
200 government, school district ~~county, municipality,~~ or special
201 district must report all of the following information ~~data~~ on
202 all impact fees charged:

203 (a) The specific purpose of the impact fee, including the
204 specific infrastructure needs to be met, including, but not
205 limited to, transportation, parks, water, sewer, and schools.

206 (b) The impact fee schedule policy describing the method of
207 calculating impact fees, such as flat fees, tiered scales based
208 on number of bedrooms, or tiered scales based on square footage.

209 (c) The amount assessed for each purpose and for each type
210 of dwelling.

211 (d) The total amount of impact fees charged by type of
212 dwelling.

213 (e) Each exception and waiver provided for construction or



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214 development of housing that is affordable.

215 Section 2. The Division of Law Revision is directed to
216 replace the phrase "the effective date of this act" wherever it
217 occurs in this act with the date the act becomes a law.

218

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

220 And the title is amended as follows:

221 Delete lines 6 - 14

222 and insert:

223 fees any contribution related to public facilities or
224 infrastructure; providing conditions under which
225 credits may not be applied; providing limitations on
226 impact fee increases; providing for retroactive
227 operation; requiring specified entities to submit an
228 affidavit attesting that impact fees were
229 appropriately collected and expended; providing for
230 retroactive applicability; requiring school districts
231 to report specified information regarding impact fees;
232 providing a directive to the Division of Law Revision;
233 providing



523368

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (783100)

Delete line 134
and insert:
demonstrates the extraordinary circumstance and unforeseen
financial hardship necessitating the



448154

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (783100)

Delete line 135
and insert:
need to exceed the phase-in limitations and expressly
demonstrates the infrastructure improvements that will be made
as a result of the increase;



593970

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (783100)

Delete line 143

and insert:

(h) Any local government or school district that enacts new impact fees as the result of a current impact fee study may implement the total amount of those fees in up to four equal segments in up to 4 succeeding years.

(i) This subsection shall operate retroactively to January

By the Committees on Finance and Tax; and Community Affairs; and
Senator Gruters

593-03639-21

2021750c2

1 A bill to be entitled
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; defining the terms "infrastructure" and "public
4 facilities"; requiring local governments and special
5 districts to credit against the collection of impact
6 fees any contribution that relates to the improvement
7 of public facilities or infrastructure; providing
8 conditions under which credits may not be applied;
9 providing limitations on impact fee increases;
10 providing for retroactive operation; requiring
11 specified entities to submit an affidavit attesting
12 that impact fees were appropriately collected and
13 expended; requiring school districts to report
14 specified information regarding impact fees; providing
15 an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Present subsections (3) through (11) of section
20 163.31801, Florida Statutes, are redesignated as subsections (4)
21 through (12), respectively, a new subsection (3) is added to
22 that section, and present subsections (3) through (6) and (11)
23 of that section are amended, to read:
24 163.31801 Impact fees; short title; intent; minimum
25 requirements; audits; challenges.-
26 (3) For purposes of this section, the term:
27 (a) "Infrastructure" means a fixed capital expenditure or
28 fixed capital outlay, excluding the cost of repairs or
29 maintenance, associated with the construction, reconstruction,

Page 1 of 7

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

593-03639-21

2021750c2

30 or improvement of public facilities that have a life expectancy
31 of at least 5 years; related land acquisition, land improvement,
32 design, engineering, and permitting costs; and other related
33 construction costs required to bring the public facility into
34 service. The term also includes a fire department vehicle, an
35 emergency medical service vehicle, a sheriff's office vehicle, a
36 police department vehicle, a school bus as defined in s.
37 1006.25, and the equipment necessary to outfit the vehicle or
38 bus for its official use. For independent special fire control
39 districts, the term "infrastructure" includes new facilities as
40 defined in s. 191.009(4).
41 (b) "Public facilities" has the same meaning as in s.
42 163.3164 and includes emergency medical, fire, and law
43 enforcement facilities.
44 (4)(3) At a minimum, each local government that adopts and
45 collects an impact fee by ordinance and each special district
46 that adopts, collects, and administers an impact fee by
47 resolution must an impact fee adopted by ordinance of a county
48 or municipality or by resolution of a special district must
49 satisfy all of the following conditions:
50 (a) Ensure that the calculation of the impact fee is must
51 be based on the most recent and localized data.
52 (b) The local government must Provide for accounting and
53 reporting of impact fee collections and expenditures and, if a
54 local governmental entity imposes an impact fee to address its
55 infrastructure needs, the entity must account for the revenues
56 and expenditures of such impact fee in a separate accounting
57 fund.
58 (c) Limit administrative charges for the collection of

Page 2 of 7

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

593-03639-21

2021750c2

59 impact fees ~~must be limited~~ to actual costs.

60 (d) ~~The local government must~~ Provide notice at least not
61 ~~less than~~ 90 days before the effective date of an ordinance or
62 resolution imposing a new or increased impact fee. A local
63 ~~government county or municipality~~ is not required to wait 90
64 days to decrease, suspend, or eliminate an impact fee. Unless
65 the result is to reduce the total mitigation costs or impact
66 fees imposed on an applicant, new or increased impact fees may
67 not apply to current or pending permit applications submitted
68 before the effective date of an ~~ordinance or resolution imposing~~
69 a new or increased impact fee.

70 (e) Ensure that collection of the impact fee may not be
71 required to occur earlier than the date of issuance of the
72 building permit for the property that is subject to the fee.

73 (f) Ensure that the impact fee is ~~must be~~ proportional and
74 reasonably connected to, or has have a rational nexus with, the
75 need for additional capital facilities and the increased impact
76 generated by the new residential or commercial construction.

77 (g) Ensure that the impact fee is ~~must be~~ proportional and
78 reasonably connected to, or has have a rational nexus with, the
79 expenditures of the funds collected and the benefits accruing to
80 the new residential or nonresidential construction.

81 (h) ~~The local government must~~ Specifically earmark funds
82 collected under the impact fee for use in acquiring,
83 constructing, or improving capital facilities to benefit new
84 users.

85 (i) Ensure that revenues generated by the impact fee are
86 ~~may not be~~ used, in whole or in part, to pay existing debt or
87 for previously approved projects unless the expenditure is

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88 reasonably connected to, or has a rational nexus with, the
89 increased impact generated by the new residential or
90 nonresidential construction.

91 ~~(5) (a) (4)~~ Notwithstanding any charter provision,
92 comprehensive plan policy, ordinance, development order,
93 development permit, or resolution, the local government or
94 special district must credit against the collection of the
95 impact fee any contribution, whether identified in a
96 proportionate share agreement or other form of exaction, which
97 relates to the improvement of related to public education
98 facilities or infrastructure, including land dedication, site
99 planning and design, or construction. Any contribution must be
100 applied on a dollar-for-dollar basis at fair market value to
101 reduce any education-based impact fee collected for the general
102 category or class of public facilities or infrastructure for
103 which the contribution was made ~~fees on a dollar-for-dollar~~
104 ~~basis at fair market value.~~

105 (b) If a local government or special district does not
106 charge and collect an impact fee for the general category or
107 class of public facility contributed, a credit may not be
108 applied under paragraph (a).

109 ~~(6) (5)~~ A local government, school district, or special
110 district may increase an impact fee only as provided in this
111 subsection.

112 (a) An impact fee may be increased only pursuant to a plan
113 for the imposition, collection, and use of the increased impact
114 fees which complies with this section.

115 (b) An increase to a current impact fee rate of not more
116 than 25 percent of the current rate must be implemented in two

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117 equal annual increments beginning with the date on which the
 118 increased fee is adopted.

119 (c) An increase to a current impact fee rate which exceeds
 120 25 percent but is not more than 50 percent of the current rate
 121 must be implemented in four equal installments beginning with
 122 the date the increased fee is adopted.

123 (d) An impact fee increase may not exceed 50 percent of the
 124 current impact fee rate.

125 (e) An impact fee may not be increased more than once every
 126 4 years.

127 (f) An impact fee may not be increased retroactively for a
 128 previous or current fiscal or calendar year.

129 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a
 130 local government, school district, or special district may
 131 increase an impact fee rate by establishing the need for such
 132 increase in full compliance with the requirements of subsection
 133 (4).

134 (h) If a local government an impact fee is increased
 135 increases its impact fee rates, the holder of any impact fee
 136 credits, whether such credits are granted under s. 163.3180, s.
 137 380.06, or otherwise, which were in existence before the
 138 increase, is entitled to the full benefit of the intensity or
 139 density prepaid by the credit balance as of the date it was
 140 first established.

141 (i) This subsection shall operate retroactively to January
 142 1, 2021 prospectively and not retrospectively.

143 (7)(6) A local government, school district, or special
 144 district must submit with its annual financial report under s.
 145 218.32 or its financial audit report under s. 218.39 an

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2021750c2

146 affidavit signed by its chief financial officer attesting that
 147 all impact fees were collected and expended by the local
 148 government, school district, or special district, or were
 149 collected and expended on its behalf, in full compliance with
 150 the spending period provision in the local ordinance or
 151 resolution, and that funds expended from each impact fee account
 152 were used only to acquire, construct, or improve specific
 153 infrastructure needs as defined in this section Audits of
 154 financial statements of local governmental entities and district
 155 school boards which are performed by a certified public
 156 accountant pursuant to s. 218.39 and submitted to the Auditor
 157 General must include an affidavit signed by the chief financial
 158 officer of the local governmental entity or district school
 159 board stating that the local governmental entity or district
 160 school board has complied with this section.

161 (12)(11) In addition to the items that must be reported in
 162 the annual financial reports under s. 218.32, a local
 163 government, school district county, municipality, or special
 164 district must report all of the following information data on
 165 all impact fees charged:

166 (a) The specific purpose of the impact fee, including the
 167 specific infrastructure needs to be met, including, but not
 168 limited to, transportation, parks, water, sewer, and schools.

169 (b) The impact fee schedule policy describing the method of
 170 calculating impact fees, such as flat fees, tiered scales based
 171 on number of bedrooms, or tiered scales based on square footage.

172 (c) The amount assessed for each purpose and for each type
 173 of dwelling.

174 (d) The total amount of impact fees charged by type of

593-03639-21

2021750c2

175 dwelling.

176 (e) Each exception and waiver provided for construction or
177 development of housing that is affordable.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 1, 2021

I respectfully request that **Senate Bill #750**, relating to Impact Fees, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Marco Paredes

Job Title _____

Address 106 E. College Ave, Ste. 700

Phone 850-354-7608

Tallahassee FL 32311

City State Zip

Email mparedes@stearnsweaver.com

Speaking: For Against Information

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

Representing Encone Capital Management

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

4-15-2021

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Shareholder

Address 119 South Monroe Street Suite 300

Phone 850-222-7500

Street

Tallahassee

FL

32301

Email garyh@hgslaw.com

City

State

Zip

Speaking: For Against Information

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

Representing Association of Florida Community Developers

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

4/15/2021

Meeting Date

750

Bill Number (if applicable)

448154

Amendment Barcode (if applicable)

Topic Impact Fees

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Street

Phone (850) 922-4300

Tallahassee

FL

32308

Email bmckee@flcounties.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Counties

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)

4/15/21

Meeting Date

750

Bill Number (if applicable)

448154

Amendment Barcode (if applicable)

Topic Impact fees

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3676

Tallahassee FL 32301

City

State

Zip

Email DCRUZ@FCCITIO.COM

Speaking: For Against Information

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

Representing Florida League of Cities

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

4/15/2021

Meeting Date

750

Bill Number (if applicable)

523368

Amendment Barcode (if applicable)

Topic Impact Fees

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Street

Phone (850) 922-4300

Tallahassee

FL

32308

Email bmckee@flcounties.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Counties

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)

4/15/21

Meeting Date

750

Bill Number (if applicable)

523368

Amendment Barcode (if applicable)

Topic Impact fees

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3676

Street

Tallahassee FL 32301

City

State

Zip

Email DCRUZ@FCCities.com

Speaking: For Against Information

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

Representing Florida League of Cities

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)

4/15/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Pkwy

Phone 567-1073

Tallahassee FL 32317

City State Zip

Email rpayton@fhba.com

Speaking: For Against Information

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

Representing Florida Home Builders 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)

4/15/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address P.O. Box 1757

Phone 701-3676

Tallahassee FL 32301

Email DCRUZ@FLC-tie.com

Street

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

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)

4-15-21
Meeting Date

750
Bill Number (if applicable)

Topic ~~REVENUE~~ IMPACT FEES

Amendment Barcode (if applicable)

Name DANE BENNETT

Job Title DIR. OF GOV. AFFAIRS

Address 2600 CENTENNIAL PLACE
Street

Phone 941-468-8479

TALLAHASSEE FL 32308
City State Zip

Email ~~DANE~~. DBENNETT@FHBA.com

Speaking: For Against Information

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

Representing FLORIDA HOME BUILDERS 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Justin Thames

Job Title Director of Governmental Affairs

Address 119 S. Monroe street

Phone 850-528-2209

Street

Tallahassee

FL

State

32301

Zip

Email justin@ficpa.org

Speaking: For Against Information

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

Representing Florida Institute of Certified Public Accountants

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

750

Bill Number (if applicable)

523368

Amendment Barcode (if applicable)

Topic Impact Fees

Name Mark Jeffries

Job Title _____

Address 201 S. Rosalind Ave

Street

Phone 407 836-5909

Orlando FL

City

State

32801

Zip

Email mark.jeffries@ocfl.net

Speaking: For ~~Against~~ Information

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

Representing Orange County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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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)

4/15/21

Meeting Date

750

Bill Number (if applicable)

448154

Amendment Barcode (if applicable)

Topic Impact Fees

Name Mark Jeffries

Job Title

Address 201 S. Rosalind Ave

Street

Phone 407-836-5909

ORlando

FL

32801

Email mark.jeffries@ocfl.net

City

State

Zip

Speaking: For Against Information

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

Representing Orange County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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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)

4/15/21
Meeting Date

750
Bill Number (if applicable)

783100
Amendment Barcode (if applicable)

Topic Impact Fees

Name Justin Thames

Job Title Director of Governmental Relations

Address 119 S. Monroe St.

Phone 850-528-2209

Tallahassee FL 32301
City State Zip

Email justinefi@pa.org

Speaking: For Against Information

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

Representing Florida Institute of Certified Public Accountants

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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THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Lisa Hurley

Job Title _____

Address 311 E. Park Ave.

Phone 850.224.5081

Street

Tallahassee

FL

32301

Email lhurley@smithbryanandmyers.com

City

State

Zip

Speaking: For Against Information

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

Representing Collier County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Mark Jeffries

Job Title _____

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Phone 407-836-5909

Orlando FL 32801

Email mark.jeffries@ocfl.net

City State Zip

Speaking: For Against Information

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

Representing Orange County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/15/2021

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Bob McKee

Job Title Deputy Director of Public Policy

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Tallahassee

FL

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City

State

Zip

Email bmckee@flcounties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 770

INTRODUCER: Senator Burgess

SUBJECT: Military Affairs

DATE: April 14, 2021

REVISED: _____

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

I. Summary:

SB 770 revises several provisions related to the Florida National Guard (FLNG) and the Department of Military Affairs to update obsolete references and conform Florida Statutes to federal law related to operations of the FLNG. These changes include:

- Removing references to job titles no longer used as career service class and allowing the position of electronic security system technician to participate in the career service class;
- Revising out-of-date position titles as senior management service class and adding the Inspector General and Executive Officer;
- Specifying that the Adjutant General must serve as the Commanding General of the state's organized militia;
- Revising the requirements for appointment as Adjutant General to provide that the Adjutant General must have served in the Florida National Guard (FLNG) for *at least* five years, rather than the preceding five years in current law;
- Revising the requirements for the Assistant Adjutant General for the Army, second Assistant Adjutant General for the Army, and Assistant Adjutant General for Air to provide that each person must have served for *at least* three years, rather than the preceding five years in current law;
- Updating reference to the outdated version of the Manual for Courts-Martial (MCM) to the 2019 edition and establishing the Florida Code of Military Justice (FCMJ);
- Specifying that a court-martial in this state is an administrative procedure of the executive branch and not a court under the control of the judicial branch;
- Revising the procedures for convening general and special courts-martial to provide they must be tried pursuant to the MCM, except as otherwise provided by FLNG regulations;
- Revising procedures and personnel qualifications for convening and trial of general, special, and summary courts-martial as well as punishments that may be adjudged by these courts;
- Revising provisions relating to the imposition of nonjudicial punishment and specifying the types of nonjudicial punishment;

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

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

The bill takes effect July 1, 2021.

II. Present Situation:

Career Service

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

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

All non-exempt employees belong to the career service system.⁷ Military police chiefs, military police officers, firefighter trainers, firefighter rescuers, and electronic security system technicians in the Department of Military Affairs (DMA) are exempt from the career service system.⁸ The DMA states that the job titles of military police chiefs, military police officers, firefighter trainers, and firefighter rescuers are no longer used.⁹

Senior Management Service Class

Any officer or employee who is elected, appointed, or employed by the state is covered by the Florida Retirement System (FRS).¹⁰ The FRS is administered by DMS and participation is compulsory unless the position held is exempted by law.¹¹

¹ FLA. CONST. art. III, s. 14.

² Section 110.201(1)(a), F.S.

³ Chapter 110, Part II, F.S.

⁴ Chapter 110, Part III, F.S.

⁵ Chapter 110, Part IV, F.S.

⁶ Chapter 110, Part V, F.S.

⁷ Section 110.205, F.S.

⁸ Section 110.205(2)(p)2., F.S.

⁹ Department of Military Affairs, *2021 Agency Legislative Bill Analysis SB 770* (Feb. 3, 2021).

¹⁰ Section 121.011(2)(a), F.S.

¹¹ Section 121.051, F.S.

The senior management service (SMS) class is a separate class of membership within the FRS and is for members who fill senior management level positions assigned by law to the senior management service class or authorized by law as eligible for inclusion.¹² Participation in the SMS class is mandated by statute.¹³ The Adjutant General, Assistant Adjutant General-Army, Assistant Adjutant General-Air, State Quartermaster, Director of Military Personnel, Director of Administration, and additional directors in DMA are required to participate in the SMS class.¹⁴ The DMA states that these positions no longer exist or have been changed.¹⁵

The Florida National Guard

The Florida National Guard (FLNG) is the organized militia of the state.¹⁶ Its mission includes maintaining readiness to support national and state security efforts, as well as leading or assisting in humanitarian and logistical operations. These operations include hurricane preparation and recovery and currently includes assistance with the pandemic response. The Governor is the commander in chief of the FLNG and the Adjutant General is its chief of staff.¹⁷ The FLNG has an Army component and an Air component, each of which has an Assistant Adjutant General who is also its Commander.¹⁸

Adjutant General

The Adjutant General is the head of the Department of Military Affairs (DMA)¹⁹ and the chief of staff of the Florida National Guard. The Adjutant General is appointed by the Governor, subject to Senate confirmation.²⁰ The Adjutant General may, upon delegation of authority by the Governor, convene a general court-martial.²¹

The Florida Statutes provide the minimum qualifications for a candidate to be Adjutant General. He or she must be a federally recognized officer of the Florida National Guard who has served for the preceding 5 years.²²

¹² Section 121.055, F.S.

¹³ Section 121.055(1)(a), F.S.

¹⁴ Section 121.055(1)(g), F.S.

¹⁵ Department of Military Affairs, *2021 Agency Legislative Bill Analysis SB 770* (Feb. 3, 2021).

¹⁶ Section 250.02(2), F.S. The nonorganized militia is composed of all able-bodied citizens of the state and those individuals who have declared intentions to become citizens of the United States. FLA. CONST. art. X, sec. 2(a); and s. 250.02(1), F.S.

¹⁷ Section 250.06(1), F.S.

¹⁸ Florida National Guard, *Assistant Adjutant General—Army and Commander*, <https://fl.ng.mil/leadership/Pages/Assistant-Adjutant-General-Army.aspx> (last visited April 11, 2021); Florida National Guard, *Assistant Adjutant General—Air and Commander*, <https://fl.ng.mil/leadership/Pages/Assistant-Adjutant-General-Air.aspx> (last visited April 11, 2021).

¹⁹ Section 250.05(3), F.S. The Department of Military Affairs provides management oversight and administrative support to the FLNG. Florida National Guard, *Florida Department of Military Affairs*, <https://fl.ng.mil/about/Pages/Florida-Department-of-Military-Affairs.aspx>, (last visited April 11, 2021).

²⁰ Section 250.10(1), F.S.

²¹ Section 250.06(6), F.S.

²² *See* s. 250.10(1), F.S.

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

The United States Constitution grants Congress the power to raise and support armies, provide and maintain a navy, and provide for organizing and disciplining their members.²³ Pursuant to its constitutional authority, Congress enacted the federal Uniform Code of Military Justice (UCMJ), which contains the substantive and procedural laws governing the military justice system.²⁴ Jurisdiction under the UCMJ does not depend on where the offense was committed but only on the status of the accused, including an active duty servicemember of the Armed Forces or a National Guard member when in federal service.²⁵ Presidents have implemented the UCMJ through the Manual for Courts-Martial (MCM).²⁶ The MCM outlines procedural rules and punishments for violations of crimes and contains the Rules for Courts-Martial, the Military Rules of Evidence, and the punitive articles of the UCMJ.²⁷

A servicemember who violates the UCMJ is subject to discipline in a military court called a court-martial. There are three types of courts-martial: summary courts-martial, special courts-martial, and general courts-martial. A summary courts-martial is designed to dispose of minor offenses (non-criminal). Only enlisted servicemembers may be tried by summary courts-martial. A single officer presides over the hearing.²⁸

A special courts-martial is an intermediate trial level (generally similar to misdemeanors) composed of either a military judge alone or four members and a judge. An enlisted servicemember may ask that a portion of the court members be enlisted. There is both a prosecutor, commonly referred to as the trial counsel, and a defense counsel. In addition, the accused may be represented by civilian counsel, at no expense to the government, or by an individually requested military counsel. A judge presiding in a special courts-martial must be a qualified military judge.²⁹

A general courts-martial is the military's highest level trial court. This court tries servicemembers for the most serious crimes (similar to felonies). The punishment authority of the general court-martial is limited by the maximum authorized punishment for each offense in the MCM. A judge presiding in a general courts-martial must be a qualified military judge. The accused may request that the proceedings be overseen by a military judge and eight service members; for capital cases, 12 members are required.³⁰

²³ U.S. CONST. art. I, s. VIII.

²⁴ 10 U.S.C. s. 801 et seq.

²⁵ 10 U.S.C. s. 802(a)(3) (2016). The Armed Forces includes the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard. *See* 10 U.S.C. s. 101(a)(4) (2019).

²⁶ Exec. Order No. 12,473 49 Fed. Reg. 17,152 (Apr. 13, 1984).

²⁷ 10 U.S.C. ss. 816 – 821. *See also* Congressional Research Service, *Military Courts-Martial Under the Military Justice Act of 2016* (Aug. 28, 2020), <https://crsreports.congress.gov/product/pdf/R/R46503#:~:text=Military%20Courts-Martial%20Under%20the%20Military%20Justice%20Act%20of,the%20rights%20and%20obligations%20of%20their%20civilian%20counterparts> (last visited April 11, 2021).

²⁸ 10 U.S.C. s. 816(d) (2017). *See also* Congressional Research Service, *Military Courts-Martial Under the Military Justice Act of 2016*, at pp. 6 and 21.

²⁹ *Id.* at pp. 6-7 and 19-21.

³⁰ *Id.* at pp. 7 and 19-21.

Florida Courts-Martial

Article X, s. 2 of the Florida Constitution specifies that the qualifications of members of the FLNG and “the grounds and proceedings for their discipline and removal” must conform to appropriate United States Army or Air Force regulations. All provisions of federal law which relate to the FLNG and which are not inconsistent with the state constitution are part of the military laws of Florida.³¹ Members of the FLNG are subject to the UCMJ at all times during their enlistment or appointment, and ch. 250, F.S., applies to such members whether serving in-state or in another state.³²

Courts-martial are authorized to try a servicemember of the FLNG for any crime or offense made punishable by the UCMJ. However, a commissioned officer, warrant officer, or cadet may not be tried by summary courts-martial.³³ A servicemember of the FLNG who violates the UCMJ is subject to discipline pursuant to the court-martial.

A courts-martial or court of inquiry may be held in a unit of the FLNG serving outside the state, and such court has the same jurisdiction and powers as if the courts-martial or court of inquiry were held in Florida.³⁴ However, a service member may not be tried for offenses committed while in civilian status.³⁵

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

Similar to federal law, Florida has general, special, and summary courts-martial.³⁶ A summary court-martial may be convened by the commanding officer of each battalion, higher headquarters, or similar type unit when not in active federal service.³⁷ Punishment may include:

- A fine of \$200 or less per offense.
- Confinement of 25 days or less.
- Forfeiture of pay and allowances.
- Reduction by one grade.³⁸

Any two or more punishments may be combined; however, confinement may not be combined with a fine.³⁹

General courts-martial and special courts-martial must be tried by a military judge⁴⁰ and a panel of officers as designated in regulations of the FLNG. However, a panel may include enlisted members, at the request of an enlisted defendant. The military judge must be qualified by

³¹ Section 250.03, F.S.; 32 U.S.C. is the primary federal law addressing the organization of the state National Guards.

³² Section 250.351(1), F.S.

³³ Section 250.35(2), F.S.

³⁴ Section 250.351(2), F.S.

³⁵ *See generally, U.S. v. Wolpert*, 75 M.J. 777, 781 (U.S. Army Ct. of Mil. App. 2016).

³⁶ Section 250.35(3), F.S.

³⁷ Section 250.35(7), F.S.

³⁸ *Id.*

³⁹ *Id.*

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

attendance at appropriate Judge Advocate General (JAG) schools and must be certified as qualified by the Adjutant General of Florida. In a general and special courts-martial, the defendant may waive trial by panel and request trial by military judge alone. The granting of the waiver is in the military judge's discretion.⁴¹

A special courts-martial may be convened by a commanding officer of the FLNG or a superior commander when not in active federal service.⁴² A commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or any other place where troops are on duty may also convene special courts-martial for his or her command. These special courts-martial may be convened by a superior commander when advisable.⁴³ Special courts-martial with bad conduct discharge authority may impose punishment to include:

- A fine of \$300 or less.
- Confinement of 100 days or less.
- Forfeiture of all pay and allowances.
- Reprimand or a bad conduct discharge from the service.
- Reduction by one grade of a member whom the commander had the authority to promote.⁴⁴

General courts-martial in the FLNG may be convened by order of the President of the United States, the Governor, or the Adjutant General as delegated by the Governor.⁴⁵ Punishment may include:

- A fine of \$500 or less.
- Confinement of 200 days or less.
- Forfeiture of all pay and allowances.
- Reprimand, dismissal, or dishonorable discharge from the service.
- Reduction to the lowest enlisted grade or any intermediate grade for enlisted personnel.⁴⁶

Any two or more of the punishments may be combined.

Only the DMA, in an appropriately convened courts-martial action provided by law, may impose a sentence of imprisonment.⁴⁷ A sentence of dismissal or dishonorable discharge from the service cannot be executed until approved by the Governor.⁴⁸

Appeals

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

Accordingly under Florida law, a servicemember who is found guilty and is sentenced in a general or special court-martial to imprisonment may appeal the case to the First District Court

⁴¹ Section 250.35(3), F.S.

⁴² Section 250.35(5), F.S.

⁴³ Section 250.35(6), F.S.

⁴⁴ Section 250.35(5), F.S.

⁴⁵ Section 250.35(4), F.S.

⁴⁶ Section 250.35(4), F.S.

⁴⁷ FLA. CONST. art. I, s. 18.

⁴⁸ Section 250.35(11), F.S.

of Appeal. The FLNG may appeal any dismissal of a general or special court-martial that does not violate the servicemember's constitutional rights may appeal the case to the First District Court of Appeal.⁴⁹

In a summary court-martial, a servicemember may appeal a finding of guilt or sentence to the convening authority. A servicemember who is sentenced to imprisonment may appeal the finding of guilt or the sentence to the Adjutant General.⁵⁰

Nonjudicial Punishment

As an alternative to a court-martial, a commander may impose nonjudicial punishment. This punishment may include:

- Oral or written reprimand.
- A fine of \$200 or less.
- Extra duty for 14 days or less.
- Restriction for 14 days or less.
- Reduction by one grade of a member whom the commander had the authority to promote.⁵¹

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

Mandates & Process for Military Courts - Searches

Military courts may issue all process and mandates, including writs, warrants, and subpoenas, necessary to carry out the powers vested in the courts. The mandates and process may be directed to a sheriff and must be in a form prescribed by the Adjutant General.⁵²

When not in active federal service, the Adjutant General, his or her designee, or a military judge of the FLNG may issue a pretrial confinement warrant to secure the presence of an accused at trial, as well as subpoenas and subpoenas duces tecum, to require witnesses to produce documents.⁵³

When a servicemember is sentenced to confinement by court-martial, the sheriff or jailer must provide the same care as provided to other prisoners properly committed for custody under the sentence of any civil court.⁵⁴

Neither the Florida Statutes nor the UCMJ specify who may authorize a search or which areas may be searched. However, the Military Rules of Evidence authorize a commander or military judge to issue a search authorization, which is the military law equivalent of a search warrant.⁵⁵

⁴⁹ Section 250.35(10), F.S.

⁵⁰ Section 250.35(9), F.S.

⁵¹ Section 250.35(8), F.S.

⁵² Section 250.36(1), F.S.

⁵³ Section 250.36(3), F.S.

⁵⁴ Section 250.36(4), F.S.

⁵⁵ Military Rules of Evidence, Part III, Rule 316, <https://jsc.defense.gov/Portals/99/Documents/MREsRemoved412e.pdf> (last visited April 11, 2021).

Under the Fourth Amendment to the U.S. Constitution, a search generally must be conducted pursuant to a search warrant that is supported by probable cause.⁵⁶

Medical Officer Authorization

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

Armory Board

Section 250.01(5), F.S., defines the term “armory” as a building or group of buildings, used primarily for housing and training troops or for storing military property, supplies, or records. Section 250.40, F.S., creates the Armory Board, which is charged with the supervision and control of all FLNG armories, facilities, and real property within the state used for military purposes. Voting members of the Armory Board include the Governor as Commander in Chief and chair of the Armory Board, Adjutant General as vice chair, Assistant Adjutants General, and major command commanders reporting directly to the Adjutant General, in the active FLNG. Any member of the Armory Board may delegate his or her deputy commander to attend the meeting as an alternate member with voting privileges in the Armory Board member’s absence.⁵⁷ Board member terms are for the period during which the member possesses the qualifications for the membership.⁵⁸

III. Effect of Proposed Changes:

Section 1 amends s. 110.205, F.S., relating to career service exemptions, to repeal references to job titles no longer used (military police chiefs, military police officers, firefighter trainers, and firefighter rescuers). The bill also repeals reference to electronic security system technicians in the DMA, thereby allowing those positions to have the same salary and benefits as career services employees.

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

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

⁵⁶ See *California v. Carney*, 471 U.S. 386, 390-91 (1985).

⁵⁷ Section 250.40(2)(a), F.S.

⁵⁸ Section 250.40(3), F.S.

must have served for at least three years in the FLNG, rather than the “preceding five years” in current law.

Section 4 amends 250.35, F.S., to update a reference to the outdated version of the Manual for Courts-Martial (MCM) to the 2019 edition and provides that the Uniform Code of Military Justice (UCMJ), together with ch. 250, F.S., is to be referred to as the Florida Code of Military Justice (FCMJ).

This section specifies that a court-martial in this state is an administrative procedure of the executive branch and not a court under the control of the judicial branch. Servicemembers must be tried pursuant to the MCM, except as otherwise provided by FLNG regulations.

Current law provides that a panel of officers may include enlisted members, at the request of an enlisted defendant. The bill strikes the word defendant (this conforms to the UCMJ’s replacement of the term defendant with accused) and provides that such a panel may include enlisted members, at the request of an enlisted person who is accused of a crime or an offense.

This section clarifies the qualifications of a military judge in a general or special court-martial and requires that a military judge in a summary court-martial must be a commissioned officer who is appointed by the Summary Courts-Martial Convening Authority or any higher authority.

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

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

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

- Confinement in an appropriate penal institution for up to 100 days.
- Discharge from the Florida National Guard with a bad conduct discharge.
- A fine of up to \$400 per violation.

- Forfeiture of all or just a portion of pay and allowances for a period of up to 1 year.
- Reduction to the lowest or any intermediate pay grade of enlisted persons.
- A written reprimand filed in the official military personnel file of the person found guilty.

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

This section specifies that summary court-martial in the FLNG may be convened by order of commanding officers of the FLNG who are in the accused's chain of command and hold the rank of lieutenant colonel or by any person authorized to convene a general court-martial or special court-martial. The bill prohibits the delegation of this duty. The bill also revises the type of punishment allowed for a summary courts-martial, to allow the courts, upon the finding of guilt, to adjudge no punishment or adjudge one or more of the following punishments:

- Confinement in an appropriate penal institution for up to 25 days.
- A fine of up to \$200 per violation.
- Forfeiture of all or just a portion of pay and allowances for a period of up to 60 days.
- Reduction to no more than two pay grades below the person's current pay grade.
- A reprimand.

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

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

The bill revises the nonjudicial punishments authorized to:

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

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

- Any unexecuted punishment may be suspended at any time;
- Any executed punishment of any grade reduction, fine, or forfeiture of pay, may only be suspended within 8 months after the date of execution; and
- The suspension cannot be longer than 12 months from the date of suspension, but the expiration of the current enlistment or term of service of the servicemember involved automatically terminates the period of suspension.

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

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

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

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

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

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

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

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

under military control, the commander has control over such property of persons subject to military law or law of war.

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

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by 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:

None.

VI. Technical Deficiencies:

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

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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

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

None.

B. Amendments:

None.

By Senator Burgess

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

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

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

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

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

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

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

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

72 (1)

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

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

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88 250.10, Florida Statutes, are amended to read:

89 250.10 Appointment and duties of the Adjutant General.—

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

110 (2) The Adjutant General shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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291 of enlisted persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

402 (a) Oral or written reprimand.

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

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

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

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

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

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

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

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

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

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

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

435 (11) Florida National Guard regulations may provide for

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436 plenary and summarized nonjudicial punishment.

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

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

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

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

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

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

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

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465 First District Court of Appeal.

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

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

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

476 250.351 Court-martial; jurisdiction.—

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

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

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

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

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

514 250.36 Mandates and process.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

627 (5) The Armory Board must:

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

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

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

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

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

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

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

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The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 26, 2021

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

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

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

Senator Danny Burgess
Florida Senate, District 20

The Florida Senate
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 Appropriations

BILL: SB 794

INTRODUCER: Senator Bean

SUBJECT: Independent Living Services

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 794 modifies the membership and responsibilities of the Florida Independent Living Council (FILC). Specifically, the bill removes the Division of Blind Services (DBS) from the membership of the FILC, and revises the total number of members from 14 to 11. The bill also permits the FILC to choose representative members from a wide range of persons with developmental disabilities from diverse backgrounds.

The bill revises certain required and discretionary tasks of the FILC and prohibits the FILC from engaging in certain prohibited activities related to lobbying.

The bill increases the percentage of total revenues collected from the Tax Collection Enforcement Diversion Program (Diversion Program) used to administer the James Patrick Memorial Work Incentive Personal Attendant Services Program (JPPAS Program) from 50 percent to 75 percent.

The bill will have a positive fiscal impact on the JPPAS program by increasing the proportion of funds from the Diversion Program to the JPPAS Program, and a negative fiscal impact on other segments of state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” may refer to an elderly person with the physical and mental capacity to live independently but who wants

companionship or otherwise needs supportive services. It may also encompass a living arrangement for people with disabilities who need supportive services.¹

The Federal Rehabilitation Act of 1973, as amended, created a framework for states to obtain funding for independent living programs, known as Centers for Independent Living, which work to support community living and independence for people with disabilities.² There are 16 Centers for Independent Living in Florida which together serve all 67 counties.³ To receive funding, states must develop a State Plan for Independent Living (SPIL), which is a three year plan for providing independent living services in the state, through a designated Statewide Independent Living Council (SILC).

Independent living communities are communities in which healthy individuals may live on their own but that do not offer assisted living or nursing services. Independent living communities may offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.⁴

Florida Independent Living Council

In 1988, the Legislature created the FILC which serves as Florida's SILC.⁵ The FILC's responsibilities include jointly developing and submitting the SPIL.⁶ The FILC works to ensure that persons with disabilities have an opportunity for input into the development of the SPIL and works for systematic change in the areas that are the biggest barriers to people with disabilities participating fully in their communities. The FILC describes the independent living philosophy as "promot[ing] consumer control of services, self-determination and equal access and participation in every aspect of community life, to the level that individual wishes."⁷ The 2017-2019 SPIL, in part, identified the need for safe, affordable, accessible housing as being critical for Florida's Centers for Independent Living and noted a lack of housing is commonly identified as the main barrier to independent living.⁸

Currently, the FILC is comprised of 14 members, including, among other members, directors of independent living centers, a representative from the Division of Vocational Rehabilitation (VR), a representative from the Division of Blind Services (DBS), and various individuals with developmental disabilities.⁹ The FILC must coordinate activities with the Florida Rehabilitation Council and other councils that address the needs of specific disability populations under federal

¹ aPlaceforMom, *Independent Living in Florida*, available at <https://www.aplaceformom.com/independent-living/florida> (last visited March 13, 2021).

² Administration for Community Living, *Centers for Independent Living*, available at <https://acl.gov/programs/aging-and-disability-networks/centers-independent-living> (last visited March 13, 2021).

³ The Department of Education, Division of Vocational Rehabilitation, *Independent Living Program*, available at http://www.rehabworks.org/indep_living.shtml (last visited March 13, 2021).

⁴ Senior Living.org, *Selecting an Independent Living Community*, available at <https://www.seniorliving.org/independent-living/> (last visited March 13, 2021).

⁵ Ch. 88-214, L.O.F.

⁶ Section 413.395(1), F.S.

⁷ The Florida Independent Living Council (FILC), *About Independent Living*, available at <https://www.floridasilc.org/independent-living/> (last visited March 13, 2021).

⁸ The FILC, *State Plan for Independent Living for Florida for 2017-2019*, p. 22, available at https://www.floridasilc.org/documents/State_Plan.pdf (last visited March 13, 2021).

⁹ Section 413.395(3)-(5), F.S.

law. The FILC must also submit periodic reports to the Commissioner of the Federal Rehabilitation Administration Services, and provide access to such records at the request of the Commissioner.¹⁰

The Florida Division of Vocational Rehabilitation

The VR within the Department of Education (DOE) administers the vocational rehabilitation program in Florida. The VR provides services to help individuals with a disability find, advance in, or retain employment, and provides services to youth and students with a disability to aid in the transition from high school to a meaningful career path. In FY 2018-19, the VR served 48,439 individuals, including 26,086 customers who were between the ages of 14 through 21.¹¹

An individual with a disability¹² is presumed eligible for vocational rehabilitation services if the person requires rehabilitation services to prepare for, enter, engage in, or retain gainful employment.¹³ After determining eligibility, the VR must complete an assessment to determine rehabilitation needs and ensure that an individualized plan for employment (IPE)¹⁴ is prepared.¹⁵ The IPE must be designed to achieve the specific employment outcome of the individual and may include services such as vocational evaluation and planning, career counseling and guidance, job-site assessment and accommodations, job placement, job coaching, and on-the-job training.¹⁶

Division of Blind Services

The DBS is housed within the DOE.¹⁷ The purpose of the DBS is to ensure the greatest possible efficiency and effectiveness of services to individuals who are blind.¹⁸ It is the intent of the Legislature to establish a coordinated program of services that are available throughout Florida to such individuals. The program must be designed to maximize employment opportunities for individuals who are blind and to increase their independence and self-sufficiency.¹⁹ The DBS's program of services include a blind babies program, children's program, transition services, independent living program, vocational rehabilitative program, employer services, business enterprises program, rehabilitation center for the blind and visually impaired, and braille and talking books library.²⁰

¹⁰ Section 413.395(11)(c), F.S.

¹¹ The Florida Department of Education, Division of Vocational Rehabilitation, *2018-2019 Annual Report* (2019), p. 6, available at <http://www.rehabworks.org/rehab/AnnualReport19.pdf> (last visited March 13, 2021).

¹² Section 413.20(7), F.S., defines "disability" to mean "a physical or mental impairment that constitutes or results in a substantial impediment to employment."

¹³ Section 413.30(1), F.S.

¹⁴ An individualized plan for employment includes a "comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services." Section 413.20(3), F.S.

¹⁵ See s. 413.30(4) and (5), F.S.

¹⁶ The Florida Department of Education, Division of Vocational Rehabilitation, *Frequently Asked Questions*, available at <http://www.rehabworks.org/faq.shtml> (last visited March 13, 2021).

¹⁷ Section 20.15(3)(e), F.S.

¹⁸ See s. 413.011(3), F.S.

¹⁹ Section 413.011(2), F.S.

²⁰ See The Florida Division of Blind Services, *About Blind Services*, available at <http://dbs.myflorida.com/Information/index.html> (last visited March 10, 2021).

The DBS was administratively housed within the VR upon inception.²¹ The DBS has since been established as a separate entity within the DOE and has a separate representative council, known as the Rehabilitative Council for the Blind (RCB).²² The RCB is an advisory council²³ responsible for assisting the DBS in the planning and development of statewide vocational rehabilitation programs and services pursuant to the Rehabilitative Act of 1973,²⁴ as amended, to recommend improvements to such programs and services, and to perform specified functions.

James Patrick Memorial Work Incentive Personal Attendant Services Program

The James Patrick Memorial Work Incentive Personal Attendant Services Program (JPPAS) Program was created by the Legislature in 2002 as a pilot project. In 2008, it was established in ch. 413.402, F.S., as a statewide program. The administration and financial oversight of the JPPAS Program was originally conducted as a partnership between the Florida Endowment Foundation for Vocational Rehabilitation and FACIL. In 2017, ch. 413.402, F.S. was amended, transferring administration and financial oversight to FACIL.²⁵

The JPPAS Program provides a monthly stipend to participants in an effort to offset the cost of the personal care assistance used to help with daily activities such as bathing, dressing, toileting, and eating. As of December 31, 2020, 79 individuals were enrolled in the JPPAS Program.²⁶

The JPPAS Program is funded with delinquent sales taxes collected by state attorney's offices in the following eight Florida circuits:

- The Fourth Judicial Circuit (Clay, Duval, Nassau);
- The Sixth Judicial Circuit (Pasco, Pinellas);
- The Ninth Judicial Circuit (Orange, Osceola);
- The Eleventh Judicial Circuit (Miami-Dade);
- The Thirteenth Judicial Circuit (Hillsborough);
- The Fifteenth Judicial Circuit (Palm Beach); and
- The Seventh Judicial Circuit (Broward).²⁷

Persons eligible to participate in the program must:

- Be at least 18 years of age, a legal resident of this state, and be significantly and chronically disabled;
- Require a personal care attendant for assistance with or support for at least two activities of daily living such as bathing and dressing and as defined in s. 429.02, F.S.;

²¹ Ch. 88-214, L.O.F.

²² Section 413.011(8), F.S. Members of the council are appointed by the Governor with the majority being blind or visually impaired. The council membership must include at least 13 members. *See also* The Florida Division of Blind Services, *Rehabilitation Council*, available at <http://dbs.myflorida.com/Rehab-Council/index.html> (last visited March 1, 2021).

²³ Section 20.03(7), F.S., defines "advisory council" to mean "an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of problems arising in a specified functional area of state government and to provide recommendations and policy alternatives."

²⁴ 29 U.S.C. § 701(b).

²⁵ The Florida Association of Centers for Independent Living, *James Patrick Memorial Work Incentive Personal Attendant Services Program Summary July 1, 2019 - June 30, 2020*, p. 1 (On file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The JPPAS Program Summary").

²⁶ *Id.*

²⁷ The JPPAS Program Summary at p. 1-2.

- Require a personal care attendant in order to maintain substantial gainful employment; and
- Be able to acquire and direct a personal care attendant.²⁸

Tax Collection Enforcement Diversion Program

The primary source of funding for the JPPAS Program is the Diversion Program.²⁹ In conjunction with the establishment of the JPPAS program, the DOR was directed, in cooperation with FACIL and state attorneys, to select judicial circuits in which to operate the Diversion Program to collect unpaid sales taxes from delinquent business owners.³⁰ Fifty percent of the collections from the Diversion Program are deposited into the operating account of the Florida Achieving a Better Life Experience (ABLE) Trust³¹ to be used to operate the JPPAS program and to contract with the state attorneys participating in the tax diversion program, and the remaining 50 percent is deposited into General Revenue.³²

The annual budget for the JPPAS Program is determined by the State Revenue Estimating Conference's estimates of delinquent tax collections and revenue from the Bikers Care special motorcycle license tag.³³ The estimate adopted for the Diversion Program for the 2020-2021 fiscal year is \$3,247,129 in total tax collections.³⁴ FACIL expects to receive approximately \$70,000 in additional revenue from Florida Bikers Tag license plate sales.³⁵ This means the estimated budget for the JPPAS Program for Fiscal Year 2020-2021 is approximately \$1,693,565, (50 percent of the total estimated collections (\$1,623,565) plus the additional \$70,000 from Florida Bikers Tag license plate sales).

III. Effect of Proposed Changes:

The bill amends s. 413.395, F.S., removing a representative of the DBS from the membership of the FILC. The bill also reduces the total number of members on the FILC from 14 members to 11 members, at least three of whom must be employees of a center for independent living. The bill requires that at least six of the members must be persons with significant disabilities who are not employed by any state agency or any center for independent living.

The bill also requires the membership of the FILC to include a broad range of persons with disabilities from diverse backgrounds. Under the bill, the FILC must select a chairperson from among the FILC's voting membership. The bill provides that the FILC must meet at the request of the VR alone, and removes the requirement for a joint request of the VR and the DBS. The

²⁸ Section 413.402(1)(a)-(d), F.S.

²⁹ The JPPAS Program Summary at p. 1.

³⁰ Section 413.4021, F.S.

³¹ The Florida ABLE Program was created in 2015 to encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified expenses of eligible individuals with disabilities. *See* s. 2, ch. 2015-56, L.O.F.

³² Section 413.4021(1), F.S. The contract amount for each state attorney cannot exceed \$50,000.

³³ The JPPAS Program Summary at p. 2.

³⁴ The Office of Economic and Demographic Research (EDR), *Tax Collection Enforcement Diversion Program January 5, 2021 Executive Summary* (2021), available at <http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf> (last visited March 10, 2021) (hereinafter cited as "The EDR Summary").

³⁵ The JPPAS Program Summary at p. 2.

bill also removes requirement that both the VR and the DBS make the FILC meeting reports available to the public, and requires only the VR to make such reports available.

The bill revises the duties of the FILC by requiring the FILC to develop and submit a state plan for independent living in conjunction with the directors of independent living centers, rather than with the VR, and by requiring the state plan to be in accordance with federal guidelines following the receipt of public input from individuals with developmental disabilities and other relevant stakeholders throughout the state. The FILC must coordinate activities with state entities which provide services similar to or complementary of independent living services, including entities which offer or facilitate the provision of long-term community-based services and supports. The bill eliminates the current requirement that the FILC coordinate activities with the Florida Rehabilitation Council.

Under the bill the FILC must conduct regular meetings and submit periodic reports to the Administration for Community Living within the United States Department of Health and Human Services, as well as keep access to and provide such reports to the administrator as frequently as is necessary to verify the reports. The bill changes the recipient of the reports from the Commissioner of the Federal Rehabilitation Administration Services to the head of the Administration for Community Living within the United States Department of Health and Human Services.

The bill authorizes the FILC to conduct the following activities described in the state plan for independent living:

- Working with independent living centers to coordinate services with public and private entities in an effort to improve independent living services for developmentally disabled persons;
- Developing resources to augment activities provided in the SPIL and the provision of relevant services by independent living centers; and
- Other activities consistent with and comparable to other enumerated activities as the FILC deems appropriate and as authorized in the SPIL.

The bill also requires the FILC to:

- Coordinate with independent living centers to avoid conflicting or overlapping activities within established service areas;
- Refrain from engaging in the direct provision of independent living services to developmentally disabled individuals, including the independent living core services.
- Comply with state and federal laws and regulations which restrict and prohibit lobbying activities.

The bill amends s. 413.4021, F.S., to direct 75 percent of the delinquent tax collection revenues to the JPPAS program (instead of 50 percent).

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Art. VII, s. 18 of the Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant fiscal impact^{36, 37} which for Fiscal Year 2021-2022, is forecast at approximately \$2.2 million or less.³⁸

While the bill diverts funding away from General Revenue, the bill does not appear to affect the authority of local governments to raise revenues. Therefore, the local governments mandate provision does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

³⁶ Fla. Const. art. VII, s. 18(d).

³⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 10, 2021).

³⁸ Based on the EDR's Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The EDR, *Demographic Estimating Conference* at p. T-1, available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 10, 2021).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The January 5, 2021, Revenue Estimating Conference reported that collections for the Diversion Program declined by 3.8 percent in the 2019-20 fiscal year and are projected to remain flat, at approximately \$3.25 million per year, for the next five years. The bill would create a positive, significant fiscal impact on the JPPAS program by increasing funding levels from 50 percent of the Diversion Program proceeds to 75 percent. Increasing funding from 50 percent of Diversion Program revenues (\$1.62 million) to 75 percent (\$2.44 million) would result in approximately \$690,000 more annually in each of the next five years for the JPPAS program, and a proportionate increase in years thereafter. The bill would divert an additional 25 percent of Diversion Program funds away from General Revenue to the JPPAS program, resulting in a negative fiscal impact on other segments of state government.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 413.395 and 413.4021.

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.

³⁹ The EDR Summary.

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

By Senator Bean

4-00730B-21

2021794__

1 A bill to be entitled
 2 An act relating to independent living services;
 3 amending s. 413.395, F.S.; removing a provision
 4 requiring the Florida Independent Living Council to
 5 assist the Division of Blind Services of the
 6 Department of Education; revising the membership of
 7 the council; revising the council's duties and
 8 responsibilities; authorizing the council to conduct
 9 certain activities as described in the state plan for
 10 independent living; requiring the council to
 11 coordinate with centers for independent living;
 12 prohibiting the council from engaging in certain
 13 activities; requiring the council to comply with state
 14 and federal laws and regulations relating to lobbying;
 15 amending s. 413.4021, F.S.; increasing the percentage
 16 of certain revenues used to administer the James
 17 Patrick Memorial Work Incentive Personal Attendant
 18 Services and Employment Assistance Program; providing
 19 an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 413.395, Florida Statutes, is amended to
 24 read:

25 413.395 Florida Independent Living Council.—

26 (1) There is created the Florida Independent Living Council
 27 to assist the division ~~and the Division of Blind Services of the~~
 28 ~~Department of Education~~, as well as other state agencies and
 29 local planning and administrative entities assisted under Title

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

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30 VII of the act, in the expansion and development of statewide
 31 independent living policies, programs, and concepts and to
 32 recommend improvements for such programs and services. The
 33 council shall function independently of the division and, unless
 34 the council elects to incorporate as a not-for-profit
 35 corporation, is assigned to the division for administrative
 36 purposes only. The council may elect to be incorporated as a
 37 Florida corporation not for profit and, upon such election,
 38 shall be assisted in the incorporation by the division for the
 39 purposes stated in this section. The appointed members of the
 40 council may constitute the board of directors for the
 41 corporation.

42 (2) The council shall consist of 11 members, including a
 43 minimum of three persons who are employees of a center for
 44 independent living 14 members, excluding ex officio, nonvoting
 45 members. At least six members of the council must be persons who
 46 have significant disabilities who are not employed by any state
 47 agency or center for independent living. The members of the
 48 council shall be appointed by the Governor after soliciting
 49 recommendations from the council.

50 (3) The council shall include:

51 (a) At least one director of a center for independent
 52 living who is chosen by the directors of the centers for
 53 independent living within the state.

54 (b) As ex officio, nonvoting members:

55 1. A representative from the division.

56 ~~2. A representative from the Division of Blind Services.~~

57 ~~2.3.~~ Representatives from one or more other state agencies
 58 that provide services to persons who have disabilities.

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- 59 (4) The council may include:
- 60 (a) Other representatives from the centers for independent
- 61 living.
- 62 (b) Parents and guardians of persons who have disabilities.
- 63 (c) Advocates of and for persons who have disabilities.
- 64 (d) Representatives from private businesses.
- 65 (e) Representatives from organizations that provide
- 66 services for persons who have disabilities.
- 67 (f) Other appropriate individuals.
- 68 (5) The council shall be composed of members:
- 69 (a) Who provide statewide representation.
- 70 (b) Who represent a broad range of persons who have
- 71 disabilities from diverse backgrounds.
- 72 (c) Who are knowledgeable about the centers for independent
- 73 living and independent living services.
- 74 (d) A majority of whom are:
- 75 1. Persons who have disabilities.
- 76 2. Not employed by any state agency or center for
- 77 independent living.
- 78 (6) The council shall select a chairperson from among the
- 79 voting membership of the council.
- 80 (7) Each member of the council shall serve for a term of 3
- 81 years, except that:
- 82 (a) A member appointed to fill a vacancy occurring before
- 83 ~~prior to~~ the expiration of the term for which the predecessor
- 84 was appointed shall be appointed for the remainder of such term.
- 85 (b) The terms of service of the members initially appointed
- 86 shall be, as specified by the Governor, for such fewer number of
- 87 years as will provide for the expiration of terms on a staggered

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- 88 basis.
- 89 (c) ~~A~~ No member of the council may not serve more than two
- 90 consecutive full terms.
- 91 (8) Any vacancy occurring in the membership of the council
- 92 shall be filled in the same manner as the original appointment.
- 93 A vacancy does not affect the power of the remaining members to
- 94 execute the duties of the council.
- 95 (9) ~~The chairperson of the~~ council shall designate a
- 96 representative who shall also serve as a member of the Florida
- 97 Rehabilitation Council.
- 98 (10) The council may meet at the call of the chairperson,
- 99 at the ~~joint~~ request of the division ~~and the Division of Blind~~
- 100 ~~Services~~, or at such times as may be prescribed by rule, but not
- 101 fewer less than twice each calendar year. The council shall make
- 102 a report of each meeting, which shall include a record of its
- 103 discussions and recommendations. The division ~~and the Division~~
- 104 ~~of Blind Services~~ shall make such reports available to the
- 105 public.
- 106 (11) The council shall:
- 107 (a) Jointly develop and submit, in conjunction with the
- 108 directors of the centers for independent living division, the
- 109 state plan for independent living in accordance with federal
- 110 guidelines and after receiving public input from persons who
- 111 have disabilities and other stakeholders in the state.
- 112 (b) Monitor, review, and evaluate the implementation of the
- 113 state plan for independent living.
- 114 (c) Coordinate activities with ~~the Florida Rehabilitation~~
- 115 ~~Council~~ and other entities in the state that provide services
- 116 similar or complementary to independent living services,

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117 including entities that facilitate the provision of or provide
 118 long-term community-based services and supports councils that
 119 address the needs of specific disability populations and issues
 120 under other federal law.

121 (d) Meet regularly and ensure that all regularly scheduled
 122 meetings of the council are open to the public with sufficient
 123 advance notice.

124 (e) Submit to the administrator ~~Commissioner~~ of the
 125 Administration for Community Living within the United States
 126 Department of Health and Human Services ~~Federal Rehabilitation~~
 127 Administration Services such periodic reports as the
 128 administrator ~~commissioner~~ may reasonably request and keep such
 129 records, and afford access to such records, as the administrator
 130 ~~commissioner~~ finds necessary to verify such reports.

131 (12) (a) The council may conduct the following activities,
 132 as authorized and described in the state plan for independent
 133 living:

134 1. Work with centers for independent living to coordinate
 135 services with public and private entities to improve independent
 136 living services provided to persons who have disabilities.

137 2. Develop resources to support the activities described in
 138 the state plan for independent living and the provision of
 139 independent living services by centers for independent living.

140 3. Other activities consistent with the purpose of this
 141 section and comparable to other activities in this section, as
 142 the council determines to be appropriate and as authorized in
 143 the state plan for independent living.

144 (b) The council:

145 1. Shall coordinate with centers for independent living to

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146 avoid conflicting or overlapping activities within the centers'
 147 established service areas.

148 2. May not engage in activities that constitute the direct
 149 provision of independent living services to persons who have
 150 disabilities, including the independent living core services.

151 3. Shall comply with state and federal laws and regulations
 152 relating to restrictions and prohibitions on lobbying
 153 activities.

154 Section 2. Subsection (1) of section 413.4021, Florida
 155 Statutes, is amended to read:

156 413.4021 Program participant selection; tax collection
 157 enforcement diversion program.—The Department of Revenue, in
 158 coordination with the Florida Association of Centers for
 159 Independent Living and the Florida Prosecuting Attorneys
 160 Association, shall select judicial circuits in which to operate
 161 the program. The association and the state attorneys' offices
 162 shall develop and implement a tax collection enforcement
 163 diversion program, which shall collect revenue due from persons
 164 who have not remitted their collected sales tax. The criteria
 165 for referral to the tax collection enforcement diversion program
 166 shall be determined cooperatively between the state attorneys'
 167 offices and the Department of Revenue.

168 (1) Notwithstanding s. 212.20, 75 ~~50~~ percent of the
 169 revenues collected from the tax collection enforcement diversion
 170 program shall be deposited into the special reserve account of
 171 the Florida Association of Centers for Independent Living, to be
 172 used to administer the James Patrick Memorial Work Incentive
 173 Personal Attendant Services and Employment Assistance Program
 174 and to contract with the state attorneys participating in the

4-00730B-21

2021794__

175 tax collection enforcement diversion program in an amount of not
176 more than \$75,000 for each state attorney.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 29, 2021

I respectfully request that **Senate Bill #794**, relating to Independent Living Services, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

SB 794

Bill Number (if applicable)

Topic Independent Living Services

Amendment Barcode (if applicable)

Name Jane E. Johnson

Job Title Executive Director

Address 325 John Knox Rd., Suite C-132

Phone 850-575-6004

Street

Tallahassee

FL

32303

Email Jane@floridacils.org

City

State

Zip

Speaking: For Against Information

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

Representing FL Association of Centers for Independent Living

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 Appropriations

BILL: PCS/CS/SB 838 (412016)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Boyd and others

SUBJECT: Clerks of the Circuit Court

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 838 amends laws related to the funding of the clerks of court to:

- Require the Clerk of Courts Operations Corporation to establish and maintain a budget reserve of up to 16 percent of the budget from the previous year.

The bill amends laws related to monies owed to a clerk of court to:

- Specify that fines, costs, service charges, and court costs are due immediately upon assessment.
- Require a person owing monies to the clerk who cannot immediately pay to contact the clerk and set up a payment plan.
- Require an offender to contact the clerk within 30 days after release from incarceration to arrange for payment of any outstanding court obligations.
- Require creation of a statewide uniform payment plan form for monies owed to a clerk.
- Require notice of the availability of payment plans to individuals receiving a traffic infraction or a notice of suspension of driving privilege.

On March 5, 2021, the Office of Economic and Demographic Research (EDR), Revenue Estimating Impact Conference (REC) adopted a positive indeterminate impact for various state and local funds related to the bills changes to payment plans. Additionally, the REC estimates an out year negative indeterminate impact to the General Revenue Fund and a positive indeterminate impact to the clerks under certain circumstances. See Section V.

The portions of the bill related to clerk funding are effective upon becoming a law, the remaining portions of the bill are effective October 1, 2021.

II. Present Situation:

Clerk of the Circuit Court

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court¹ to serve as both the clerk of court, completing judiciary functions, and as the "*ex officio*"² clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.³ In other words, the clerk of the circuit court wears approximately five hats. In wearing the auditor and custodian of county funds hats, the clerk may also be referred to as the comptroller.⁴

Funding for the Clerks' Court-Related Functions

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative and ministerial functions. Any court-related function authorized by law or court rule must be funded by the clerk's collection of filing fees, service charges, costs, and fines, including all of the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.
- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.⁵

Court funding is governed by Art. V, s. 14 of the Florida Constitution. For the clerks of the circuit courts, Art. V, s. 14(b) provides that the clerks are self-sustaining and fund their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, Art. V, s. 14(b) states:

¹ FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

² See BLACK'S LAW DICTIONARY (10th ed. 2014) ("*ex officio*" means "By virtue or because of an office; by virtue of the authority implied by office.")

³ FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

⁴ See generally Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Mar. 5, 2021). See also BLACK'S LAW DICTIONARY (10th ed. 2014) ("*comptroller*" means "An officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.")

⁵ Section 28.35(3)(a), F.S. See also Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Mar. 5, 2021).

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.⁶

County Funding Referenced in Article V, Section 14(c)

As referenced above, Art. V, s. 14(c) of the Florida Constitution states that while funding for the state courts system, including the clerks of court, will *not* be required by a county or municipality, the counties are responsible to fund certain types of court infrastructure and maintenance, including “the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems and the cost of construction or lease, maintenance, utilities, and security of facilities for . . . the offices of the clerks of the circuit and county courts performing court-related functions.”⁷ Additionally, counties pay “reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.”⁸

No-Fee Court Functions

Additionally, as referenced above, there are certain categories of cases and certain types of filings for which the clerks of court cannot charge a filing fee and possibly other service charges or other costs. These types of cases and filings include the following:

- Various services and filings for indigent parties to pending litigation.⁹
- Petitions for Habeas Corpus filed by persons detained as mental health patients.¹⁰
- Filing an ex parte order for involuntary examination (Baker Act).¹¹
- Petitions for involuntary inpatient placement for mental health.¹²

⁶ FLA. CONST. art. V, s. 14(b) (emphasis added).

⁷ FLA. CONST. art. V, s. 14(c).

⁸ *Id.* Additionally, Art. V, s. 14(a) provides that funding for state court systems as well as state attorney’s offices, public defender’s offices, and court-appointed counsel will generally be paid from “state revenues appropriated by general law; and section 14(d) clarifies that the court system has no appropriations authority.

⁹ Sections 57.081 and 57.082, F.S. This does not include prisoners as defined in s. 57.085, F.S.

¹⁰ Section 394.459, F.S.

¹¹ Section 394.463, F.S. *See also Collins v. State*, 125 So. 3d 1046, 1047 (Fla. 4th DCA 2013) (noting s. 394.463, F.S., is also known as the Florida Statutes Florida Mental Health Act or *Baker Act*).

¹² Section 394.467, F.S.

- Appellate filing fees for indigent persons determined to be and involuntarily committed as a sexually violent predator.¹³
- Petitions for involuntary assessment and stabilization for substance abuse impairment.¹⁴
- Petitions for a risk protection order (Marjory Stoneman Douglas High School Public Safety Act).¹⁵
- Petitions for protective injunctions against domestic violence,¹⁶ repeat, dating, or sexual violence,¹⁷ or stalking.¹⁸

History of the Clerks of Court Funding Model

1998 Article V Revision (“Revision 7”) and Implementing Legislation

Article V, section 14, was amended in 1998 to “substantially and significantly revise[] judicial system funding, greatly reducing funding from local governments and placing the responsibility primarily on the state.”¹⁹ The statement of intent accompanying the revision of Art. V, s. 14(b), also known as “Revision 7,” reflects that the proposers intended for the Legislature to adopt procedures: (1) to fund the clerks’ office in the event “filing fees, services charges and costs are insufficient to cover the court-related salaries, costs, and expenses of the offices of the clerks . . . in a given fiscal year”; and (2) for the disposition of excess revenues collected by the clerks’ offices in a given fiscal year.²⁰

Further, the statement of intent clarifies that the purpose for Revision 7 is to require legislative oversight and an independent review of clerk funding and spending practices. The reason for independent oversight is set out as follows:

The drafters of subsection (b) recognize that there currently exists significant disparities among what the various clerks’ offices spend to perform the same functions. The determination by the [L]egislature as to the appropriate level of spending should not entail an acceptance of the current level of spending by the clerks’ offices throughout the state to perform court-related functions. Rather, it is the intent of this proposal that the clerks be held accountable and responsible to a cost standard which is independently established by the [L]egislature.²¹

¹³ Section 394.917, F.S.

¹⁴ Section 397.6814, F.S.

¹⁵ Section 790.401, F.S.; Ch. 2018-3, s. 16, Laws of Fla.

¹⁶ Section 741.30, F.S.

¹⁷ Section 784.046, F.S.

¹⁸ Section 784.0485, F.S.

¹⁹ *City of Fort Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008) (“In its Statement of Intent, the Constitution Revision Commission explained: ‘The state’s obligation includes, but is not limited to, funding for all core functions and requirements of the state courts system and all other court-related functions and requirements *which are statewide in nature.*’ [e.s.] 26 Fla. Stat. Ann. (Supp.) 67.”).

²⁰ William A. Buzzett and Deborah K. Kearney, *Commentary <1998 Amendment (1997-1998 Constitution Revision Commission Revision 7)>*, FLA. STAT. ANN., FLA. CONST. art. V, s. 14.

²¹ *Id.*

Revision 7's 1998 amendment to Art. V of the Florida Constitution had to be implemented by July 1, 2004.²² In order to implement the 1998 amendment, the Legislature responded "in stages, beginning with passage of SB 1212 in 2000 (Chapter 200-237, Laws of Florida), followed by additional changes to that law in 2001, and, finally in 2002, through the funding of a study to assist in the final phase of implementation."²³

The final stage was implemented during the 2003 legislative session. To provide Revision 7's envisioned oversight, accountability, uniformity, and procedures in funding and budgeting for the clerks of court, the Legislature enacted sections 28.35, 28.36, and 28.37, F.S.²⁴:

- Section 28.35, F.S., created the Florida Clerks of Court Operations Corporation (Corporation),²⁵ which is responsible to provide accountability, procedural review, and oversight to the clerks of court budgeting process throughout the state.
- Section 28.36, F.S., established budget review and approval procedures of individual clerk of court budgets by the Corporation.
- Section 28.37, F.S., ensures that a portion of certain fines, fees, service charges, and costs collected by the clerks of court are remitted to the state to fund other court-related salaries, costs, and expenses.

Post-Article V Revision to Clerk Funding: 2004-2008²⁶

Between 2004 and 2008, the clerks collected and deposited into their local fine and forfeiture funds revenues from court filing fees, service charges, court costs, and fines assessed in civil and criminal proceedings.²⁷ A portion of the revenues in a clerk's fine and forfeiture fund was retained to finance the clerk's operations. However, another portion of these revenues were distributed to the General Revenue Fund or other state trust funds to meet other court-related costs. For example, the clerks were required to remit one-third of all fines, fees, service charges, and costs collected to the Department of Revenue for deposit into the Clerk of the Court Trust Fund,²⁸ a fund established to assist the clerks in meeting revenue deficits.

Regarding budget planning, the clerks had discretion to set their individual budgets based on anticipated revenues and expenditures. Each clerk's proposed budget had to be balanced with estimated revenues equaling or exceeding anticipated expenditures, although the budget could include a 10 percent contingency reserve.²⁹ If a clerk estimated that available funds plus projected revenues were insufficient to meet anticipated expenditures for court-related functions, that clerk could follow the statutory procedure for receiving funds from the Clerks of the Court Trust Fund to address the deficit.³⁰

²² *Office of State Attorney for Eleventh Judicial Circuit v. Polites*, 904 So. 2d 527, 530 (Fla. 3d DCA 2005).

²³ Florida House of Representatives, *House Bill 113A Staff Analysis*, (May 14, 2003).

²⁴ 2003 Fla. Sess. Law Serv. Ch. 2003-402 (H.B. 113-A). See also *City of Ft. Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008). Note also that the bill seeks to amend each of these provisions.

²⁵ See *supra* note 5, and text. When it was first enacted, section 28.35 the "Clerk of court Operations Conference" which was changed in 2004 to the "Florida Clerks of Court Operations Corporation." Chapter 2004-265, s. 23, Laws of Fla. All clerks are members of the Corporation.

²⁶ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

²⁷ Section 142.01, F.S.

²⁸ Section 28.37(2), F.S. (2008).

²⁹ Section 28.36(3)(b), (c), F.S. (2008).

³⁰ Section 28.36(4), F.S. (2008).

Each clerk had to submit its proposed budget to the Corporation for review and certification that the individual budget was complete and complied with budget procedures.³¹ Upon review and certification by the Corporation, revenue exceeding the amount needed to fund each budget was deposited in the General Revenue Fund.³²

During this time, the Legislature's involvement in the clerks' budgets was limited. The Legislative Budget Commission (LBC) had authority to approve increases to the maximum annual budgets approved for individual clerks if the additional funding was necessary to:

- Pay the cost of performing new or additional functions required by changes in law or court rule; or
- Pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.³³

Clerks in the General Appropriations Act: 2009-2012³⁴

In an effort to gain greater oversight and accountability for the operations and funding of the clerks of court, the Legislature passed Chapter 2009-204, Laws of Fla., which substantially amended the clerks' statutory budget process and procedures. The new law brought the clerks into the state budget and appropriated their funding in the annual General Appropriations Act.

More specifically, the 2009 law required that all revenues received by the clerks from court-related fees, fines, costs and service charges be remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund within the Justice Administrative Commission (JAC).³⁵ The law permitted the clerks, however, to deposit 10 percent of all court-related fines in the Public Records Modernization Trust Fund to be used in addition to state appropriations for operational needs.³⁶

By 2009, revenues accruing to the Clerks of Court Trust Fund began to decline due to the downturn in the economy and the reduction in foreclosure filing fees. As a result, the Legislature reinforced the clerks' budgets with additional moneys from the General Revenue Fund. The 2011 Legislature appropriated \$44.2 million from the General Revenue Fund to address FY 2010-2011 revenue deficits and the 2012 Legislature appropriated \$57.6 million to address FY 2011-2012 deficits.

Return to Pre-2009 Funding Model: 2013-2019³⁷

In 2013, the Legislature reversed many of the 2009 funding model changes, but expanded the oversight and accountability in the clerks' budget process. Chapter 2013-44, Laws of Florida, added the following:

³¹ Section 28.36(3), F.S. (2008).

³² Section 28.37(4), F.S. (2008).

³³ Section 28.36(6), F.S. (2008).

³⁴ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

³⁵ Chapter 2009-204, ss. 5-8, 12, 14, 19, Laws of Fla. The clerks' budgets were appropriated within the JAC budget from 2009-2012. *See also* s. 43.16, F.S. (establishes the Justice Administrative Commission, which administratively serves 49 judicial-related entities, as well as provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors).

³⁶ Section 28.37(5), F.S.

³⁷ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

- Monthly accounting: required each clerk to submit all collected revenues exceeding one-twelfth of the clerk's total budget for the prior month to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.
- Annual accounting: required the transfer of revenue exceeding one-twelfth of the clerks' total budget out of the Clerks of Court Trust Fund into the General Revenue Fund each January *unless* the official estimate by the Revenue Estimating Conference projects a trust fund deficit (based on the current budget) in the current or upcoming fiscal year.
- Corporation audits: directed the Corporation to conduct annual base budget reviews, conduct cost-comparisons of similarly situated clerks, report pay and benefit issues, and provide an explanation of any clerk expenditure increases over 3 percent.³⁸
- Corporation budget standard: required the Corporation to use the official Article V Revenue Estimating Conference revenue estimates for the clerks' budget process.³⁹

The 2013 law also enhanced the role and responsibilities of the Legislative Budget Commission (LBC), and directed the LBC to review the budgets of the clerks and either: (1) approve, (2) disapprove, or (3) amend and approve the budgets by October 1 of each year.⁴⁰ In 2017, however, the Legislature removed these duties from the LBC to review the clerks' budgets.⁴¹

Most Recent Changes: 2019 to present

The clerk's budget process was amended again in 2019.⁴² In addition to the total estimated revenues from fees, service charges, costs, and fines for court-related functions available for court-related expenditures as determined by the most recent Revenue Estimating Conference, the combined budget for the clerks of court may also include:

- The unspent budgeted funds for court-related functions carried forward by the clerks of court from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of the Court Trust Fund after the transfer of funds to the General Revenue Fund required pursuant to s. 28.37, F.S.

In 2019, the requirement that the cumulative excess of all fines, fees, service charges, and costs retained by the clerks of court exceeding the amount needed to fund their authorized budgets was transferred to the General Revenue Fund, was changed as follows:

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million will be transferred to the General Revenue Fund.
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund; provided, however, that the balance remaining in the Clerks of Courts Trust Fund after the transfer may not exceed \$20 million.
- No later than February 1, 2023, and each February 1 thereafter, the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund.

³⁸ Section 28.35(2)(f), F.S.

³⁹ Section 28.35(2)(f)6., F.S.

⁴⁰ Section 11.90(6)(d), F.S.

⁴¹ Chapter 2017-126, s. 1, Laws of Fla.

⁴² Chapter 2019-58, Laws of Fla.

In that same act, the 2019 Legislature was looking ahead to 2022, and included the following language:

Section 32. Before the 2022 Regular Session of the Legislature, the Legislature shall review and consider the results of the analysis submitted pursuant to Specific Appropriation 2754 of the 2019-2020 General Appropriations Act regarding the review of the Clerk of Court Processes for the purpose of considering the extension or reenactment of provisions in this act relating to clerk funding.⁴³

Specific appropriation 2754 reads in relevant part:

From the funds in Specific Appropriation 2754, the Office of Program Policy Analysis and Government Accountability is directed to contract with an independent third party consulting firm to assist with a review of the Clerk of Court processes including collection and compilation of empirical evidence based on observation of a random sample of clerks' offices employees; comparison of clerks' office work patterns to propose efficiency and productivity standards; and assessment and comparison of organizational arrangements and deployment of personnel resources among all clerks' offices. Sample groups must include a broad number of large and small counties and include entities from all areas of the state. The analysis shall be submitted to the chair of the Senate Appropriations Committee and the chair of the House of Representatives Appropriations Committee by November 15, 2019.

The report contains 26 recommendations for operational efficiency and cost savings in five categories.⁴⁴ It is unknown how many recommendations have been implemented.

Payment Plans

Persons who pay money to the clerk of court for an outstanding fine, penalty, fee, service charge, or court cost are expected to pay in full. Many individuals, however, cannot afford to pay. Section 28.246(4), F.S., authorizes a clerk to accept partial payments and to enter into payment plans with individuals. Monthly payments of no more than 2 percent of the individual's net pay is presumed to be within an individual's ability to pay.⁴⁵

III. Effect of Proposed Changes:

Clerk of Court Budgeting and Finances

The bill amends s. 28.37, F.S., regarding funds collected in the Clerk of the Courts Trust Fund. Currently, if the clerks have a budget surplus at the end of their fiscal year, 50 percent of the

⁴³ Chapter 2019-58, s. 32, Laws of Fla.

⁴⁴ Florida Clerks of Court Study, *Final Report* (November 15, 2019), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=19-CLERKS>

⁴⁵ Using the 2021 Florida minimum wage at full-time employment and subtracting the standard federal payroll deductions, an unmarried individual would pay no more than \$26.80 a month on a clerk's payment plan.

surplus must be transferred to General Revenue, with a maximum retainage in the trust fund of \$20 million. After the county fiscal year 2021-22, 100 percent of the annual surplus with no retainage is to be transferred to General Revenue. The bill repeals the current sweeps and retainage laws and requires instead that 50 percent of the surplus be transferred to the General Revenue Fund. Of the remaining 50 percent, a minimum of 10 percent must be held in reserve in the Clerk of the Courts Trust Fund, and the remainder may be used to increase clerk budgets. The reserve may not exceed 16 percent of the total budget authority of the clerks from the current county fiscal year.⁴⁶

The bill amends s. 28.36, F.S., to allow the Florida Clerks of Court Operations Corporation to create a budget reserve in the Clerks of the Court Trust Fund of up to 16 percent of the total budget authority during the current county fiscal year. The budget reserve will only accrue should the clerks have a budget surplus that is not otherwise subject to being swept by the Department of Revenue. The budget reserve may only be used to:

- Offset a current year deficit caused by a revenue shortfall;
- Provide supplemental funding related to a declared emergency; and
- Provide for a minimum continuation budget where the clerks have projected a deficit and the legislature did not appropriate funds sufficient to create a minimum continuation budget. A minimum continuation budget is the current county fiscal year budget unless the corporation requires a lesser budget.

The bill requires the corporation to request a budget amendment from the Governor in order to access the reserve. This is in line with the requirements for Executive Branch agencies seeking to establish trust fund budget from a reserve.

The bill amends s. 28.36, F.S., to allow a clerk of the court to request, and the Florida Clerks of Court Operations Corporation to approve, an increase in a clerk's budget authority for a financial impact resulting from increases in use of hearing officers and senior judges.

Monies Owed to a Clerk of Court

The bill amends s. 28.246, F.S., to direct the clerks of court to offer a payment plan to every person who owes money to the clerk and cannot immediately pay. The clerk is responsible for setting the terms of individual plans, although the trial court may review the reasonableness of the plan.

The bill amends s. 28.42, F.S., to require the Florida Clerks of Court Operations Corporation to create a uniform payment plan form. The form must be created by October 1, 2021, and must be used by each clerk starting January 1, 2022. The bill amends traffic and licensing laws at ss. 318.15, 318.20, and 322.45, F.S., to require notice of the availability of payment plans through the clerk of court. The notice must be included with a notice of suspension of a license and must be appended to a citation.

⁴⁶ For the latest county fiscal year (FY 2019-20), the total budget authority of the clerks was approximately \$403 million. If this bill were in effect, the maximum reserve would be approximately \$64.5 million.

The bill amends s. 28.246, F.S., to require that an individual released from incarceration contact the clerk within 30 days after release to either pay the outstanding fines and fees in full or set up a payment plan.

The bill amends the criminal fine statute at s. 775.083, F.S., to add that the clerk of the court is the entity that collects fines, fees, service charges, and court costs. This reflects current law. The bill also adds the requirement that an offender must contact the clerk to pay, or set up a payment plan, upon assessment by the court.

The portions of the bill related to budgeting and financial matters of the clerks of court are effective upon becoming law, the remainder of the bill is effective October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida 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:

On March 5th, 2021, the Office of Economic and Demographic Research (EDR), Revenue Estimating Impact Conference (REC) evaluated SB 838 and its companion HB 903. The conference adopted a positive indeterminate impact for various state and local trust funds, the General Revenue Fund, Clerks of Court Trust Fund, and Clerk's Fine and Forfeiture Funds as it relates to the bill's changes to payment plans.⁴⁷

Currently, if the Article V Estimating Conference forecasts that revenue will exceed the clerks' total budget, 50 percent of the surplus is transferred to General Revenue and the clerks retain the other 50 percent up to a maximum of \$20 million. This procedure is set to expire at the end of County Fiscal Year (CFY) 2021-22 after which time, 100 percent of any surplus revenue will be transferred to the General Revenue Fund. Because the bill permanently codifies the existing revenue split, if clerk revenues surpass the total clerks' budget, the REC estimates there will be an indeterminate negative impact to the General Revenue Fund and a positive indeterminate impact to the clerks.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.246, 28.35, 28.36, 28.37, 28.42, 318.15, 318.20, 322.245, and 775.083.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on March 17, 2021:

The committee substitute removed provisions modifying the duties of the Florida Clerks of Court Operations Corporation with respect to the funding of clerks' offices.

CS by Judiciary on March 9, 2021:

The committee substitute removed a provision that would have allowed a clerk of court to request a budget increase due to requirements of the courts, changed the effective date of portions of the bill other than clerk budgeting to October 1, 2021, and made technical corrections and clarifications.

⁴⁷ Office of Economic and Demographic Research, Results of the Revenue Estimating Impact Conference held March 5, 2021, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/Impact0305.pdf

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Effective upon this act becoming a law,
paragraph (i) of subsection (5) of section 27.52, Florida
Statutes, is amended to read:

27.52 Determination of indigent status.—

(5) INDIGENT FOR COSTS.—A person who is eligible to be
represented by a public defender under s. 27.51 but who is



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11 represented by private counsel not appointed by the court for a
12 reasonable fee as approved by the court or on a pro bono basis,
13 or who is proceeding pro se, may move the court for a
14 determination that he or she is indigent for costs and eligible
15 for the provision of due process services, as prescribed by ss.
16 29.006 and 29.007, funded by the state.

17 (i) A defendant who is found guilty of a criminal act by a
18 court or jury or enters a plea of guilty or nolo contendere and
19 who received due process services after being found indigent for
20 costs under this subsection is liable for payment of due process
21 costs expended by the state.

22 1. The attorney representing the defendant, or the
23 defendant if he or she is proceeding pro se, shall provide an
24 accounting to the court delineating all costs paid or to be paid
25 by the state within 90 days after disposition of the case
26 notwithstanding any appeals.

27 2. The court shall issue an order determining the amount of
28 all costs paid by the state and any costs for which prepayment
29 was waived under this section or s. 57.081. The clerk shall
30 cause a certified copy of the order to be recorded in the
31 official records of the county, at no cost. The recording
32 constitutes a lien against the person in favor of the state in
33 the county in which the order is recorded. The lien may be
34 enforced in the same manner prescribed in s. 938.29.

35 3. If the attorney or the pro se defendant fails to provide
36 a complete accounting of costs expended by the state and
37 consequently costs are omitted from the lien, the attorney or
38 pro se defendant may not receive reimbursement or any other form
39 of direct or indirect payment for those costs if the state has



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40 not paid the costs. The attorney or pro se defendant shall repay
41 the state for those costs if the state has already paid the
42 costs. The clerk of the court may establish a payment plan under
43 s. 28.246 and may charge the attorney or pro se defendant a one-
44 time administrative processing charge under s. 28.24(27)(c) ~~s.~~
45 ~~28.24(26)(c)~~.

46 Section 2. Effective upon this act becoming a law,
47 subsection (7) of section 28.222, Florida Statutes, is amended
48 to read:

49 28.222 Clerk to be county recorder.—

50 (7) (a) All instruments recorded in the Official Records
51 must remain ~~shall always be~~ open to the public, under the
52 supervision of the clerk, for the purpose of inspection thereof
53 and of making extracts therefrom. ~~;~~ ~~but~~

54 (b) The clerk is ~~shall~~ not ~~be~~ required to perform any
55 service in connection with such inspection or making of extracts
56 without payment of service charges as provided in s. 28.24.

57 (c) The clerk, in his or her capacity as county recorder,
58 must retain the service charge payments under s. 28.24, except
59 that those service charge payments that relate to court records
60 or functions and meet the description of court-related functions
61 in s. 28.35(3)(a) must be distributed for those court-related
62 functions.

63 Section 3. Effective upon this act becoming a law, section
64 28.22205, Florida Statutes, is amended to read:

65 28.22205 Electronic filing process.—Each clerk of court
66 shall implement an electronic filing process. The purpose of the
67 electronic filing process is to reduce judicial costs in the
68 office of the clerk and the judiciary, increase timeliness in



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69 the processing of cases, and provide the judiciary with case-
70 related information to allow for improved judicial case
71 management. The Legislature requests that the Supreme Court set
72 statewide standards for electronic filing to be used by the
73 clerks of court to implement electronic filing. The standards
74 should specify the required information for the duties of the
75 clerks of court and the judiciary for case management. Revenues
76 provided to counties and the clerk of court under s.
77 28.24(13)(e) ~~s. 28.24(12)(e)~~ for information technology may also
78 be used to implement electronic filing processes.

79 Section 4. Effective upon this act becoming a law, section
80 28.24, Florida Statutes, is amended to read:

81 28.24 Service charges.—The clerk of the circuit court shall
82 charge for services rendered manually or electronically by the
83 clerk's office in recording documents and instruments and in
84 performing other specified duties. These charges may not exceed
85 those specified in this section, except as provided in s.
86 28.345.

87 (1) For purposes of this section, the term "court record"
88 means the contents of a court file and includes:

89 (a) Progress dockets and other similar records generated to
90 document activity in a case.

91 (b) Transcripts filed with the clerk.

92 (c) Documentary exhibits in the custody of the clerk.

93 (d) Electronic records, video recordings, and stenographic
94 tapes of depositions or other proceedings filed with the clerk.

95 (e) Electronic records, video recordings, and stenographic
96 tapes of court proceedings.

97 (2) For examining, comparing, correcting, verifying, and



98 certifying transcripts of record in appellate proceedings,
99 prepared by attorney for appellant or someone else other than
100 clerk, per page: 5.00, from which the clerk shall remit 0.50 per
101 page to the Department of Revenue for deposit into the General
102 Revenue Fund.

103 (3)~~(2)~~ For preparing, numbering, and indexing an original
104 record of appellate proceedings, per instrument: 3.50, from
105 which the clerk shall remit 0.50 per instrument to the
106 Department of Revenue for deposit into the General Revenue Fund.

107 (4) (a)~~(3)~~ For certifying copies of any instrument that is a
108 court record in the public records: 2.00, from which the clerk
109 shall remit 0.50 to the Department of Revenue for deposit into
110 the General Revenue Fund.

111 (b) For certifying copies of any instrument that is not a
112 court record in the public records, per page: 2.00.

113 (5) (a)~~(4)~~ For verifying any instrument presented for
114 certification prepared by someone other than clerk, per page:
115 3.50, from which the clerk shall remit 0.50 per page to the
116 Department of Revenue for deposit into the General Revenue Fund.

117 (b) For verifying any instrument that is not a court record
118 presented for certification prepared by someone other than the
119 clerk, per page: 3.50.

120 (6) (a)~~(5)~~~~(a)~~ For making copies by photographic process of
121 any instrument in the public records consisting of pages of not
122 more than 14 inches by 8 1/2 inches, per page:.....1.00.

123 (b) For making copies by photographic process of any
124 instrument in the public records of more than 14 inches by 8 1/2
125 inches, per page:.....5.00.

126 (7)~~(6)~~ For making microfilm copies of any public records:



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- 127 (a) That are court records:
- 128 1. 16 mm 100' microfilm roll: 42.00, from which the clerk
129 shall remit 4.50 to the Department of Revenue for deposit into
130 the General Revenue Fund.
- 131 2. ~~(b)~~ 35 mm 100' microfilm roll: 60.00, from which the
132 clerk shall remit 7.50 to the Department of Revenue for deposit
133 into the General Revenue Fund.
- 134 3. ~~(c)~~ Microfiche, per fiche: 3.50, from which the clerk
135 shall remit 0.50 to the Department of Revenue for deposit into
136 the General Revenue Fund.
- 137 (b) That are not court records:
- 138 1. 16 mm 100' microfilm roll: 42.00.
- 139 2. 35 mm 100' microfilm roll: 60.00.
- 140 3. Microfiche, per fiche: 3.50.
- 141 ~~(8)~~ ~~(7)~~ For copying any instrument in the public records by
142 other than photographic process, per page:.....6.00.
- 143 ~~(9)~~ ~~(a)~~ ~~(8)~~ For writing any paper that is a court record
144 other than a paper otherwise herein specifically mentioned in
145 this section, same as for copying, including signing and
146 sealing: 7.00, from which the clerk shall remit 1.00 to the
147 Department of Revenue for deposit into the General Revenue Fund.
- 148 (b) For writing any paper that is not a court record other
149 than a paper otherwise specifically mentioned in this section,
150 including signing and sealing: 7.00.
- 151 ~~(10)~~ ~~(9)~~ For indexing each entry not recorded:.....1.00.
- 152 ~~(11)~~ ~~(10)~~ For receiving money into the registry of court:
- 153 (a)1. First \$500: 3 percent.....3
- 154 2. Each subsequent \$100: 1.5 percent.....1.5
- 155 (b) Eminent domain actions, per deposit: 170.00, from which



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156 the clerk shall remit 20.00 per deposit to the Department of
157 Revenue for deposit into the General Revenue Fund.

158 ~~(12)~~~~(11)~~ For examining, certifying, and recording plats and
159 for recording condominium exhibits larger than 14 inches by 8
160 1/2 inches:

161 (a) First page:.....30.00.

162 (b) Each additional page:.....15.00.

163 ~~(13)~~~~(12)~~ For recording, indexing, and filing any instrument
164 not more than 14 inches by 8 1/2 inches, including required
165 notice to property appraiser where applicable:

166 (a) First page or fraction thereof:.....5.00.

167 (b) Each additional page or fraction thereof:.....4.00.

168 (c) For indexing instruments recorded in the official
169 records which contain more than four names, per additional
170 name:.....1.00.

171 (d) An additional service charge must be paid to the clerk
172 of the circuit court to be deposited in the Public Records
173 Modernization Trust Fund for each instrument listed in s.

174 28.222, except judgments received from the courts and notices of
175 lis pendens, recorded in the official records:

176 1. First page:.....1.00.

177 2. Each additional page:.....0.50.

178
179 Said fund must be held in trust by the clerk and used
180 exclusively for equipment and maintenance of equipment,
181 personnel training, and technical assistance in modernizing the
182 public records system of the office. In a county where the duty
183 of maintaining official records exists in an office other than
184 the office of the clerk of the circuit court, the clerk of the



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185 circuit court is entitled to 25 percent of the moneys deposited
186 into the trust fund for equipment, maintenance of equipment,
187 training, and technical assistance in modernizing the system for
188 storing records in the office of the clerk of the circuit court.
189 The fund may not be used for the payment of travel expenses,
190 membership dues, bank charges, staff-recruitment costs, salaries
191 or benefits of employees, construction costs, general operating
192 expenses, or other costs not directly related to obtaining and
193 maintaining equipment for public records systems or for the
194 purchase of furniture or office supplies and equipment not
195 related to the storage of records. On or before December 1,
196 1995, and on or before December 1 of each year immediately
197 preceding each year during which the trust fund is scheduled for
198 legislative review under s. 19(f)(2), Art. III of the State
199 Constitution, each clerk of the circuit court shall file a
200 report on the Public Records Modernization Trust Fund with the
201 President of the Senate and the Speaker of the House of
202 Representatives. The report must itemize each expenditure made
203 from the trust fund since the last report was filed; each
204 obligation payable from the trust fund on that date; and the
205 percentage of funds expended for each of the following:
206 equipment, maintenance of equipment, personnel training, and
207 technical assistance. The report must indicate the nature of the
208 system each clerk uses to store, maintain, and retrieve public
209 records and the degree to which the system has been upgraded
210 since the creation of the trust fund.

211 (e) An additional service charge of \$4 per page shall be
212 paid to the clerk of the circuit court for each instrument
213 listed in s. 28.222, except judgments received from the courts



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214 and notices of lis pendens, recorded in the official records.
215 From the additional \$4 service charge collected:
216 1. If the counties maintain legal responsibility for the
217 costs of the court-related technology needs as defined in s.
218 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
219 Florida Association of Court Clerks and Comptrollers, Inc., for
220 the cost of development, implementation, operation, and
221 maintenance of the clerks' Comprehensive Case Information
222 System; \$1.90 shall be retained by the clerk to be deposited in
223 the Public Records Modernization Trust Fund and used exclusively
224 for funding court-related technology needs of the clerk as
225 defined in s. 29.008(1)(f)2. and (h); and \$2 shall be
226 distributed to the board of county commissioners to be used
227 exclusively to fund court-related technology, and court
228 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
229 state trial courts, state attorney, public defender, and
230 criminal conflict and civil regional counsel in that county. If
231 the counties maintain legal responsibility for the costs of the
232 court-related technology needs as defined in s. 29.008(1)(f)2.
233 and (h), notwithstanding any other provision of law, the county
234 is not required to provide additional funding beyond that
235 provided in this section ~~herein~~ for the court-related technology
236 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All
237 court records and official records are the property of the State
238 of Florida, including any records generated as part of the
239 Comprehensive Case Information System funded pursuant to this
240 paragraph and the clerk of court is designated as the custodian
241 of such records, except in a county where the duty of
242 maintaining official records exists in a county office other



243 than the clerk of court or comptroller, such county office is
244 designated the custodian of all official records, and the clerk
245 of court is designated the custodian of all court records. The
246 clerk of court or any entity acting on behalf of the clerk of
247 court, including an association, may not charge a fee to any
248 agency as defined in s. 119.011, the Legislature, or the State
249 Court System for copies of records generated by the
250 Comprehensive Case Information System or held by the clerk of
251 court or any entity acting on behalf of the clerk of court,
252 including an association.

253 2. If the state becomes legally responsible for the costs
254 of court-related technology needs as defined in s.
255 29.008(1)(f)2. and (h), whether by operation of general law or
256 by court order, \$4 shall be remitted to the Department of
257 Revenue for deposit into the General Revenue Fund.

258 (14)(a)-(13) Oath, administering, attesting, and sealing of
259 court records, not otherwise provided for in this section
260 ~~herein~~: 3.50, from which the clerk shall remit 0.50 to the
261 Department of Revenue for deposit into the General Revenue Fund.

262 (b) Oath, administering, attesting, and sealing of records
263 that are not court records not otherwise provided for in this
264 section: 3.50.

265 (15)(a)-(14) For validating certificates or, any authorized
266 bonds that are court records, each: 3.50, from which the clerk
267 shall remit 0.50 each to the Department of Revenue for deposit
268 into the General Revenue Fund.

269 (b) For validating certificates or any authorized bonds
270 that are not court records, each: 3.50.

271 (16)-(15) For preparing affidavit of domicile:.....5.00.



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272 (17)~~(16)~~ For exemplified certificates, including the
273 signing and sealing of them: 7.00, from which the clerk shall
274 remit 1.00 to the Department of Revenue for deposit into the
275 General Revenue Fund.

276 (18) (a)~~(17)~~ For authenticated certificates that are court
277 records, including the signing and sealing of them: 7.00, from
278 which the clerk shall remit 1.00 to the Department of Revenue
279 for deposit into the General Revenue Fund.

280 (b) For authenticated certificates that are not court
281 records, including the signing and sealing of them: 7.00.

282 (19) (a)~~(18) (a)~~ For issuing and filing a subpoena for a
283 witness, not otherwise provided for in this section, including
284 the herein~~(includes~~ writing, preparing, signing, and sealing of
285 it): 7.00, from which the clerk shall remit 1.00 to the
286 Department of Revenue for deposit into the General Revenue Fund.

287 (b) For signing and sealing only: 2.00, from which the
288 clerk shall remit 0.50 to the Department of Revenue for deposit
289 into the General Revenue Fund.

290 (20) (a)~~(19)~~ For approving a court bond: 8.50, from which
291 the clerk shall remit 1.00 to the Department of Revenue for
292 deposit into the General Revenue Fund.

293 (b) For approving a bond: 8.50.

294 (21) (a)~~(20)~~ For searching court ~~of~~ records, for each year's
295 search: 2.00, from which the clerk shall remit 0.50 for each
296 year's search to the Department of Revenue for deposit into the
297 General Revenue Fund.

298 (b) For searching records that are not court records, for
299 each year's search: 2.00.

300 (22)~~(21)~~ For processing an application for a tax deed sale



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301 (includes application, sale, issuance, and preparation of tax
302 deed, and disbursement of proceeds of sale), other than excess
303 proceeds:.....60.00.
304 ~~(23)~~ For disbursement of excess proceeds of tax deed
305 sale, first \$100 or fraction thereof:.....10.00.
306 ~~(24)~~ Upon receipt of an application for a marriage
307 license, for preparing and administering of oath; issuing,
308 sealing, and recording of the marriage license; and providing a
309 certified copy:.....30.00.
310 ~~(25)~~ For solemnizing matrimony:.....30.00.
311 ~~(26)~~ For sealing any court file or expungement of any
312 record: 42.00, from which the clerk shall remit 4.50 to the
313 Department of Revenue for deposit into the General Revenue Fund.
314 ~~(27) (a)~~ For receiving and disbursing all restitution
315 payments, per payment: 3.50, from which the clerk shall remit
316 0.50 per payment to the Department of Revenue for deposit into
317 the General Revenue Fund.
318 (b) For receiving and disbursing all partial payments,
319 other than restitution payments, for which an administrative
320 processing service charge is not imposed pursuant to s. 28.246,
321 per month:.....5.00.
322 (c) For setting up a payment plan, a one-time
323 administrative processing charge in lieu of a per month charge
324 under paragraph (b):.....25.00.
325 ~~(28)~~ Postal charges incurred by the clerk of the
326 circuit court in any mailing by certified or registered mail
327 must be paid by the party at whose instance the mailing is made.
328 ~~(29)~~ For furnishing an electronic copy of information
329 contained in a computer database: a fee as provided for in



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330 chapter 119.

331 Section 5. Subsection (2) of section 28.241, Florida
332 Statutes, is amended to read:

333 28.241 Filing fees for trial and appellate proceedings.—

334 (2) Upon the institution of any appellate proceeding from
335 any lower court to the circuit court of any such county,
336 including appeals filed by a county or municipality as provided
337 in s. 34.041(5), or from the county or circuit court to an
338 appellate court of the state, the clerk shall charge and collect
339 from the party or parties instituting such appellate proceedings
340 a filing fee, as follows: not to exceed \$280, from which the
341 clerk shall remit \$20 to the Department of Revenue for deposit
342 into the General Revenue Fund,

343 (a) For filing a notice of appeal from the county court to
344 the circuit court, a filing fee not to exceed \$280. and, in
345 addition to the filing fee required under s. 25.241 or s. 35.22,
346 \$100

347 (b) For filing a notice of appeal from the county or
348 circuit court to the district court of appeal or to the Supreme
349 Court, in addition to the filing fee required under s. 25.241 or
350 s. 35.22, a filing fee not to exceed \$100, of which the clerk
351 shall remit \$20 to the Department of Revenue for deposit into
352 the General Revenue Fund. If the party is determined to be
353 indigent, the clerk shall defer payment of the fee otherwise
354 required by this subsection.

355 Section 6. Subsections (4) and (5) of section 28.246,
356 Florida Statutes, are amended to read:

357 28.246 Payment of court-related fines or other monetary
358 penalties, fees, charges, and costs; partial payments;



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359 distribution of funds.-

360 (4) (a) Each ~~The~~ clerk of the circuit court shall accept
361 partial payments for each case type for court-related fees,
362 service charges, court costs, and fines in accordance with the
363 terms of an established payment plan developed by the clerk.

364 (b) An individual seeking to defer payment of fees, service
365 charges, court costs, or fines imposed by operation of law or
366 order of the court under any provision of general law shall
367 apply to the clerk for enrollment in a payment plan. The clerk
368 shall enter into a payment plan with an individual who the court
369 determines is indigent for costs. It is the responsibility of an
370 individual who is released from incarceration and has
371 outstanding court obligations to contact the clerk within 30
372 days after release to pay fees, service charges, court costs,
373 and fines in full, or to apply for enrollment in a payment plan.

374 A monthly payment amount, calculated based upon all fees and all
375 anticipated fees, service charges, court costs, and fines, is
376 presumed to correspond to the person's ability to pay if the
377 amount does not exceed 2 percent of the person's annual net
378 income, as defined in s. 27.52(1), divided by 12. The clerk
379 shall establish all terms of a payment plan, and the court may
380 review the reasonableness of the payment plan.

381 (5) When receiving partial payment of fees, service
382 charges, court costs, and fines, clerks shall distribute funds
383 according to the following order of priority:

384 (a) That portion of fees, service charges, court costs, and
385 fines to be remitted to the state for deposit into the General
386 Revenue Fund.

387 (b) That portion of fees, service charges, court costs, and



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388 fines required to be retained by the clerk of the court or
389 deposited into the Clerks of the Court Trust Fund within the
390 Department of Revenue.

391 (c) That portion of fees, service charges, court costs, and
392 fines payable to state trust funds, allocated on a pro rata
393 basis among the various authorized funds if the total collection
394 amount is insufficient to fully fund all such funds as provided
395 by law.

396 (d) That portion of fees, service charges, court costs, and
397 fines payable to counties, municipalities, or other local
398 entities, allocated on a pro rata basis among the various
399 authorized recipients if the total collection amount is
400 insufficient to fully fund all such recipients as provided by
401 law.

402
403 To offset processing costs, clerks may impose either a per-month
404 service charge pursuant to s. 28.24(27)(b) ~~s. 28.24(26)(b)~~ or a
405 one-time administrative processing service charge at the
406 inception of the payment plan pursuant to s. 28.24(27)(c) ~~s.~~
407 ~~28.24(26)(c)~~.

408 Section 7. Effective upon this act becoming a law,
409 paragraph (f) of subsection (2) and paragraph (a) of subsection
410 (3) of section 28.35, Florida Statutes, are amended to read:

411 28.35 Florida Clerks of Court Operations Corporation.—

412 (2) The duties of the corporation shall include the
413 following:

414 (f) Approving the proposed budgets submitted by clerks of
415 the court pursuant to s. 28.36. The corporation must ensure that
416 the total combined budgets of the clerks of the court do not



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417 exceed the total estimated revenues from fees, service charges,
418 court costs, and fines for court-related functions available for
419 court-related expenditures as determined by the most recent
420 Revenue Estimating Conference, plus the total of unspent
421 budgeted funds for court-related functions carried forward by
422 the clerks of the court from the previous county fiscal year,
423 ~~and~~ plus the balance of funds remaining in the Clerks of the
424 Court Trust Fund after the transfer of funds to the General
425 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any
426 appropriations for court-related functions ~~s. 28.37(3)(b)~~. The
427 corporation may amend any individual clerk of the court budget
428 to ensure compliance with this paragraph and must consider
429 performance measures, workload performance standards, workload
430 measures, and expense data before modifying the budget. As part
431 of this process, the corporation shall:

432 1. Calculate the minimum amount of revenue necessary for
433 each clerk of the court to efficiently perform the list of
434 court-related functions specified in paragraph (3)(a). The
435 corporation shall apply the workload measures appropriate for
436 determining the individual level of review required to fund the
437 clerk's budget.

438 2. Prepare a cost comparison of similarly situated clerks
439 of the court, based on county population and numbers of filings,
440 using the standard list of court-related functions specified in
441 paragraph (3)(a).

442 3. Conduct an annual base budget review and an annual
443 budget exercise examining the total budget of each clerk of the
444 court. The review shall examine revenues from all sources,
445 expenses of court-related functions, and expenses of noncourt-



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446 related functions as necessary to determine that court-related
447 revenues are not being used for noncourt-related purposes. The
448 review and exercise shall identify potential targeted budget
449 reductions in the percentage amount provided in Schedule VIII-B
450 of the state's previous year's legislative budget instructions,
451 as referenced in s. 216.023(3), or an equivalent schedule or
452 instruction as may be adopted by the Legislature.

453 4. Identify those proposed budgets containing funding for
454 items not included on the standard list of court-related
455 functions specified in paragraph (3)(a).

456 5. Identify those clerks projected to have court-related
457 revenues insufficient to fund their anticipated court-related
458 expenditures.

459 6. Use revenue estimates based on the official estimate for
460 funds from fees, service charges, court costs, and fines for
461 court-related functions accruing to the clerks of the court made
462 by the Revenue Estimating Conference, as well as any unspent
463 budgeted funds for court-related functions carried forward by
464 the clerks of the court from the previous county fiscal year and
465 the balance of funds remaining in the Clerks of the Court Trust
466 Fund after the transfer of funds to the General Revenue Fund
467 required pursuant to s. 28.37(4)(b), plus any appropriations for
468 the purpose of funding court-related functions ~~s. 28.37(3)(b).~~

469 7. Identify pay and benefit increases in any proposed clerk
470 budget, including, but not limited to, cost of living increases,
471 merit increases, and bonuses.

472 8. Identify increases in anticipated expenditures in any
473 clerk budget that exceeds the current year budget by more than 3
474 percent.



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475 9. Identify the budget of any clerk which exceeds the
476 average budget of similarly situated clerks by more than 10
477 percent.

478
479 For the purposes of this paragraph, the term "unspent budgeted
480 funds for court-related functions" means undisbursed funds
481 included in the clerks of the courts budgets for court-related
482 functions established pursuant to this section and s. 28.36.

483 (3) (a) The list of court-related functions that clerks may
484 fund from filing fees, service charges, court costs, and fines
485 is limited to those functions expressly authorized by law or
486 court rule. Those functions include the following: case
487 maintenance; records management; court preparation and
488 attendance; processing the assignment, reopening, and
489 reassignment of cases; processing of appeals; collection and
490 distribution of fines, fees, service charges, and court costs;
491 processing of bond forfeiture payments; data collection and
492 reporting; determinations of indigent status; and paying
493 reasonable administrative support costs to enable the clerk of
494 the court to carry out these court-related functions.

495 Section 8. Effective upon this act becoming a law, present
496 subsections (3) and (4) of section 28.36, Florida Statutes, are
497 redesignated as subsections (4) and (5), respectively, a new
498 subsection (3) is added to that section, and subsection (1),
499 paragraph (b) of subsection (2), and present subsection (4) of
500 that section are amended, to read:

501 28.36 Budget procedure.—There is established a budget
502 procedure for the court-related functions of the clerks of the
503 court.



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504 (1) Only those functions listed in s. 28.35(3)(a) may be
505 funded from fees, service charges, court costs, and fines
506 retained by the clerks of the court.

507 (2) Each proposed budget shall further conform to the
508 following requirements:

509 (b) The proposed budget must be balanced such that the
510 total of the estimated revenues available equals or exceeds the
511 total of the anticipated expenditures. Such revenues include
512 revenue projected to be received from fees, service charges,
513 court costs, and fines for court-related functions during the
514 fiscal period covered by the budget, plus the total of unspent
515 budgeted funds for court-related functions carried forward by
516 the clerk of the court from the previous county fiscal year and
517 plus the portion of the balance of funds remaining in the Clerks
518 of the Court Trust Fund after the transfer of funds to the
519 General Revenue Fund required pursuant to s. 28.37(4)(b) ~~or~~
520 ~~28.37(3)(b)~~ which has been allocated to each respective clerk of
521 the court by the Florida Clerks of Court Operations Corporation.
522 For the purposes of this paragraph, the term "unspent budgeted
523 funds for court-related functions" means undisbursed funds
524 included in the clerk of the courts' budget for court related
525 functions established pursuant to s. 28.35 and this section. The
526 anticipated expenditures must be itemized as required by the
527 corporation.

528 (3)(a) The Florida Clerks of Court Operations Corporation
529 shall establish and manage a reserve for contingencies within
530 the Clerks of the Court Trust Fund which must consist of an
531 amount not to exceed 16 percent of the total budget authority
532 for the clerks of court during the current county fiscal year,



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533 to be carried forward at the end of the fiscal year. Funds to be
534 held in reserve include transfers of cumulative excess, as
535 provided in s. 28.37(4)(b), from the Clerks of the Court Trust
536 Fund and may also include revenues provided by law or moneys
537 appropriated by the Legislature.

538 (b) The corporation shall provide a reporting of the
539 balance and use of these funds during each county fiscal year as
540 part of the corporation's annual report submitted under s.
541 28.35(2)(h).

542 (c) The corporation may use the reserve to ensure the
543 clerks of court can perform the court-related functions as
544 provided in s. 28.35(3)(a). Moneys in the Clerks of the Court
545 Trust Fund which are held in reserve may be used by the
546 corporation under the following circumstances:

547 1. To offset a current deficit between the revenue
548 available and the original budget authority. A deficit is deemed
549 to occur when the revenue available to the clerks of court falls
550 below the original revenue projection for that county fiscal
551 year.

552 2. To provide funding for an emergency, as defined in s.
553 252.34(4). The emergency must have been declared by the
554 Governor, pursuant to s. 252.36, or otherwise declared by law.

555 3. To provide funds in the development of the total
556 aggregate budget of the clerks of court to ensure that a minimum
557 continuation budget is met. For purposes of this subparagraph, a
558 minimum continuation budget is the budget approved for the
559 current county fiscal year or some lesser amount adopted by the
560 corporation.

561 (d) To use the reserve, the corporation must request a



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562 budget amendment pursuant to s. 216.292.

563 (5)-(4) The corporation may approve increases or decreases
564 to the previously authorized budgets approved for individual
565 clerks of the court pursuant to s. 28.35 for court-related
566 functions, if:

567 (a) The additional budget authority is necessary to pay the
568 cost of performing new or additional functions required by
569 changes in law or court rule; or

570 (b) The additional budget authority is necessary to pay the
571 cost of supporting increases in the number of judges or
572 magistrates authorized by the Legislature, or for increases in
573 the use of hearing officers and senior judges assigned by the
574 courts.

575 Section 9. Effective upon this act becoming a law, section
576 28.37, Florida Statutes, is amended to read:

577 28.37 Fines, fees, service charges, and costs remitted to
578 the state.—

579 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
580 selected salaries, costs, and expenses of the state courts
581 system and court-related functions shall be funded from a
582 portion of the revenues derived from statutory fines, fees,
583 service charges, and court costs collected by the clerks of the
584 court and from adequate and appropriate supplemental funding
585 from state revenues as appropriated by the Legislature.

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

587 (a) "Cumulative excess" means revenues derived from fines,
588 fees, service charges, and court costs collected by the clerks
589 of the court which are greater than the original revenue
590 projection.



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591 (b) "Original revenue projection" means the official
592 estimate, as determined by the Revenue Estimating Conference, of
593 revenues from fines, fees, service charges, and court costs
594 available for court-related functions for the county fiscal year
595 covered by the projection.

596 (3) The ~~Beginning November 1, 2013,~~ that portion of all
597 fines, fees, service charges, and costs collected by the clerks
598 of the court for the previous month which is in excess of one-
599 twelfth of the clerks' total budget for the performance of
600 court-related functions ~~shall~~ must be remitted to the Department
601 of Revenue for deposit into the Clerks of the Court Trust Fund.
602 Such collections do not include funding received for the
603 operation of the Title IV-D child support collections and
604 disbursement program. The clerk of the court shall remit the
605 revenues collected during the previous month due to the state on
606 or before the 10th day of each month.

607 (4) (a) ~~(3) (a)~~ Each year, no later than January 25, for the
608 previous county fiscal year, the clerks of court, in
609 consultation with the Florida Clerks of Court Operations
610 Corporation, shall remit to the Department of Revenue for
611 deposit in the Clerks of the Court Trust Fund the cumulative
612 excess of all fines, fees, service charges, and court costs
613 retained by the clerks of the court, plus any funds received by
614 the clerks of the court from the Clerks of the Court Trust Fund
615 under s. 28.36(4) ~~s. 28.36(3)~~, which exceed the amount needed to
616 meet their authorized budget amounts established under s. 28.35.

617 (b) No later than February 1, 2022, and each February 1
618 thereafter, the Department of Revenue shall transfer 50 percent
619 of the cumulative excess of the original revenue projection from



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620 the Clerks of the Court Trust Fund to the General Revenue Fund.
621 The remaining 50 percent in the Clerks of the Court Trust Fund
622 may be used in the development of the total combined budgets of
623 the clerks of the court as provided in s. 28.35(2)(f)6. However,
624 a minimum of 10 percent of the clerk-retained portion of the
625 cumulative excess amount must be held in reserve until such
626 funds reach an amount equal to at least 16 percent of the total
627 budget authority from the current county fiscal year, as
628 provided in s. 28.36(3)(a)

629 ~~1. No later than February 1, 2020, the Department of~~
630 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
631 ~~to the General Revenue Fund the sum of the cumulative excess of~~
632 ~~all fines, fees, service charges, and costs submitted by the~~
633 ~~clerks of court pursuant to subsection (2) and the cumulative~~
634 ~~excess of all fines, fees, service charges, and costs remitted~~
635 ~~by the clerks of court pursuant to paragraph (a) in excess of~~
636 ~~\$10 million.~~

637 ~~2. No later than February 1, 2021, the Department of~~
638 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
639 ~~to the General Revenue Fund not less than 50 percent of the sum~~
640 ~~of the cumulative excess of all fines, fees, service charges,~~
641 ~~and costs submitted by the clerks of court pursuant to~~
642 ~~subsection (2) and the cumulative excess of all fines, fees,~~
643 ~~service charges, and costs remitted by the clerks of court~~
644 ~~pursuant to paragraph (a); provided however, the balance~~
645 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
646 ~~may not be more than \$20 million.~~

647 ~~3. No later than February 1, 2022, the Department of~~
648 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~



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649 ~~to the General Revenue Fund not less than 50 percent of the sum~~
650 ~~of the cumulative excess of all fines, fees, service charges,~~
651 ~~and costs submitted by the clerks of court pursuant to~~
652 ~~subsection (2) and the cumulative excess of all fines, fees,~~
653 ~~service charges, and costs remitted by the clerks of court~~
654 ~~pursuant to paragraph (a); provided however, the balance~~
655 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
656 ~~may not be more than \$20 million.~~

657 ~~4. No later than February 1, 2023, and each February 1~~
658 ~~thereafter, the Department of Revenue shall transfer from the~~
659 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~
660 ~~cumulative excess of all fines, fees, service charges, and costs~~
661 ~~submitted by the clerks of court pursuant to subsection (2) and~~
662 ~~the cumulative excess of all fines, fees, service charges, and~~
663 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

664 ~~(5)~~(4) The Department of Revenue shall collect any funds
665 that the Florida Clerks of Court Operations Corporation
666 determines upon investigation were due but not remitted to the
667 Department of Revenue. The corporation shall notify the clerk of
668 the court and the Department of Revenue of the amount due to the
669 Department of Revenue. The clerk of the court shall remit the
670 amount due no later than the 10th day of the month following the
671 month in which notice is provided by the corporation to the
672 clerk of the court.

673 ~~(6)~~(5) Ten percent of all court-related fines collected by
674 the clerk, except for penalties or fines distributed to counties
675 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
676 must ~~shall~~ be deposited into the fine and forfeiture fund to be
677 used exclusively for clerk court-related functions, as provided



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678 in s. 28.35(3)(a).

679 Section 10. Section 28.42, Florida Statutes, is amended to
680 read:

681 28.42 Manual of filing fees, charges, costs, and fines;
682 payment plan form.—

683 (1) The clerks of court, through their association and in
684 consultation with the Office of the State Courts Administrator,
685 shall prepare and disseminate a manual of filing fees, service
686 charges, costs, and fines imposed pursuant to state law, for
687 each type of action and offense, and classified as mandatory or
688 discretionary. The manual also shall classify the fee, charge,
689 cost, or fine as court-related revenue or noncourt-related
690 revenue. The clerks, through their association, shall
691 disseminate this manual to the chief judge, state attorney,
692 public defender, and court administrator in each circuit and to
693 the clerk of the court in each county. The clerks, through their
694 association and in consultation with the Office of the State
695 Courts Administrator, shall at a minimum update and disseminate
696 this manual on July 1 of each year.

697 (2) By October 1, 2021, the clerks of court, through the
698 Florida Clerks of Court Operations Corporation, shall develop a
699 uniform payment plan form for use by persons seeking to
700 establish a payment plan in accordance with s. 28.246(4). The
701 form must inform the person of the minimum payment due each
702 month, the term of the plan, acceptable payment methods, and the
703 circumstances under which a case may be sent to collections for
704 nonpayment.

705 (3) By January 1, 2022, each clerk of court shall use the
706 uniform payment plan form developed pursuant to subsection (2)



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707 when establishing payment plans.

708 Section 11. Effective upon this act becoming law,
709 subsection (5) of section 40.29, Florida Statutes, is amended to
710 read:

711 40.29 Payment of due-process costs.—

712 (5) The Justice Administrative Commission shall reimburse
713 ~~provide~~ funds to the clerks of the court to compensate jurors,
714 to pay for meals or lodging provided to jurors, and to pay for
715 jury-related personnel costs as provided in this section. Each
716 clerk of the court must submit a request for reimbursement shall
717 ~~forward~~ to the Florida Clerks of Court Operations Corporation
718 within 20 days after each quarter attesting to the clerk's
719 actual costs ~~Justice Administrative Commission a quarterly~~
720 ~~estimate of funds necessary~~ to compensate jurors, to and pay for
721 meals or lodging provided to jurors, and to pay for jury-related
722 personnel costs during the upcoming quarter. The Florida Clerks
723 of Court Operations Corporation must review the request for
724 reimbursement to ensure that the costs are reasonably and
725 directly related to jury management. The Florida Clerks of Court
726 Operations Corporation must ~~shall~~ forward to the Justice
727 Administrative Commission ~~a quarterly estimate of~~ the amount
728 necessary to reimburse each clerk of the court for its personnel
729 and other costs related to jury management unless the total
730 request for reimbursement by the clerks exceeds the quarterly
731 funds available to the Justice Administrative Commission, in
732 which case the Florida Clerks of Court Operations Corporation
733 shall adjust the cumulative total to match the available funds
734 before submitting the request to the Justice Administrative
735 Commission. Upon receipt of each request for reimbursement such



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736 ~~estimates~~, the Justice Administrative Commission must review
737 ~~shall determine~~ the amount deemed necessary for payment to the
738 clerks of the court for the most recently completed during the
739 ~~upcoming~~ quarter, determine if the total payment amount is
740 available, and submit a request for payment to the Chief
741 Financial Officer. ~~If the Justice Administrative Commission~~
742 ~~believes that the amount appropriated by the Legislature is~~
743 ~~insufficient to meet such costs during the remaining part of the~~
744 ~~state fiscal year, the commission may apportion the funds~~
745 ~~appropriated in the General Appropriations Act for those~~
746 ~~purposes among the several counties, basing the apportionment~~
747 ~~upon the amount expended for such purposes in each county during~~
748 ~~the prior fiscal year, in which case, the Chief Financial~~
749 ~~Officer shall issue the appropriate apportioned amount by~~
750 ~~warrant to each county.~~ The clerks of the court are responsible
751 for any compensation to jurors, for payments for meals or
752 lodging provided to jurors, and for jury-related personnel costs
753 that exceed the funding provided in the General Appropriations
754 Act for these purposes.

755 Section 12. Effective upon this act becoming a law, section
756 45.035, Florida Statutes, is amended to read:

757 45.035 Clerk's fees.—In addition to other fees or service
758 charges authorized by law, the clerk shall receive service
759 charges related to the judicial sales procedure set forth in ss.
760 45.031-45.033 ~~ss. 45.031-45.034~~ and this section:

761 (1) The clerk shall receive a service charge of \$70, from
762 which the clerk shall remit \$10 to the Department of Revenue for
763 deposit into the General Revenue Fund, for services in making,
764 recording, and certifying the sale and title, which service



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765 charge shall be assessed as costs and shall be advanced by the
766 plaintiff before the sale.

767 (2) If there is a surplus resulting from the sale, the
768 clerk may receive the following service charges, which shall be
769 deducted from the surplus:

770 (a) The clerk may withhold the sum of \$28 from the surplus
771 which may only be used for purposes of educating the public as
772 to the rights of homeowners regarding foreclosure proceedings.

773 (b) The clerk is entitled to a service charge of \$15 for
774 each disbursement of surplus proceeds, from which the clerk
775 shall remit \$5 to the Department of Revenue for deposit into the
776 General Revenue Fund.

777 (3) If the sale is conducted by electronic means, as
778 provided in s. 45.031(10), the clerk shall receive an additional
779 service charge not to exceed \$70 for services in conducting or
780 contracting for the electronic sale, which service charge shall
781 be assessed as costs and paid when filing for an electronic sale
782 date. If the clerk requires advance electronic deposits to
783 secure the right to bid, such deposits shall not be subject to
784 the fee under s. 28.24(11) ~~s. 28.24(10)~~. The portion of an
785 advance deposit from a winning bidder required by s. 45.031(3)
786 shall, upon acceptance of the winning bid, be subject to the fee
787 under s. 28.24(11) ~~s. 28.24(10)~~.

788 Section 13. Effective upon this act becoming a law,
789 subsection (2) of section 55.141, Florida Statutes, is amended
790 to read:

791 55.141 Satisfaction of judgments and decrees; duties of
792 clerk.—

793 (2) Upon such payment, the clerk shall execute and record



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794 in the official records a satisfaction of judgment upon payment
795 of the recording charge prescribed in s. 28.24(13) ~~s. 28.24(12)~~.
796 Upon payment of the amount required in subsection (1) and the
797 recording charge required by this subsection and execution and
798 recordation of the satisfaction by the clerk, any lien created
799 by the judgment is satisfied and discharged.

800 Section 14. Effective upon this act becoming a law,
801 subsection (6) of section 57.082, Florida Statutes, is amended
802 to read:

803 57.082 Determination of civil indigent status.—

804 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
805 clerk or the court determines is indigent for civil proceedings
806 under this section shall be enrolled in a payment plan under s.
807 28.246 and shall be charged a one-time administrative processing
808 charge under s. 28.24(27)(c) ~~s. 28.24(26)(c)~~. A monthly payment
809 amount, calculated based upon all fees and all anticipated
810 costs, is presumed to correspond to the person's ability to pay
811 if it does not exceed 2 percent of the person's annual net
812 income, as defined in subsection (1), divided by 12. The person
813 may seek review of the clerk's decisions regarding a payment
814 plan established under s. 28.246 in the court having
815 jurisdiction over the matter. A case may not be impeded in any
816 way, delayed in filing, or delayed in its progress, including
817 the final hearing and order, due to nonpayment of any fees or
818 costs by an indigent person. Filing fees waived from payment
819 under s. 57.081 may not be included in the calculation related
820 to a payment plan established under this section.

821 Section 15. Effective upon this act becoming a law,
822 paragraph (c) of subsection (5) of section 197.502, Florida



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823 Statutes, is amended to read:

824 197.502 Application for obtaining tax deed by holder of tax
825 sale certificate; fees.—

826 (5)

827 (c) Upon receiving the tax deed application from the tax
828 collector, the clerk shall record a notice of tax deed
829 application in the official records, which constitutes notice of
830 the pendency of a tax deed application with respect to the
831 property and remains effective for 1 year from the date of
832 recording. A person acquiring an interest in the property after
833 the tax deed application notice has been recorded is deemed to
834 be on notice of the pending tax deed sale, and no additional
835 notice is required. The sale of the property automatically
836 releases any recorded notice of tax deed application for that
837 property. If the property is redeemed, the clerk must record a
838 release of the notice of tax deed application upon payment of
839 the fees as authorized in s. 28.24(9) and (13) ~~s. 28.24(8) and~~
840 ~~(12)~~. The contents of the notice shall be the same as the
841 contents of the notice of publication required by s. 197.512.
842 The cost of recording must be collected at the time of
843 application under subsection (1), and added to the opening bid.

844 Section 16. Effective upon this act becoming a law, section
845 197.532, Florida Statutes, is amended to read:

846 197.532 Fees for mailing additional notices, when
847 application is made by holder.—When the certificateholder makes
848 a written request of the clerk and furnishes the names and
849 addresses at the time of the filing of the application, the
850 clerk shall send a copy of the notice referred to in s. 197.522
851 to anyone to whom the certificateholder may request him or her



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852 to send it, and the clerk shall include in such notice the
853 statement required in s. 197.522. The certificateholder shall
854 pay the clerk the service charges as prescribed in s. 28.24(6)
855 ~~s. 28.24(5)~~ for preparing and mailing each copy of notice
856 requested by the holder. When the charges are made, they shall
857 be added by the clerk to the amount required to redeem the land
858 from sale.

859 Section 17. Effective upon this act becoming a law,
860 subsection (3) and paragraphs (a) and (b) of subsection (4) of
861 section 197.542, Florida Statutes, are amended to read:

862 197.542 Sale at public auction.—

863 (3) If the sale is canceled for any reason or the buyer
864 fails to make full payment within the time required, the clerk
865 shall readvertise the sale within 30 days after the buyer's
866 nonpayment or, if canceled, within 30 days after the clerk
867 receives the costs of resale. The sale shall be held within 30
868 days after readvertising. Only one advertisement is necessary.
869 The amount of the opening bid shall be increased by the cost of
870 advertising, additional clerk's fees as provided for in s.
871 28.24(22) ~~s. 28.24(21)~~, and interest as provided for in
872 subsection (1). If, at the subsequent sale, there are no bidders
873 at the tax deed sale and the certificateholder fails to pay the
874 moneys due within 30 days after the sale, the clerk may not
875 readvertise the sale and shall place the property on a list
876 entitled "lands available for taxes." The clerk must receive
877 full payment before the issuance of the tax deed.

878 (4) (a) A clerk may conduct electronic tax deed sales in
879 lieu of public outcry. The clerk must comply with the procedures
880 provided in this chapter, except that electronic proxy bidding



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881 shall be allowed and the clerk may require bidders to advance
882 sufficient funds to pay the deposit required by subsection (2).
883 The clerk shall provide access to the electronic sale by
884 computer terminals open to the public at a designated location.
885 A clerk who conducts such electronic sales may receive
886 electronic deposits and payments related to the sale. The
887 portion of an advance deposit from a winning bidder required by
888 subsection (2) shall, upon acceptance of the winning bid, be
889 subject to the fee under s. 28.24(11) ~~s. 28.24(10)~~.

890 (b) This subsection does not restrict or limit the
891 authority of a charter county to conduct electronic tax deed
892 sales. In a charter county where the clerk of the circuit court
893 does not conduct all electronic sales, the charter county shall
894 be permitted to receive electronic deposits and payments related
895 to sales it conducts, as well as to subject the winning bidder
896 to a fee, consistent with the schedule in s. 28.24(11) ~~s.~~
897 ~~28.24(10)~~.

898 Section 18. Effective upon this act becoming a law,
899 paragraph (b) of subsection (2) of section 197.582, Florida
900 Statutes, is amended to read:

901 197.582 Disbursement of proceeds of sale.—

902 (2)

903 (b) The mailed notice must include a form for making a
904 claim under subsection (3). Service charges at the rate set
905 forth in s. 28.24(11) ~~s. 28.24(10)~~ and the costs of mailing must
906 be paid out of the surplus funds held by the clerk. If the clerk
907 or comptroller certifies that the surplus funds are not
908 sufficient to cover the service charges and mailing costs, the
909 clerk shall receive the total amount of surplus funds as a



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910 service charge. For purposes of identifying unclaimed property
911 pursuant to s. 717.113, excess proceeds shall be presumed
912 payable or distributable on the date the notice is sent.

913 Section 19. Paragraph (a) of subsection (1) of section
914 318.15, Florida Statutes, is amended to read:

915 318.15 Failure to comply with civil penalty or to appear;
916 penalty.-

917 (1) (a) If a person fails to comply with the civil penalties
918 provided in s. 318.18 within the time period specified in s.
919 318.14(4), fails to enter into or comply with the terms of a
920 penalty payment plan with the clerk of the court in accordance
921 with ss. 318.14 and 28.246, fails to attend driver improvement
922 school, or fails to appear at a scheduled hearing, the clerk of
923 the court must ~~shall~~ notify the Department of Highway Safety and
924 Motor Vehicles of such failure within 10 days after such
925 failure. Upon receipt of such notice, the department must ~~shall~~
926 immediately issue an order suspending the driver license and
927 privilege to drive of such person effective 20 days after the
928 date the order of suspension is mailed in accordance with s.
929 322.251(1), (2), and (6). The order also must inform the person
930 that he or she may contact the clerk of the court to establish a
931 payment plan pursuant to s. 28.246(4) to make partial payments
932 for court-related fines, fees, service charges, and court costs.
933 Any such suspension of the driving privilege which has not been
934 reinstated, including a similar suspension imposed outside of
935 this state Florida, must ~~shall~~ remain on the records of the
936 department for a period of 7 years from the date imposed and
937 must ~~shall~~ be removed from the records after the expiration of 7
938 years from the date it is imposed. The department may not accept



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939 the resubmission of such suspension.

940 Section 20. Section 318.20, Florida Statutes, is amended to
941 read:

942 318.20 Notification; duties of department.—The department
943 shall prepare a notification form to be appended to, or
944 incorporated as a part of, the Florida uniform traffic citation
945 issued in accordance with s. 316.650. The notification form must
946 ~~shall~~ contain language informing persons charged with
947 infractions to which this chapter applies of the procedures
948 available to them under this chapter. Such notification form
949 must ~~shall~~ contain a statement that, if the official determines
950 that no infraction has been committed, no costs or penalties may
951 ~~shall~~ be imposed and any costs or penalties that which have been
952 paid will ~~shall~~ be returned. Additionally, the notification form
953 must include information on paying the civil penalty to the
954 clerk of the court and the ability to establish a payment plan
955 pursuant to s. 28.246(4). A uniform traffic citation that is
956 produced electronically must also include the information
957 required by this section.

958 Section 21. Subsections (1) and (3) and paragraph (a) of
959 subsection (5) of section 322.245, Florida Statutes, are amended
960 to read:

961 322.245 Suspension of license upon failure of person
962 charged with specified offense under chapter 316, chapter 320,
963 or this chapter to comply with directives ordered by traffic
964 court or upon failure to pay child support in non-IV-D cases as
965 provided in chapter 61 or failure to pay any financial
966 obligation in any other criminal case.—

967 (1) If a person charged with a violation of any of the



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968 criminal offenses enumerated in s. 318.17 or with the commission
969 of any offense constituting a misdemeanor under chapter 320 or
970 this chapter fails to comply with all of the directives of the
971 court within the time allotted by the court, the clerk of the
972 ~~traffic~~ court must provide ~~shall mail to~~ the person, either
973 electronically or by mail sent to ~~at~~ the address specified on
974 the uniform traffic citation, a notice of such failure,
975 notifying him or her that, if he or she does not comply with the
976 directives of the court within 30 days after the date of the
977 notice and pay a delinquency fee of up to \$25 to the clerk, from
978 which the clerk shall remit \$10 to the Department of Revenue for
979 deposit into the General Revenue Fund, his or her driver license
980 will be suspended. The notice must ~~shall~~ be sent ~~mailed~~ no later
981 than 5 days after such failure. The delinquency fee may be
982 retained by the office of the clerk to defray the operating
983 costs of the office.

984 (3) If the person fails to comply with the directives of
985 the court within the 30-day period, or, in non-IV-D cases, fails
986 to comply with the requirements of s. 61.13016 within the period
987 specified in that statute, the depository or the clerk of the
988 court must ~~shall~~ electronically notify the department of such
989 failure within 10 days. Upon electronic receipt of the notice,
990 the department shall immediately issue an order suspending the
991 person's driver license and privilege to drive effective 20 days
992 after the date the order of suspension is mailed in accordance
993 with s. 322.251(1), (2), and (6). The order of suspension must
994 also contain information specifying that the person may contact
995 the clerk of the court to establish a payment plan pursuant to
996 s. 28.246(4) to make partial payments for fines, fees, service



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997 charges, and court costs.

998 (5) (a) When the department receives notice from a clerk of
999 the court that a person licensed to operate a motor vehicle in
1000 this state under the provisions of this chapter has failed to
1001 pay financial obligations for any criminal offense other than
1002 those specified in subsection (1), in full or in part under a
1003 payment plan pursuant to s. 28.246(4), the department must ~~shall~~
1004 suspend the license of the person named in the notice. The
1005 department shall mail an order of suspension in accordance with
1006 s. 322.251(1), (2), and (6), which must also contain information
1007 specifying that the person may contact the clerk of the court to
1008 establish a payment plan pursuant to s. 28.246(4) to make
1009 partial payments for fines, fees, service charges, and court
1010 costs.

1011 Section 22. Effective upon this act becoming a law,
1012 paragraph (d) of subsection (3) of section 569.23, Florida
1013 Statutes, is amended to read:

1014 569.23 Security requirements for tobacco settlement
1015 agreement signatories, successors, parents, and affiliates.—

1016 (3)

1017 (d) The clerk of the Supreme Court shall collect fees for
1018 receipt of deposits under this subsection as authorized by ss.
1019 28.231 and 28.24(11) (a) ~~28.24(10) (a)~~. In addition, for as long
1020 as any cash remains on deposit with the clerk pursuant to this
1021 subsection, the clerk of the Supreme Court is entitled to
1022 regularly receive as an additional fee the net investment income
1023 earned thereon. The clerk shall use the services of the Chief
1024 Financial Officer, as needed, for the custody and management of
1025 all bonds, other surety, or cash posted or deposited with the



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1026 clerk. All fees collected pursuant to this subsection shall be
1027 deposited in the State Courts Revenue Trust Fund for use as
1028 specified by law.

1029 Section 23. Effective upon this act becoming a law,
1030 subsection (3) of section 712.06, Florida Statutes, is amended
1031 to read:

1032 712.06 Contents of notice; recording and indexing.—

1033 (3) The person providing the notice referred to in s.
1034 712.05, other than a notice for preservation of a community
1035 covenant or restriction, shall:

1036 (a) Cause the clerk of the circuit court to mail by
1037 registered or certified mail to the purported owner of said
1038 property, as stated in such notice, a copy thereof and shall
1039 enter on the original, before recording the same, a certificate
1040 showing such mailing. For preparing the certificate, the
1041 claimant shall pay to the clerk the service charge as prescribed
1042 in s. 28.24(9) ~~s. 28.24(8)~~ and the necessary costs of mailing,
1043 in addition to the recording charges as prescribed in s.
1044 28.24(13) ~~s. 28.24(12)~~. If the notice names purported owners
1045 having more than one address, the person filing the same shall
1046 furnish a true copy for each of the several addresses stated,
1047 and the clerk shall send one such copy to the purported owners
1048 named at each respective address. Such certificate shall be
1049 sufficient if the same reads substantially as follows:

1050
1051 I hereby certify that I did on this, mail by
1052 registered (or certified) mail a copy of the foregoing notice to
1053 each of the following at the address stated:

1054



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1055 ... (Clerk of the circuit court)...
1056 of County, Florida,
1057 By... (Deputy clerk)...

1058
1059 The clerk of the circuit court is not required to mail to the
1060 purported owner of such property any such notice that pertains
1061 solely to the preserving of any covenant or restriction or any
1062 portion of a covenant or restriction; or

1063 (b) Publish once a week, for 2 consecutive weeks, the
1064 notice referred to in s. 712.05, with the official record book
1065 and page number in which such notice was recorded, in a
1066 newspaper as defined in chapter 50 in the county in which the
1067 property is located.

1068 Section 24. Present subsection (3) of section 775.083,
1069 Florida Statutes, is redesignated as subsection (4), and a new
1070 subsection (3) is added to that section, to read:

1071 775.083 Fines.—

1072 (3) The clerk of the court of each county is the entity
1073 responsible for collecting payment of fines, fees, service
1074 charges, and court costs. Unless otherwise designated by the
1075 court, a person who has been ordered to pay court obligations
1076 under this section shall immediately contact the clerk to pay
1077 fines, fees, service charges, and court costs in full or to
1078 apply for enrollment in a payment plan pursuant to s. 28.246(4).

1079 Section 25. Except as otherwise expressly provided in this
1080 act and except for this section, which shall take effect upon
1081 this act becoming a law, this act shall take effect October 1,
1082 2021.

1083



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1084 ===== T I T L E A M E N D M E N T =====

1085 And the title is amended as follows:

1086 Delete everything before the enacting clause

1087 and insert:

1088 A bill to be entitled

1089 An act relating to clerks of the court; amending s.
1090 27.52, F.S.; conforming a cross-reference; amending s.
1091 28.222, F.S.; requiring certain service charges to be
1092 distributed in a specified manner; amending s.
1093 28.22205, F.S.; conforming a cross-reference; amending
1094 s. 28.24, F.S.; defining the term "court record";
1095 specifying the amount of charges for certain services
1096 rendered by, and instruments filed with, the clerk of
1097 the circuit court which are not court records;
1098 amending s. 28.241, F.S.; revising the distribution of
1099 revenue from filing fees from the institution of
1100 certain appellate proceedings; amending s. 28.246,
1101 F.S.; clarifying the responsibility of an individual
1102 released from incarceration regarding enrolling in a
1103 payment plan for any outstanding court obligations;
1104 modifying the manner of calculating a monthly payment
1105 amount under a payment plan; requiring the clerk to
1106 establish all terms of a payment plan; conforming
1107 cross-references; amending s. 28.35, F.S.; conforming
1108 cross-references and provisions to changes made by the
1109 act; amending s. 28.36, F.S.; conforming a cross-
1110 reference; requiring the corporation to establish and
1111 manage a contingency reserve within the Clerks of the
1112 Court Trust Fund for specified purposes; prescribing



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1113 reporting requirements; specifying circumstances under
1114 which moneys held in reserve may be used; prescribing
1115 procedures for the release of such funds; amending s.
1116 28.37, F.S.; modifying a provision regarding state
1117 court system funding; defining terms; conforming a
1118 cross-reference; revising provisions governing the
1119 transfer of certain funds from the Clerks of the Court
1120 Trust Fund to the General Revenue Fund by the
1121 Department of Revenue; amending s. 28.42, F.S.;
1122 requiring the clerks of court to develop a uniform
1123 payment plan form by a specified date; prescribing
1124 requirements for the form; requiring the clerks to use
1125 such form by a specified date; amending s. 40.29,
1126 F.S.; requiring the clerks of the court to submit
1127 requests for reimbursement for jury-related costs to
1128 the Florida Clerks of Court Operations Corporation
1129 within specified timeframes; requiring the corporation
1130 to review such requests for reimbursement; requiring
1131 the corporation to submit certain information to the
1132 Justice Administrative Commission; requiring the
1133 commission to review the information and submit a
1134 request for payment to the Chief Financial Officer
1135 under certain circumstances; removing a provision
1136 authorizing the commission to apportion funds among
1137 the counties for certain purposes; amending ss.
1138 45.035, 55.141, 57.082, 197.502, 197.532, 197.542, and
1139 197.582, F.S.; conforming cross-references; amending
1140 ss. 318.15, 318.20, and 322.245, F.S.; requiring
1141 orders and notifications for certain traffic citations



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1142 and suspensions to include information regarding
1143 payment plans; amending ss. 569.23 and 712.06, F.S.;
1144 conforming cross-references; amending s. 775.083,
1145 F.S.; specifying that the clerk of the court of each
1146 county is responsible for collecting fines, fees,
1147 service charges, and court costs; requiring a person
1148 ordered to pay court obligations to contact the clerk
1149 to arrange for payment; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hooper) recommended the following:

1 **Senate Substitute for Amendment (187280) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Effective July 1, 2021, subsection (7) of
7 section 28.222, Florida Statutes, is amended to read:

8 28.222 Clerk to be county recorder.—

9 (7) (a) All instruments recorded in the Official Records
10 must remain ~~shall always be~~ open to the public, under the



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11 supervision of the clerk, for the purpose of inspection thereof
12 and of making extracts therefrom. ~~;~~ ~~but~~

13 (b) The clerk is shall not be required to perform any
14 service in connection with such inspection or making of extracts
15 without payment of service charges as provided in s. 28.24.

16 (c) The clerk, in his or her capacity as county recorder,
17 must retain the service charge payments under s. 28.24, except
18 that those service charge payments that relate to court records
19 or functions and meet the description of court-related functions
20 in s. 28.35(3) (a) must be distributed for those court-related
21 functions.

22 Section 2. Effective July 1, 2021, section 28.24, Florida
23 Statutes, is amended to read:

24 28.24 Service charges.—The clerk of the circuit court shall
25 charge for services rendered manually or electronically by the
26 clerk's office in recording documents and instruments and in
27 performing other specified duties. These charges may not exceed
28 those specified in this section, except as provided in s.
29 28.345.

30 (1) For purposes of this section, the term "court record"
31 means the contents of a court file and includes:

32 (a) Progress dockets and other similar records generated to
33 document activity in a case.

34 (b) Transcripts filed with the clerk.

35 (c) Documentary exhibits in the custody of the clerk.

36 (d) Electronic records, video recordings, and stenographic
37 tapes of depositions or other proceedings filed with the clerk.

38 (e) Electronic records, video recordings, and stenographic
39 tapes of court proceedings.



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40 (2) For examining, comparing, correcting, verifying, and
41 certifying transcripts of record in appellate proceedings,
42 prepared by attorney for appellant or someone else other than
43 clerk, per page: 5.00, from which the clerk shall remit 0.50 per
44 page to the Department of Revenue for deposit into the General
45 Revenue Fund.

46 (3)~~(2)~~ For preparing, numbering, and indexing an original
47 record of appellate proceedings, per instrument: 3.50, from
48 which the clerk shall remit 0.50 per instrument to the
49 Department of Revenue for deposit into the General Revenue Fund.

50 (4) (a)~~(3)~~ For certifying copies of any instrument that is a
51 court record in the public records: 2.00, from which the clerk
52 shall remit 0.50 to the Department of Revenue for deposit into
53 the General Revenue Fund.

54 (b) For certifying copies of any instrument that is not a
55 court record in the public records, per page: 2.00.

56 (5) (a)~~(4)~~ For verifying any instrument presented for
57 certification prepared by someone other than clerk, per page:
58 3.50, from which the clerk shall remit 0.50 per page to the
59 Department of Revenue for deposit into the General Revenue Fund.

60 (b) For verifying any instrument that is not a court record
61 presented for certification prepared by someone other than the
62 clerk, per page: 3.50.

63 (6) (a)~~(5) (a)~~ For making copies by photographic process of
64 any instrument in the public records consisting of pages of not
65 more than 14 inches by 8 1/2 inches, per page:.....1.00.

66 (b) For making copies by photographic process of any
67 instrument in the public records of more than 14 inches by 8 1/2
68 inches, per page:.....5.00.



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69 (7)~~(6)~~ For making microfilm copies of any public records:
70 (a) That are court records:
71 1. 16 mm 100' microfilm roll: 42.00, from which the clerk
72 shall remit 4.50 to the Department of Revenue for deposit into
73 the General Revenue Fund.
74 2.~~(b)~~ 35 mm 100' microfilm roll: 60.00, from which the
75 clerk shall remit 7.50 to the Department of Revenue for deposit
76 into the General Revenue Fund.
77 3.~~(c)~~ Microfiche, per fiche: 3.50, from which the clerk
78 shall remit 0.50 to the Department of Revenue for deposit into
79 the General Revenue Fund.
80 (b) That are not court records:
81 1. 16 mm 100' microfilm roll: 42.00.
82 2. 35 mm 100' microfilm roll: 60.00.
83 3. Microfiche, per fiche: 3.50.
84 (8)~~(7)~~ For copying any instrument in the public records by
85 other than photographic process, per page:.....6.00.
86 (9) (a)~~(8)~~ For writing any paper that is a court record
87 other than a paper otherwise herein specifically mentioned in
88 this section, same as for copying, including signing and
89 sealing: 7.00, from which the clerk shall remit 1.00 to the
90 Department of Revenue for deposit into the General Revenue Fund.
91 (b) For writing any paper that is not a court record other
92 than a paper otherwise specifically mentioned in this section,
93 including signing and sealing: 7.00.
94 (10)~~(9)~~ For indexing each entry not recorded:.....1.00.
95 (11)~~(10)~~ For receiving money into the registry of court:
96 (a) 1. First \$500: 3~~7~~ percent.....3
97 2. Each subsequent \$100: 1.5~~7~~ percent.....1.5



98 (b) Eminent domain actions, per deposit: 170.00, from which
99 the clerk shall remit 20.00 per deposit to the Department of
100 Revenue for deposit into the General Revenue Fund.

101 (12)~~(11)~~ For examining, certifying, and recording plats and
102 for recording condominium exhibits larger than 14 inches by 8
103 1/2 inches:

104 (a) First page:.....30.00.

105 (b) Each additional page:.....15.00.

106 (13)~~(12)~~ For recording, indexing, and filing any instrument
107 not more than 14 inches by 8 1/2 inches, including required
108 notice to property appraiser where applicable:

109 (a) First page or fraction thereof:.....5.00.

110 (b) Each additional page or fraction thereof:.....4.00.

111 (c) For indexing instruments recorded in the official
112 records which contain more than four names, per additional
113 name:.....1.00.

114 (d) An additional service charge must be paid to the clerk
115 of the circuit court to be deposited in the Public Records
116 Modernization Trust Fund for each instrument listed in s.
117 28.222, except judgments received from the courts and notices of
118 lis pendens, recorded in the official records:

119 1. First page:.....1.00.

120 2. Each additional page:.....0.50.

121
122 Said fund must be held in trust by the clerk and used
123 exclusively for equipment and maintenance of equipment,
124 personnel training, and technical assistance in modernizing the
125 public records system of the office. In a county where the duty
126 of maintaining official records exists in an office other than



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127 the office of the clerk of the circuit court, the clerk of the
128 circuit court is entitled to 25 percent of the moneys deposited
129 into the trust fund for equipment, maintenance of equipment,
130 training, and technical assistance in modernizing the system for
131 storing records in the office of the clerk of the circuit court.
132 The fund may not be used for the payment of travel expenses,
133 membership dues, bank charges, staff-recruitment costs, salaries
134 or benefits of employees, construction costs, general operating
135 expenses, or other costs not directly related to obtaining and
136 maintaining equipment for public records systems or for the
137 purchase of furniture or office supplies and equipment not
138 related to the storage of records. On or before December 1,
139 1995, and on or before December 1 of each year immediately
140 preceding each year during which the trust fund is scheduled for
141 legislative review under s. 19(f)(2), Art. III of the State
142 Constitution, each clerk of the circuit court shall file a
143 report on the Public Records Modernization Trust Fund with the
144 President of the Senate and the Speaker of the House of
145 Representatives. The report must itemize each expenditure made
146 from the trust fund since the last report was filed; each
147 obligation payable from the trust fund on that date; and the
148 percentage of funds expended for each of the following:
149 equipment, maintenance of equipment, personnel training, and
150 technical assistance. The report must indicate the nature of the
151 system each clerk uses to store, maintain, and retrieve public
152 records and the degree to which the system has been upgraded
153 since the creation of the trust fund.

154 (e) An additional service charge of \$4 per page shall be
155 paid to the clerk of the circuit court for each instrument



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156 listed in s. 28.222, except judgments received from the courts
157 and notices of lis pendens, recorded in the official records.
158 From the additional \$4 service charge collected:

159 1. If the counties maintain legal responsibility for the
160 costs of the court-related technology needs as defined in s.
161 29.008(1)(f)2. and (h), 10 cents shall be distributed to the
162 Florida Association of Court Clerks and Comptrollers, Inc., for
163 the cost of development, implementation, operation, and
164 maintenance of the clerks' Comprehensive Case Information
165 System; \$1.90 shall be retained by the clerk to be deposited in
166 the Public Records Modernization Trust Fund and used exclusively
167 for funding court-related technology needs of the clerk as
168 defined in s. 29.008(1)(f)2. and (h); and \$2 shall be
169 distributed to the board of county commissioners to be used
170 exclusively to fund court-related technology, and court
171 technology needs as defined in s. 29.008(1)(f)2. and (h) for the
172 state trial courts, state attorney, public defender, and
173 criminal conflict and civil regional counsel in that county. If
174 the counties maintain legal responsibility for the costs of the
175 court-related technology needs as defined in s. 29.008(1)(f)2.
176 and (h), notwithstanding any other provision of law, the county
177 is not required to provide additional funding beyond that
178 provided in this section ~~herein~~ for the court-related technology
179 needs of the clerk as defined in s. 29.008(1)(f)2. and (h). All
180 court records and official records are the property of the State
181 of Florida, including any records generated as part of the
182 Comprehensive Case Information System funded pursuant to this
183 paragraph and the clerk of court is designated as the custodian
184 of such records, except in a county where the duty of



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185 maintaining official records exists in a county office other
186 than the clerk of court or comptroller, such county office is
187 designated the custodian of all official records, and the clerk
188 of court is designated the custodian of all court records. The
189 clerk of court or any entity acting on behalf of the clerk of
190 court, including an association, may not charge a fee to any
191 agency as defined in s. 119.011, the Legislature, or the State
192 Court System for copies of records generated by the
193 Comprehensive Case Information System or held by the clerk of
194 court or any entity acting on behalf of the clerk of court,
195 including an association.

196 2. If the state becomes legally responsible for the costs
197 of court-related technology needs as defined in s.
198 29.008(1)(f)2. and (h), whether by operation of general law or
199 by court order, \$4 shall be remitted to the Department of
200 Revenue for deposit into the General Revenue Fund.

201 (14) (a) ~~(13)~~ Oath, administering, attesting, and sealing of
202 court records, not otherwise provided for in this section
203 herein: 3.50, from which the clerk shall remit 0.50 to the
204 Department of Revenue for deposit into the General Revenue Fund.

205 (b) Oath, administering, attesting, and sealing of records
206 that are not court records not otherwise provided for in this
207 section: 3.50.

208 (15) (a) ~~(14)~~ For validating certificates or any authorized
209 bonds that are court records, each: 3.50, from which the clerk
210 shall remit 0.50 each to the Department of Revenue for deposit
211 into the General Revenue Fund.

212 (b) For validating certificates or any authorized bonds
213 that are not court records, each: 3.50.



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214 ~~(16)-(15)~~ For preparing affidavit of domicile:.....5.00.

215 ~~(17)-(16)~~ For exemplified certificates, including the
216 signing and sealing of them: 7.00, from which the clerk shall
217 remit 1.00 to the Department of Revenue for deposit into the
218 General Revenue Fund.

219 ~~(18) (a)-(17)~~ For authenticated certificates that are court
220 records, including the signing and sealing of them: 7.00, from
221 which the clerk shall remit 1.00 to the Department of Revenue
222 for deposit into the General Revenue Fund.

223 (b) For authenticated certificates that are not court
224 records, including the signing and sealing of them: 7.00.

225 ~~(19) (a)-(18) (a)~~ For issuing and filing a subpoena for a
226 witness, not otherwise provided for in this section, including
227 the herein (includes writing, preparing, signing, and sealing of
228 it): 7.00, from which the clerk shall remit 1.00 to the
229 Department of Revenue for deposit into the General Revenue Fund.

230 (b) For signing and sealing only: 2.00, from which the
231 clerk shall remit 0.50 to the Department of Revenue for deposit
232 into the General Revenue Fund.

233 ~~(20) (a)-(19)~~ For approving a court bond: 8.50, from which
234 the clerk shall remit 1.00 to the Department of Revenue for
235 deposit into the General Revenue Fund.

236 (b) For approving a bond: 8.50.

237 ~~(21) (a)-(20)~~ For searching court ~~of~~ records, for each year's
238 search: 2.00, from which the clerk shall remit 0.50 for each
239 year's search to the Department of Revenue for deposit into the
240 General Revenue Fund.

241 (b) For searching records that are not court records, for
242 each year's search: 2.00.



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243 (22)~~(21)~~ For processing an application for a tax deed sale
244 (includes application, sale, issuance, and preparation of tax
245 deed, and disbursement of proceeds of sale), other than excess
246 proceeds:.....60.00.
247 (23)~~(22)~~ For disbursement of excess proceeds of tax deed
248 sale, first \$100 or fraction thereof:.....10.00.
249 (24)~~(23)~~ Upon receipt of an application for a marriage
250 license, for preparing and administering of oath; issuing,
251 sealing, and recording of the marriage license; and providing a
252 certified copy:.....30.00.
253 (25)~~(24)~~ For solemnizing matrimony:.....30.00.
254 (26)~~(25)~~ For sealing any court file or expungement of any
255 record: 42.00, from which the clerk shall remit 4.50 to the
256 Department of Revenue for deposit into the General Revenue Fund.
257 (27) (a) ~~(26)~~ (a) For receiving and disbursing all restitution
258 payments, per payment: 3.50, from which the clerk shall remit
259 0.50 per payment to the Department of Revenue for deposit into
260 the General Revenue Fund.
261 (b) For receiving and disbursing all partial payments,
262 other than restitution payments, for which an administrative
263 processing service charge is not imposed pursuant to s. 28.246,
264 per month:.....5.00.
265 (c) For setting up a payment plan, a one-time
266 administrative processing charge in lieu of a per month charge
267 under paragraph (b):.....25.00.
268 (28)~~(27)~~ Postal charges incurred by the clerk of the
269 circuit court in any mailing by certified or registered mail
270 must be paid by the party at whose instance the mailing is made.
271 (29)~~(28)~~ For furnishing an electronic copy of information



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272 contained in a computer database: a fee as provided for in
273 chapter 119.

274 Section 3. Effective July 1, 2021, subsection (2) of
275 section 28.241, Florida Statutes, is amended to read:

276 28.241 Filing fees for trial and appellate proceedings.—

277 (2) Upon the institution of any appellate proceeding from
278 any lower court to the circuit court of any such county,
279 including appeals filed by a county or municipality as provided
280 in s. 34.041(5), or from the county or circuit court to an
281 appellate court of the state, the clerk shall charge and collect
282 from the party or parties instituting such appellate proceedings
283 a filing fee, as follows: not to exceed \$280, from which the
284 clerk shall remit \$20 to the Department of Revenue for deposit
285 into the General Revenue Fund,

286 (a) For filing a notice of appeal from the county court to
287 the circuit court, a filing fee not to exceed \$280. and, in
288 addition to the filing fee required under s. 25.241 or s. 35.22,
289 \$100

290 (b) For filing a notice of appeal from the county or
291 circuit court to the district court of appeal or to the Supreme
292 Court, in addition to the filing fee required under s. 25.241 or
293 s. 35.22, a filing fee not to exceed \$100, of which the clerk
294 shall remit \$20 to the Department of Revenue for deposit into
295 the General Revenue Fund. If the party is determined to be
296 indigent, the clerk shall defer payment of the fee otherwise
297 required by this subsection.

298 Section 4. Subsection (4) of section 28.246, Florida
299 Statutes, is amended to read:

300 28.246 Payment of court-related fines or other monetary



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301 penalties, fees, charges, and costs; partial payments;
302 distribution of funds.—

303 (4) (a) Each ~~The~~ clerk of the circuit court shall accept
304 partial payments for each case type for court-related fees,
305 service charges, court costs, and fines in accordance with the
306 terms of an established payment plan developed by the clerk.

307 (b) An individual seeking to defer payment of fees, service
308 charges, court costs, or fines imposed by operation of law or
309 order of the court under any provision of general law shall
310 apply to the clerk for enrollment in a payment plan. The clerk
311 shall enter into a payment plan with an individual who the court
312 determines is indigent for costs. It is the responsibility of an
313 individual who is released from incarceration and has
314 outstanding court obligations to contact the clerk within 30
315 days after release to pay fees, service charges, court costs,
316 and fines in full, or to apply for enrollment in a payment plan.

317 A monthly payment amount, calculated based upon all fees and all
318 anticipated fees, service charges, court costs, and fines, is
319 presumed to correspond to the person's ability to pay if the
320 amount does not exceed 2 percent of the person's annual net
321 income, as defined in s. 27.52(1), divided by 12. The clerk
322 shall establish all terms of a payment plan, and the court may
323 review the reasonableness of the payment plan.

324 Section 5. Effective upon this act becoming a law,
325 paragraph (f) of subsection (2) and paragraph (a) of subsection
326 (3) of section 28.35, Florida Statutes, are amended to read:

327 28.35 Florida Clerks of Court Operations Corporation.—

328 (2) The duties of the corporation shall include the
329 following:



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330 (f) Approving the proposed budgets submitted by clerks of
331 the court pursuant to s. 28.36. The corporation must ensure that
332 the total combined budgets of the clerks of the court do not
333 exceed the total estimated revenues from fees, service charges,
334 court costs, and fines for court-related functions available for
335 court-related expenditures as determined by the most recent
336 Revenue Estimating Conference, plus the total of unspent
337 budgeted funds for court-related functions carried forward by
338 the clerks of the court from the previous county fiscal year,
339 ~~and~~ plus the balance of funds remaining in the Clerks of the
340 Court Trust Fund after the transfer of funds to the General
341 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any
342 appropriations for court-related functions ~~s. 28.37(3)(b)~~. The
343 corporation may amend any individual clerk of the court budget
344 to ensure compliance with this paragraph and must consider
345 performance measures, workload performance standards, workload
346 measures, and expense data before modifying the budget. As part
347 of this process, the corporation shall:

348 1. Calculate the minimum amount of revenue necessary for
349 each clerk of the court to efficiently perform the list of
350 court-related functions specified in paragraph (3)(a). The
351 corporation shall apply the workload measures appropriate for
352 determining the individual level of review required to fund the
353 clerk's budget.

354 2. Prepare a cost comparison of similarly situated clerks
355 of the court, based on county population and numbers of filings,
356 using the standard list of court-related functions specified in
357 paragraph (3)(a).

358 3. Conduct an annual base budget review and an annual



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359 budget exercise examining the total budget of each clerk of the
360 court. The review shall examine revenues from all sources,
361 expenses of court-related functions, and expenses of noncourt-
362 related functions as necessary to determine that court-related
363 revenues are not being used for noncourt-related purposes. The
364 review and exercise shall identify potential targeted budget
365 reductions in the percentage amount provided in Schedule VIII-B
366 of the state's previous year's legislative budget instructions,
367 as referenced in s. 216.023(3), or an equivalent schedule or
368 instruction as may be adopted by the Legislature.

369 4. Identify those proposed budgets containing funding for
370 items not included on the standard list of court-related
371 functions specified in paragraph (3)(a).

372 5. Identify those clerks projected to have court-related
373 revenues insufficient to fund their anticipated court-related
374 expenditures.

375 6. Use revenue estimates based on the official estimate for
376 funds from fees, service charges, court costs, and fines for
377 court-related functions accruing to the clerks of the court made
378 by the Revenue Estimating Conference, as well as any unspent
379 budgeted funds for court-related functions carried forward by
380 the clerks of the court from the previous county fiscal year and
381 the balance of funds remaining in the Clerks of the Court Trust
382 Fund after the transfer of funds to the General Revenue Fund
383 required pursuant to s. 28.37(4)(b), plus any appropriations for
384 the purpose of funding court-related functions ~~s. 28.37(3)(b)~~.

385 7. Identify pay and benefit increases in any proposed clerk
386 budget, including, but not limited to, cost of living increases,
387 merit increases, and bonuses.



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388 8. Identify increases in anticipated expenditures in any
389 clerk budget that exceeds the current year budget by more than 3
390 percent.

391 9. Identify the budget of any clerk which exceeds the
392 average budget of similarly situated clerks by more than 10
393 percent.

394
395 For the purposes of this paragraph, the term "unspent budgeted
396 funds for court-related functions" means undisbursed funds
397 included in the clerks of the courts budgets for court-related
398 functions established pursuant to this section and s. 28.36.

399 (3) (a) The list of court-related functions that clerks may
400 fund from filing fees, service charges, court costs, and fines
401 is limited to those functions expressly authorized by law or
402 court rule. Those functions include the following: case
403 maintenance; records management; court preparation and
404 attendance; processing the assignment, reopening, and
405 reassignment of cases; processing of appeals; collection and
406 distribution of fines, fees, service charges, and court costs;
407 processing of bond forfeiture payments; data collection and
408 reporting; determinations of indigent status; and paying
409 reasonable administrative support costs to enable the clerk of
410 the court to carry out these court-related functions.

411 Section 6. Effective upon this act becoming a law, present
412 subsections (3) and (4) of section 28.36, Florida Statutes, are
413 redesignated as subsections (4) and (5), respectively, a new
414 subsection (3) is added to that section, and subsection (1),
415 paragraph (b) of subsection (2), and present subsection (4) of
416 that section are amended, to read:



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417 28.36 Budget procedure.—There is established a budget
418 procedure for the court-related functions of the clerks of the
419 court.

420 (1) Only those functions listed in s. 28.35(3)(a) may be
421 funded from fees, service charges, court costs, and fines
422 retained by the clerks of the court.

423 (2) Each proposed budget shall further conform to the
424 following requirements:

425 (b) The proposed budget must be balanced such that the
426 total of the estimated revenues available equals or exceeds the
427 total of the anticipated expenditures. Such revenues include
428 revenue projected to be received from fees, service charges,
429 court costs, and fines for court-related functions during the
430 fiscal period covered by the budget, plus the total of unspent
431 budgeted funds for court-related functions carried forward by
432 the clerk of the court from the previous county fiscal year and
433 plus the portion of the balance of funds remaining in the Clerks
434 of the Court Trust Fund after the transfer of funds to the
435 General Revenue Fund required pursuant to s. 28.37(4)(b) ~~s.~~
436 ~~28.37(3)(b)~~ which has been allocated to each respective clerk of
437 the court by the Florida Clerks of Court Operations Corporation.
438 For the purposes of this paragraph, the term "unspent budgeted
439 funds for court-related functions" means undisbursed funds
440 included in the clerk of the courts' budget for court related
441 functions established pursuant to s. 28.35 and this section. The
442 anticipated expenditures must be itemized as required by the
443 corporation.

444 (3)(a) The Florida Clerks of Court Operations Corporation
445 shall establish and manage a reserve for contingencies within



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446 the Clerks of the Court Trust Fund which must consist of an
447 amount not to exceed 16 percent of the total budget authority
448 for the clerks of court during the current county fiscal year,
449 to be carried forward at the end of the fiscal year. Funds to be
450 held in reserve include transfers of cumulative excess, as
451 provided in s. 28.37(4) (b), from the Clerks of the Court Trust
452 Fund and may also include revenues provided by law or moneys
453 appropriated by the Legislature.

454 (b) The corporation shall provide a reporting of the
455 balance and use of these funds during each county fiscal year as
456 part of the corporation's annual report submitted under s.
457 28.35(2) (h) .

458 (c) The corporation may use the reserve to ensure the
459 clerks of court can perform the court-related functions as
460 provided in s. 28.35(3) (a). Moneys in the Clerks of the Court
461 Trust Fund which are held in reserve may be used by the
462 corporation under the following circumstances:

463 1. To offset a current deficit between the revenue
464 available and the original budget authority. A deficit is deemed
465 to occur when the revenue available to the clerks of court falls
466 below the original revenue projection for that county fiscal
467 year.

468 2. To provide funding for an emergency, as defined in s.
469 252.34(4). The emergency must have been declared by the
470 Governor, pursuant to s. 252.36, or otherwise declared by law.

471 3. To provide funds in the development of the total
472 aggregate budget of the clerks of court to ensure that a minimum
473 continuation budget is met. For purposes of this subparagraph, a
474 minimum continuation budget is the budget approved for the



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475 current county fiscal year or some lesser amount adopted by the
476 corporation.

477 (d) To use the reserve, the corporation must request a
478 budget amendment pursuant to s. 216.292.

479 (5)(4) The corporation may approve increases or decreases
480 to the previously authorized budgets approved for ~~individual~~
481 clerks of the court pursuant to s. 28.35 for court-related
482 functions, if:

483 (a) The additional budget authority is necessary to pay the
484 cost of performing new or additional functions required by
485 changes in law or court rule; or

486 (b) The additional budget authority is necessary to pay the
487 cost of supporting increases in the number of judges or
488 magistrates authorized by the Legislature or increases in the
489 use of hearing officers and senior judges assigned by the
490 courts.

491 Section 7. Effective upon this act becoming a law, section
492 28.37, Florida Statutes, is amended to read:

493 28.37 Fines, fees, service charges, and costs remitted to
494 the state.—

495 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
496 selected salaries, costs, and expenses of the state courts
497 system and court-related functions shall be funded from a
498 portion of the revenues derived from statutory fines, fees,
499 service charges, and court costs collected by the clerks of the
500 court and from adequate and appropriate supplemental funding
501 from state revenues as appropriated by the Legislature.

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

503 (a) "Cumulative excess" means revenues derived from fines,



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504 fees, service charges, and court costs collected by the clerks
505 of the court which are greater than the original revenue
506 projection.

507 (b) "Original revenue projection" means the official
508 estimate, as determined by the Revenue Estimating Conference, of
509 revenues from fines, fees, service charges, and court costs
510 available for court-related functions for the county fiscal year
511 covered by the projection.

512 (3) The Beginning November 1, 2013, that portion of all
513 fines, fees, service charges, and costs collected by the clerks
514 of the court for the previous month which is in excess of one-
515 twelfth of the clerks' total budget for the performance of
516 court-related functions must ~~shall~~ be remitted to the Department
517 of Revenue for deposit into the Clerks of the Court Trust Fund.
518 Such collections do not include funding received for the
519 operation of the Title IV-D child support collections and
520 disbursement program. The clerk of the court shall remit the
521 revenues collected during the previous month due to the state on
522 or before the 10th day of each month.

523 (4) (a) ~~(3) (a)~~ Each year, no later than January 25, for the
524 previous county fiscal year, the clerks of court, in
525 consultation with the Florida Clerks of Court Operations
526 Corporation, shall remit to the Department of Revenue for
527 deposit in the Clerks of the Court Trust Fund the cumulative
528 excess of all fines, fees, service charges, and court costs
529 retained by the clerks of the court, plus any funds received by
530 the clerks of the court from the Clerks of the Court Trust Fund
531 under s. 28.36(4) ~~s. 28.36(3)~~, which exceed the amount needed to
532 meet their authorized budget amounts established under s. 28.35.



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533 (b) No later than February 1, 2022, and each February 1
534 thereafter, the Department of Revenue shall transfer 50 percent
535 of the cumulative excess of the original revenue projection from
536 the Clerks of the Court Trust Fund to the General Revenue Fund.
537 The remaining 50 percent in the Clerks of the Court Trust Fund
538 may be used in the development of the total combined budgets of
539 the clerks of the court as provided in s. 28.35(2)(f)6. However,
540 a minimum of 10 percent of the clerk-retained portion of the
541 cumulative excess amount must be held in reserve until such
542 funds reach an amount equal to at least 16 percent of the total
543 budget authority from the current county fiscal year, as
544 provided in s. 28.36(3)(a)

545 ~~1. No later than February 1, 2020, the Department of~~
546 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
547 ~~to the General Revenue Fund the sum of the cumulative excess of~~
548 ~~all fines, fees, service charges, and costs submitted by the~~
549 ~~clerks of court pursuant to subsection (2) and the cumulative~~
550 ~~excess of all fines, fees, service charges, and costs remitted~~
551 ~~by the clerks of court pursuant to paragraph (a) in excess of~~
552 ~~\$10 million.~~

553 ~~2. No later than February 1, 2021, the Department of~~
554 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
555 ~~to the General Revenue Fund not less than 50 percent of the sum~~
556 ~~of the cumulative excess of all fines, fees, service charges,~~
557 ~~and costs submitted by the clerks of court pursuant to~~
558 ~~subsection (2) and the cumulative excess of all fines, fees,~~
559 ~~service charges, and costs remitted by the clerks of court~~
560 ~~pursuant to paragraph (a); provided however, the balance~~
561 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~



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562 ~~may not be more than \$20 million.~~

563 ~~3. No later than February 1, 2022, the Department of~~
564 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
565 ~~to the General Revenue Fund not less than 50 percent of the sum~~
566 ~~of the cumulative excess of all fines, fees, service charges,~~
567 ~~and costs submitted by the clerks of court pursuant to~~
568 ~~subsection (2) and the cumulative excess of all fines, fees,~~
569 ~~service charges, and costs remitted by the clerks of court~~
570 ~~pursuant to paragraph (a); provided however, the balance~~
571 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
572 ~~may not be more than \$20 million.~~

573 ~~4. No later than February 1, 2023, and each February 1~~
574 ~~thereafter, the Department of Revenue shall transfer from the~~
575 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~
576 ~~cumulative excess of all fines, fees, service charges, and costs~~
577 ~~submitted by the clerks of court pursuant to subsection (2) and~~
578 ~~the cumulative excess of all fines, fees, service charges, and~~
579 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

580 ~~(5)-(4)~~ The Department of Revenue shall collect any funds
581 that the Florida Clerks of Court Operations Corporation
582 determines upon investigation were due but not remitted to the
583 Department of Revenue. The corporation shall notify the clerk of
584 the court and the Department of Revenue of the amount due to the
585 Department of Revenue. The clerk of the court shall remit the
586 amount due no later than the 10th day of the month following the
587 month in which notice is provided by the corporation to the
588 clerk of the court.

589 ~~(6)-(5)~~ Ten percent of all court-related fines collected by
590 the clerk, except for penalties or fines distributed to counties



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591 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
592 must ~~shall~~ be deposited into the fine and forfeiture fund to be
593 used exclusively for clerk court-related functions, as provided
594 in s. 28.35(3)(a).

595 Section 8. Section 28.42, Florida Statutes, is amended to
596 read:

597 28.42 Manual of filing fees, charges, costs, and fines;
598 payment plan form.—

599 (1) The clerks of court, through their association and in
600 consultation with the Office of the State Courts Administrator,
601 shall prepare and disseminate a manual of filing fees, service
602 charges, costs, and fines imposed pursuant to state law, for
603 each type of action and offense, and classified as mandatory or
604 discretionary. The manual also shall classify the fee, charge,
605 cost, or fine as court-related revenue or noncourt-related
606 revenue. The clerks, through their association, shall
607 disseminate this manual to the chief judge, state attorney,
608 public defender, and court administrator in each circuit and to
609 the clerk of the court in each county. The clerks, through their
610 association and in consultation with the Office of the State
611 Courts Administrator, shall at a minimum update and disseminate
612 this manual on July 1 of each year.

613 (2) By October 1, 2021, the clerks of court, through the
614 Florida Clerks of Court Operations Corporation, shall develop a
615 uniform payment plan form for use by persons seeking to
616 establish a payment plan in accordance with s. 28.246(4). The
617 form must inform the person of the minimum payment due each
618 month, the term of the plan, acceptable payment methods, and the
619 circumstances under which a case may be sent to collections for



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620 nonpayment.

621 (3) By January 1, 2022, each clerk of court shall use the
622 uniform payment plan form developed pursuant to subsection (2)
623 when establishing payment plans.

624 Section 9. Effective July 1, 2021, subsection (5) of
625 section 40.29, Florida Statutes, is amended to read:

626 40.29 Payment of due-process costs.-

627 (5) The Justice Administrative Commission shall reimburse
628 ~~provide~~ funds to the clerks of the court to compensate jurors,
629 to pay for meals or lodging provided to jurors, and to pay for
630 jury-related personnel costs as provided in this section. Each
631 clerk of the court must submit a request for reimbursement ~~shall~~
632 ~~forward~~ to the Florida Clerks of Court Operations Corporation
633 within 20 days after each quarter attesting to the clerk's
634 actual costs ~~Justice Administrative Commission a quarterly~~
635 ~~estimate of funds necessary to compensate jurors, to~~ and pay for
636 meals or lodging provided to jurors, and to pay for jury-related
637 personnel costs during the upcoming quarter. The Florida Clerks
638 of Court Operations Corporation must review the request for
639 reimbursement to ensure that the costs are reasonably and
640 directly related to jury management. The Florida Clerks of Court
641 Operations Corporation must ~~shall~~ forward to the Justice
642 Administrative Commission ~~a quarterly estimate of the amount~~
643 necessary to reimburse each clerk of the court for its personnel
644 and other costs related to jury management unless the total
645 request for reimbursement by the clerks exceeds the quarterly
646 funds available to the Justice Administrative Commission, in
647 which case the Florida Clerks of Court Operations Corporation
648 shall adjust the cumulative total to match the available funds



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649 before submitting the request to the Justice Administrative
650 Commission. Upon receipt of each request for reimbursement such
651 estimates, the Justice Administrative Commission must review
652 ~~shall determine~~ the amount deemed necessary for payment to the
653 clerks of the court for the most recently completed during the
654 ~~upcoming~~ quarter, determine if the total payment amount is
655 available, and submit a request for payment to the Chief
656 ~~Financial Officer. If the Justice Administrative Commission~~
657 ~~believes that the amount appropriated by the Legislature is~~
658 ~~insufficient to meet such costs during the remaining part of the~~
659 ~~state fiscal year, the commission may apportion the funds~~
660 ~~appropriated in the General Appropriations Act for those~~
661 ~~purposes among the several counties, basing the apportionment~~
662 ~~upon the amount expended for such purposes in each county during~~
663 ~~the prior fiscal year, in which case, the Chief Financial~~
664 ~~Officer shall issue the appropriate apportioned amount by~~
665 ~~warrant to each county.~~ The clerks of the court are responsible
666 for any compensation to jurors, for payments for meals or
667 lodging provided to jurors, and for jury-related personnel costs
668 that exceed the funding provided in the General Appropriations
669 Act for these purposes.

670 Section 10. Paragraph (a) of subsection (1) of section
671 318.15, Florida Statutes, is amended to read:

672 318.15 Failure to comply with civil penalty or to appear;
673 penalty.—

674 (1) (a) If a person fails to comply with the civil penalties
675 provided in s. 318.18 within the time period specified in s.
676 318.14(4), fails to enter into or comply with the terms of a
677 penalty payment plan with the clerk of the court in accordance



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678 with ss. 318.14 and 28.246, fails to attend driver improvement
679 school, or fails to appear at a scheduled hearing, the clerk of
680 the court must ~~shall~~ notify the Department of Highway Safety and
681 Motor Vehicles of such failure within 10 days after such
682 failure. Upon receipt of such notice, the department must ~~shall~~
683 immediately issue an order suspending the driver license and
684 privilege to drive of such person effective 20 days after the
685 date the order of suspension is mailed in accordance with s.
686 322.251(1), (2), and (6). The order also must inform the person
687 that he or she may contact the clerk of the court to establish a
688 payment plan pursuant to s. 28.246(4) to make partial payments
689 for court-related fines, fees, service charges, and court costs.
690 Any such suspension of the driving privilege which has not been
691 reinstated, including a similar suspension imposed outside of
692 this state Florida, must ~~shall~~ remain on the records of the
693 department for a period of 7 years from the date imposed and
694 must ~~shall~~ be removed from the records after the expiration of 7
695 years from the date it is imposed. The department may not accept
696 the resubmission of such suspension.

697 Section 11. Section 318.20, Florida Statutes, is amended to
698 read:

699 318.20 Notification; duties of department.—The department
700 shall prepare a notification form to be appended to, or
701 incorporated as a part of, the Florida uniform traffic citation
702 issued in accordance with s. 316.650. The notification form must
703 ~~shall~~ contain language informing persons charged with
704 infractions to which this chapter applies of the procedures
705 available to them under this chapter. Such notification form
706 must ~~shall~~ contain a statement that, if the official determines



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707 that no infraction has been committed, no costs or penalties may
708 ~~shall~~ be imposed and any costs or penalties that ~~which~~ have been
709 paid will ~~shall~~ be returned. Additionally, the notification form
710 must include information on paying the civil penalty to the
711 clerk of the court and the ability to establish a payment plan
712 pursuant to s. 28.246(4). A uniform traffic citation that is
713 produced electronically must also include the information
714 required by this section.

715 Section 12. Subsections (1) and (3) and paragraph (a) of
716 subsection (5) of section 322.245, Florida Statutes, are amended
717 to read:

718 322.245 Suspension of license upon failure of person
719 charged with specified offense under chapter 316, chapter 320,
720 or this chapter to comply with directives ordered by traffic
721 court or upon failure to pay child support in non-IV-D cases as
722 provided in chapter 61 or failure to pay any financial
723 obligation in any other criminal case.-

724 (1) If a person charged with a violation of any of the
725 criminal offenses enumerated in s. 318.17 or with the commission
726 of any offense constituting a misdemeanor under chapter 320 or
727 this chapter fails to comply with all of the directives of the
728 court within the time allotted by the court, the clerk of the
729 ~~traffic~~ court must provide ~~shall mail to~~ the person, either
730 electronically or by mail sent to ~~at~~ the address specified on
731 the uniform traffic citation, a notice of such failure,
732 notifying him or her that, if he or she does not comply with the
733 directives of the court within 30 days after the date of the
734 notice and pay a delinquency fee of up to \$25 to the clerk, from
735 which the clerk shall remit \$10 to the Department of Revenue for



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736 deposit into the General Revenue Fund, his or her driver license
737 will be suspended. The notice must ~~shall~~ be sent ~~mailed~~ no later
738 than 5 days after such failure. The delinquency fee may be
739 retained by the office of the clerk to defray the operating
740 costs of the office.

741 (3) If the person fails to comply with the directives of
742 the court within the 30-day period, or, in non-IV-D cases, fails
743 to comply with the requirements of s. 61.13016 within the period
744 specified in that statute, the depository or the clerk of the
745 court must ~~shall~~ electronically notify the department of such
746 failure within 10 days. Upon electronic receipt of the notice,
747 the department shall immediately issue an order suspending the
748 person's driver license and privilege to drive effective 20 days
749 after the date the order of suspension is mailed in accordance
750 with s. 322.251(1), (2), and (6). The order of suspension must
751 also contain information specifying that the person may contact
752 the clerk of the court to establish a payment plan pursuant to
753 s. 28.246(4) to make partial payments for fines, fees, service
754 charges, and court costs.

755 (5) (a) When the department receives notice from a clerk of
756 the court that a person licensed to operate a motor vehicle in
757 this state under the provisions of this chapter has failed to
758 pay financial obligations for any criminal offense other than
759 those specified in subsection (1), in full or in part under a
760 payment plan pursuant to s. 28.246(4), the department must ~~shall~~
761 suspend the license of the person named in the notice. The
762 department shall mail an order of suspension in accordance with
763 s. 322.251(1), (2), and (6), which must also contain information
764 specifying that the person may contact the clerk of the court to



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765 establish a payment plan pursuant to s. 28.246(4) to make
766 partial payments for fines, fees, service charges, and court
767 costs.

768 Section 13. Present subsection (3) of section 775.083,
769 Florida Statutes, is redesignated as subsection (4), and a new
770 subsection (3) is added to that section, to read:

771 775.083 Fines.—

772 (3) The clerk of the court of each county is the entity
773 responsible for collecting payment of fines, fees, service
774 charges, and court costs. Unless otherwise designated by the
775 court, a person who has been ordered to pay court obligations
776 under this section shall immediately contact the clerk to pay
777 fines, fees, service charges, and court costs in full or to
778 apply for enrollment in a payment plan pursuant to s. 28.246(4).

779 Section 14. Effective July 1, 2021, paragraph (i) of
780 subsection (5) of section 27.52, Florida Statutes, is amended to
781 read:

782 27.52 Determination of indigent status.—

783 (5) INDIGENT FOR COSTS.—A person who is eligible to be
784 represented by a public defender under s. 27.51 but who is
785 represented by private counsel not appointed by the court for a
786 reasonable fee as approved by the court or on a pro bono basis,
787 or who is proceeding pro se, may move the court for a
788 determination that he or she is indigent for costs and eligible
789 for the provision of due process services, as prescribed by ss.
790 29.006 and 29.007, funded by the state.

791 (i) A defendant who is found guilty of a criminal act by a
792 court or jury or enters a plea of guilty or nolo contendere and
793 who received due process services after being found indigent for



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794 costs under this subsection is liable for payment of due process
795 costs expended by the state.

796 1. The attorney representing the defendant, or the
797 defendant if he or she is proceeding pro se, shall provide an
798 accounting to the court delineating all costs paid or to be paid
799 by the state within 90 days after disposition of the case
800 notwithstanding any appeals.

801 2. The court shall issue an order determining the amount of
802 all costs paid by the state and any costs for which prepayment
803 was waived under this section or s. 57.081. The clerk shall
804 cause a certified copy of the order to be recorded in the
805 official records of the county, at no cost. The recording
806 constitutes a lien against the person in favor of the state in
807 the county in which the order is recorded. The lien may be
808 enforced in the same manner prescribed in s. 938.29.

809 3. If the attorney or the pro se defendant fails to provide
810 a complete accounting of costs expended by the state and
811 consequently costs are omitted from the lien, the attorney or
812 pro se defendant may not receive reimbursement or any other form
813 of direct or indirect payment for those costs if the state has
814 not paid the costs. The attorney or pro se defendant shall repay
815 the state for those costs if the state has already paid the
816 costs. The clerk of the court may establish a payment plan under
817 s. 28.246 and may charge the attorney or pro se defendant a one-
818 time administrative processing charge under s. 28.24(27)(c) ~~s.~~
819 ~~28.24(26)(c)~~.

820 Section 15. Effective July 1, 2021, section 28.22205,
821 Florida Statutes, is amended to read:

822 28.22205 Electronic filing process.—Each clerk of court



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823 shall implement an electronic filing process. The purpose of the
824 electronic filing process is to reduce judicial costs in the
825 office of the clerk and the judiciary, increase timeliness in
826 the processing of cases, and provide the judiciary with case-
827 related information to allow for improved judicial case
828 management. The Legislature requests that the Supreme Court set
829 statewide standards for electronic filing to be used by the
830 clerks of court to implement electronic filing. The standards
831 should specify the required information for the duties of the
832 clerks of court and the judiciary for case management. Revenues
833 provided to counties and the clerk of court under s.

834 28.24(13)(e) ~~s. 28.24(12)(e)~~ for information technology may also
835 be used to implement electronic filing processes.

836 Section 16. Effective July 1, 2021, subsection (5) of
837 section 28.246, Florida Statutes, is amended to read:

838 28.246 Payment of court-related fines or other monetary
839 penalties, fees, charges, and costs; partial payments;
840 distribution of funds.—

841 (5) When receiving partial payment of fees, service
842 charges, court costs, and fines, clerks shall distribute funds
843 according to the following order of priority:

844 (a) That portion of fees, service charges, court costs, and
845 fines to be remitted to the state for deposit into the General
846 Revenue Fund.

847 (b) That portion of fees, service charges, court costs, and
848 fines required to be retained by the clerk of the court or
849 deposited into the Clerks of the Court Trust Fund within the
850 Department of Revenue.

851 (c) That portion of fees, service charges, court costs, and



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852 fines payable to state trust funds, allocated on a pro rata
853 basis among the various authorized funds if the total collection
854 amount is insufficient to fully fund all such funds as provided
855 by law.

856 (d) That portion of fees, service charges, court costs, and
857 fines payable to counties, municipalities, or other local
858 entities, allocated on a pro rata basis among the various
859 authorized recipients if the total collection amount is
860 insufficient to fully fund all such recipients as provided by
861 law.

862
863 To offset processing costs, clerks may impose either a per-month
864 service charge pursuant to s. 28.24(27)(b) ~~s. 28.24(26)(b)~~ or a
865 one-time administrative processing service charge at the
866 inception of the payment plan pursuant to s. 28.24(27)(c) ~~s.~~
867 ~~28.24(26)(c)~~.

868 Section 17. Effective July 1, 2021, section 45.035, Florida
869 Statutes, is amended to read:

870 45.035 Clerk's fees.—In addition to other fees or service
871 charges authorized by law, the clerk shall receive service
872 charges related to the judicial sales procedure set forth in ss.
873 45.031-45.033 ~~ss. 45.031-45.034~~ and this section:

874 (1) The clerk shall receive a service charge of \$70, from
875 which the clerk shall remit \$10 to the Department of Revenue for
876 deposit into the General Revenue Fund, for services in making,
877 recording, and certifying the sale and title, which service
878 charge shall be assessed as costs and shall be advanced by the
879 plaintiff before the sale.

880 (2) If there is a surplus resulting from the sale, the



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881 clerk may receive the following service charges, which shall be
882 deducted from the surplus:

883 (a) The clerk may withhold the sum of \$28 from the surplus
884 which may only be used for purposes of educating the public as
885 to the rights of homeowners regarding foreclosure proceedings.

886 (b) The clerk is entitled to a service charge of \$15 for
887 each disbursement of surplus proceeds, from which the clerk
888 shall remit \$5 to the Department of Revenue for deposit into the
889 General Revenue Fund.

890 (3) If the sale is conducted by electronic means, as
891 provided in s. 45.031(10), the clerk shall receive an additional
892 service charge not to exceed \$70 for services in conducting or
893 contracting for the electronic sale, which service charge shall
894 be assessed as costs and paid when filing for an electronic sale
895 date. If the clerk requires advance electronic deposits to
896 secure the right to bid, such deposits shall not be subject to
897 the fee under s. 28.24(11) ~~s. 28.24(10)~~. The portion of an
898 advance deposit from a winning bidder required by s. 45.031(3)
899 shall, upon acceptance of the winning bid, be subject to the fee
900 under s. 28.24(11) ~~s. 28.24(10)~~.

901 Section 18. Effective July 1, 2021, subsection (2) of
902 section 55.141, Florida Statutes, is amended to read:

903 55.141 Satisfaction of judgments and decrees; duties of
904 clerk.-

905 (2) Upon such payment, the clerk shall execute and record
906 in the official records a satisfaction of judgment upon payment
907 of the recording charge prescribed in s. 28.24(13) ~~s. 28.24(12)~~.
908 Upon payment of the amount required in subsection (1) and the
909 recording charge required by this subsection and execution and



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910 recordation of the satisfaction by the clerk, any lien created
911 by the judgment is satisfied and discharged.

912 Section 19. Effective July 1, 2021, subsection (6) of
913 section 57.082, Florida Statutes, is amended to read:

914 57.082 Determination of civil indigent status.—

915 (6) PROCESSING CHARGE; PAYMENT PLANS.—A person who the
916 clerk or the court determines is indigent for civil proceedings
917 under this section shall be enrolled in a payment plan under s.
918 28.246 and shall be charged a one-time administrative processing
919 charge under s. 28.24(27)(c) ~~s. 28.24(26)(e)~~. A monthly payment
920 amount, calculated based upon all fees and all anticipated
921 costs, is presumed to correspond to the person's ability to pay
922 if it does not exceed 2 percent of the person's annual net
923 income, as defined in subsection (1), divided by 12. The person
924 may seek review of the clerk's decisions regarding a payment
925 plan established under s. 28.246 in the court having
926 jurisdiction over the matter. A case may not be impeded in any
927 way, delayed in filing, or delayed in its progress, including
928 the final hearing and order, due to nonpayment of any fees or
929 costs by an indigent person. Filing fees waived from payment
930 under s. 57.081 may not be included in the calculation related
931 to a payment plan established under this section.

932 Section 20. Effective July 1, 2021, paragraph (c) of
933 subsection (5) of section 197.502, Florida Statutes, is amended
934 to read:

935 197.502 Application for obtaining tax deed by holder of tax
936 sale certificate; fees.—

937 (5)

938 (c) Upon receiving the tax deed application from the tax



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939 collector, the clerk shall record a notice of tax deed
940 application in the official records, which constitutes notice of
941 the pendency of a tax deed application with respect to the
942 property and remains effective for 1 year from the date of
943 recording. A person acquiring an interest in the property after
944 the tax deed application notice has been recorded is deemed to
945 be on notice of the pending tax deed sale, and no additional
946 notice is required. The sale of the property automatically
947 releases any recorded notice of tax deed application for that
948 property. If the property is redeemed, the clerk must record a
949 release of the notice of tax deed application upon payment of
950 the fees as authorized in s. 28.24(9) and (13) ~~s. 28.24(8) and~~
951 ~~(12)~~. The contents of the notice shall be the same as the
952 contents of the notice of publication required by s. 197.512.
953 The cost of recording must be collected at the time of
954 application under subsection (1), and added to the opening bid.

955 Section 21. Effective July 1, 2021, section 197.532,
956 Florida Statutes, is amended to read:

957 197.532 Fees for mailing additional notices, when
958 application is made by holder.—When the certificateholder makes
959 a written request of the clerk and furnishes the names and
960 addresses at the time of the filing of the application, the
961 clerk shall send a copy of the notice referred to in s. 197.522
962 to anyone to whom the certificateholder may request him or her
963 to send it, and the clerk shall include in such notice the
964 statement required in s. 197.522. The certificateholder shall
965 pay the clerk the service charges as prescribed in s. 28.24(6)
966 ~~s. 28.24(5)~~ for preparing and mailing each copy of notice
967 requested by the holder. When the charges are made, they shall



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968 be added by the clerk to the amount required to redeem the land
969 from sale.

970 Section 22. Effective July 1, 2021, subsection (3) and
971 paragraphs (a) and (b) of subsection (4) of section 197.542,
972 Florida Statutes, are amended to read:

973 197.542 Sale at public auction.—

974 (3) If the sale is canceled for any reason or the buyer
975 fails to make full payment within the time required, the clerk
976 shall readvertise the sale within 30 days after the buyer's
977 nonpayment or, if canceled, within 30 days after the clerk
978 receives the costs of resale. The sale shall be held within 30
979 days after readvertising. Only one advertisement is necessary.
980 The amount of the opening bid shall be increased by the cost of
981 advertising, additional clerk's fees as provided for in s.
982 28.24(22) ~~s. 28.24(21)~~, and interest as provided for in
983 subsection (1). If, at the subsequent sale, there are no bidders
984 at the tax deed sale and the certificateholder fails to pay the
985 moneys due within 30 days after the sale, the clerk may not
986 readvertise the sale and shall place the property on a list
987 entitled "lands available for taxes." The clerk must receive
988 full payment before the issuance of the tax deed.

989 (4) (a) A clerk may conduct electronic tax deed sales in
990 lieu of public outcry. The clerk must comply with the procedures
991 provided in this chapter, except that electronic proxy bidding
992 shall be allowed and the clerk may require bidders to advance
993 sufficient funds to pay the deposit required by subsection (2).
994 The clerk shall provide access to the electronic sale by
995 computer terminals open to the public at a designated location.
996 A clerk who conducts such electronic sales may receive



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997 electronic deposits and payments related to the sale. The
998 portion of an advance deposit from a winning bidder required by
999 subsection (2) shall, upon acceptance of the winning bid, be
1000 subject to the fee under s. 28.24(11) ~~s. 28.24(10)~~.

1001 (b) This subsection does not restrict or limit the
1002 authority of a charter county to conduct electronic tax deed
1003 sales. In a charter county where the clerk of the circuit court
1004 does not conduct all electronic sales, the charter county shall
1005 be permitted to receive electronic deposits and payments related
1006 to sales it conducts, as well as to subject the winning bidder
1007 to a fee, consistent with the schedule in s. 28.24(11) ~~s.~~
1008 ~~28.24(10)~~.

1009 Section 23. Effective July 1, 2021, paragraph (b) of
1010 subsection (2) of section 197.582, Florida Statutes, is amended
1011 to read:

1012 197.582 Disbursement of proceeds of sale.—

1013 (2)

1014 (b) The mailed notice must include a form for making a
1015 claim under subsection (3). Service charges at the rate set
1016 forth in s. 28.24(11) ~~s. 28.24(10)~~ and the costs of mailing must
1017 be paid out of the surplus funds held by the clerk. If the clerk
1018 or comptroller certifies that the surplus funds are not
1019 sufficient to cover the service charges and mailing costs, the
1020 clerk shall receive the total amount of surplus funds as a
1021 service charge. For purposes of identifying unclaimed property
1022 pursuant to s. 717.113, excess proceeds shall be presumed
1023 payable or distributable on the date the notice is sent.

1024 Section 24. Effective July 1, 2021, paragraph (d) of
1025 subsection (3) of section of 569.23, Florida Statutes, is



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1026 amended to read:

1027 569.23 Security requirements for tobacco settlement
1028 agreement signatories, successors, parents, and affiliates.—

1029 (3)

1030 (d) The clerk of the Supreme Court shall collect fees for
1031 receipt of deposits under this subsection as authorized by ss.
1032 28.231 and 28.24(11)(a) ~~28.24(10)(a)~~. In addition, for as long
1033 as any cash remains on deposit with the clerk pursuant to this
1034 subsection, the clerk of the Supreme Court is entitled to
1035 regularly receive as an additional fee the net investment income
1036 earned thereon. The clerk shall use the services of the Chief
1037 Financial Officer, as needed, for the custody and management of
1038 all bonds, other surety, or cash posted or deposited with the
1039 clerk. All fees collected pursuant to this subsection shall be
1040 deposited in the State Courts Revenue Trust Fund for use as
1041 specified by law.

1042 Section 25. Effective July 1, 2021, subsection (3) of
1043 section 712.06, Florida Statutes, is amended to read:

1044 712.06 Contents of notice; recording and indexing.—

1045 (3) The person providing the notice referred to in s.
1046 712.05, other than a notice for preservation of a community
1047 covenant or restriction, shall:

1048 (a) Cause the clerk of the circuit court to mail by
1049 registered or certified mail to the purported owner of said
1050 property, as stated in such notice, a copy thereof and shall
1051 enter on the original, before recording the same, a certificate
1052 showing such mailing. For preparing the certificate, the
1053 claimant shall pay to the clerk the service charge as prescribed
1054 in s. 28.24(9) ~~s. 28.24(8)~~ and the necessary costs of mailing,



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1055 in addition to the recording charges as prescribed in s.
1056 28.24(13) ~~s. 28.24(12)~~. If the notice names purported owners
1057 having more than one address, the person filing the same shall
1058 furnish a true copy for each of the several addresses stated,
1059 and the clerk shall send one such copy to the purported owners
1060 named at each respective address. Such certificate shall be
1061 sufficient if the same reads substantially as follows:

1062
1063 I hereby certify that I did on this, mail by
1064 registered (or certified) mail a copy of the foregoing notice to
1065 each of the following at the address stated:

1066
1067 ...(Clerk of the circuit court)...
1068 of County, Florida,
1069 By...(Deputy clerk)...

1070
1071 The clerk of the circuit court is not required to mail to the
1072 purported owner of such property any such notice that pertains
1073 solely to the preserving of any covenant or restriction or any
1074 portion of a covenant or restriction; or

1075 (b) Publish once a week, for 2 consecutive weeks, the
1076 notice referred to in s. 712.05, with the official record book
1077 and page number in which such notice was recorded, in a
1078 newspaper as defined in chapter 50 in the county in which the
1079 property is located.

1080 Section 26. Except as otherwise expressly provided in this
1081 act and except for this section, which shall take effect upon
1082 this act becoming a law, this act shall take effect October 1,
1083 2021.



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===== 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 clerks of the circuit court;
amending s. 28.222, F.S.; requiring certain service
charges to be distributed in a specified manner;
amending s. 28.24, F.S.; defining the term "court
record"; specifying the amount of charges for certain
services rendered by, and instruments filed with, the
clerk of the circuit court which are not court
records; amending s. 28.241, F.S.; revising the
distribution of revenue from filing fees from the
institution of certain appellate proceedings; amending
s. 28.246, F.S.; clarifying the responsibility of an
individual released from incarceration regarding
enrolling in a payment plan for any outstanding court
obligations; modifying the manner of calculating a
monthly payment amount under a payment plan; requiring
the clerk to establish all terms of a payment plan;
amending s. 28.35, F.S.; conforming cross-references
and provisions to changes made by the act; amending s.
28.36, F.S.; conforming a cross-reference and a
provision to changes made by the act; requiring the
corporation to establish and manage a contingency
reserve within the Clerks of the Court Trust Fund for
specified purposes; prescribing reporting



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1113 requirements; specifying circumstances under which
1114 moneys held in reserve may be used; prescribing
1115 procedures for the release of such funds; amending s.
1116 28.37, F.S.; modifying a provision regarding state
1117 court system funding; defining terms; conforming a
1118 cross-reference; revising provisions governing the
1119 transfer of certain funds from the Clerks of the Court
1120 Trust Fund to the General Revenue Fund by the
1121 Department of Revenue; amending s. 28.42, F.S.;
1122 requiring the clerks to develop a uniform payment plan
1123 form by a specified date; prescribing requirements for
1124 the form; requiring the clerks to use such form by a
1125 specified date; amending s. 40.29, F.S.; requiring the
1126 clerks of the court to submit requests for
1127 reimbursement for jury-related costs to the Florida
1128 Clerks of Court Operations Corporation within
1129 specified timeframes; requiring the corporation to
1130 review such requests for reimbursement; requiring the
1131 corporation to submit certain information to the
1132 Justice Administrative Commission; requiring the
1133 commission to review the information and submit a
1134 request for payment to the Chief Financial Officer
1135 under certain circumstances; removing a provision
1136 authorizing the commission to apportion funds among
1137 the counties for certain purposes; amending ss.
1138 318.15, 318.20, and 322.245, F.S.; requiring orders
1139 and notifications for certain traffic citations and
1140 suspensions to include information regarding payment
1141 plans; amending s. 775.083, F.S.; designating the



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1142 clerk as the entity responsible for collecting payment
1143 of certain court obligations; requiring a person
1144 ordered to pay such obligations to contact the clerk
1145 in order to pay or establish a payment plan, unless
1146 otherwise provided; amending ss. 27.52, 28.22205,
1147 28.246, 45.035, 55.141, 57.082, 197.502, 197.532,
1148 197.542, 197.582, 569.23, and 712.06, F.S.; conforming
1149 cross-references; providing effective dates.



412016

576-03013-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to clerks of the circuit court;
amending s. 28.246, F.S.; clarifying the
responsibility of an individual released from
incarceration regarding enrolling in a payment plan
for any outstanding court obligations; modifying the
manner of calculating a monthly payment amount under a
payment plan; requiring the clerk to establish all
terms of a payment plan; amending s. 28.35, F.S.;
conforming provisions to changes made by the act;
amending s. 28.36, F.S.; conforming a cross-reference;
requiring the corporation to establish and manage a
contingency reserve within the Clerks of the Court
Trust Fund for specified purposes; prescribing
reporting requirements; specifying circumstances under
which moneys held in reserve may be used; prescribing
procedures for the release of such funds; amending s.
28.37, F.S.; modifying a provision regarding state
court system funding; defining terms; conforming a
cross-reference; revising provisions governing the
transfer of certain funds from the Clerks of the Court
Trust Fund to the General Revenue Fund by the
Department of Revenue; amending s. 28.42, F.S.;
requiring the clerks to develop a uniform payment plan
form by a specified date; prescribing requirements for
the form; requiring the clerks to use such form by a
specified date; amending ss. 318.15, 318.20, and



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322.245, F.S.; requiring orders and notifications for
certain traffic citations and suspensions to include
information regarding payment plans; amending s.
775.083, F.S.; designating the clerk as the entity
responsible for collecting payment of certain court
obligations; requiring a person ordered to pay such
obligations to contact the clerk in order to pay or
establish a payment plan, unless otherwise provided;
providing effective dates.

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

Section 1. Subsection (4) of section 28.246, Florida
Statutes, is amended to read:

28.246 Payment of court-related fines or other monetary
penalties, fees, charges, and costs; partial payments;
distribution of funds.—

(4) (a) Each ~~The~~ clerk of the circuit court shall accept
partial payments for each case type for court-related fees,
service charges, court costs, and fines in accordance with the
terms of an established payment plan developed by the clerk.

(b) An individual seeking to defer payment of fees, service
charges, court costs, or fines imposed by operation of law or
order of the court under any provision of general law shall
apply to the clerk for enrollment in a payment plan. The clerk
shall enter into a payment plan with an individual who the court
determines is indigent for costs. It is the responsibility of an
individual who is released from incarceration and has
outstanding court obligations to contact the clerk within 30



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57 days after release to pay fees, service charges, court costs,
58 and fines in full, or to apply for enrollment in a payment plan.

59 A monthly payment amount, calculated based upon all fees and all
60 anticipated fees, service charges, court costs, and fines, is
61 presumed to correspond to the person's ability to pay if the
62 amount does not exceed 2 percent of the person's annual net
63 income, as defined in s. 27.52(1), divided by 12. The clerk
64 shall establish all terms of a payment plan and the court may
65 review the reasonableness of the payment plan.

66 Section 2. Effective upon this act becoming a law,
67 paragraph (f) of subsection (2) and paragraph (a) of subsection
68 (3) of section 28.35, Florida Statutes, are amended to read:

69 28.35 Florida Clerks of Court Operations Corporation.—

70 (2) The duties of the corporation shall include the
71 following:

72 (f) Approving the proposed budgets submitted by clerks of
73 the court pursuant to s. 28.36. The corporation must ensure that
74 the total combined budgets of the clerks of the court do not
75 exceed the total estimated revenues from fees, service charges,
76 court costs, and fines for court-related functions available for
77 court-related expenditures as determined by the most recent
78 Revenue Estimating Conference, plus the total of unspent
79 budgeted funds for court-related functions carried forward by
80 the clerks of the court from the previous county fiscal year,
81 and plus the balance of funds remaining in the Clerks of the
82 Court Trust Fund after the transfer of funds to the General
83 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any
84 appropriations for court-related functions s. 28.37(3)(b). The
85 corporation may amend any individual clerk of the court budget



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86 to ensure compliance with this paragraph and must consider
87 performance measures, workload performance standards, workload
88 measures, and expense data before modifying the budget. As part
89 of this process, the corporation shall:

90 1. Calculate the minimum amount of revenue necessary for
91 each clerk of the court to efficiently perform the list of
92 court-related functions specified in paragraph (3)(a). The
93 corporation shall apply the workload measures appropriate for
94 determining the individual level of review required to fund the
95 clerk's budget.

96 2. Prepare a cost comparison of similarly situated clerks
97 of the court, based on county population and numbers of filings,
98 using the standard list of court-related functions specified in
99 paragraph (3)(a).

100 3. Conduct an annual base budget review and an annual
101 budget exercise examining the total budget of each clerk of the
102 court. The review shall examine revenues from all sources,
103 expenses of court-related functions, and expenses of noncourt-
104 related functions as necessary to determine that court-related
105 revenues are not being used for noncourt-related purposes. The
106 review and exercise shall identify potential targeted budget
107 reductions in the percentage amount provided in Schedule VIII-B
108 of the state's previous year's legislative budget instructions,
109 as referenced in s. 216.023(3), or an equivalent schedule or
110 instruction as may be adopted by the Legislature.

111 4. Identify those proposed budgets containing funding for
112 items not included on the standard list of court-related
113 functions specified in paragraph (3)(a).

114 5. Identify those clerks projected to have court-related



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115 revenues insufficient to fund their anticipated court-related
116 expenditures.

117 6. Use revenue estimates based on the official estimate for
118 funds from fees, service charges, court costs, and fines for
119 court-related functions accruing to the clerks of the court made
120 by the Revenue Estimating Conference, as well as any unspent
121 budgeted funds for court-related functions carried forward by
122 the clerks of the court from the previous county fiscal year and
123 the balance of funds remaining in the Clerks of the Court Trust
124 Fund after the transfer of funds to the General Revenue Fund
125 required pursuant to s. 28.37(4)(b), plus any appropriations for
126 the purpose of funding court-related functions ~~s. 28.37(3)(b)~~.

127 7. Identify pay and benefit increases in any proposed clerk
128 budget, including, but not limited to, cost of living increases,
129 merit increases, and bonuses.

130 8. Identify increases in anticipated expenditures in any
131 clerk budget that exceeds the current year budget by more than 3
132 percent.

133 9. Identify the budget of any clerk which exceeds the
134 average budget of similarly situated clerks by more than 10
135 percent.

136
137 For the purposes of this paragraph, the term "unspent budgeted
138 funds for court-related functions" means undisbursed funds
139 included in the clerks of the courts budgets for court-related
140 functions established pursuant to this section and s. 28.36.

141 (3)(a) The list of court-related functions that clerks may
142 fund from filing fees, service charges, court costs, and fines
143 is limited to those functions expressly authorized by law or



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144 court rule. Those functions include the following: case
145 maintenance; records management; court preparation and
146 attendance; processing the assignment, reopening, and
147 reassignment of cases; processing of appeals; collection and
148 distribution of fines, fees, service charges, and court costs;
149 processing of bond forfeiture payments; data collection and
150 reporting; determinations of indigent status; and paying
151 reasonable administrative support costs to enable the clerk of
152 the court to carry out these court-related functions.

153 Section 3. Effective upon this act becoming a law, present
154 subsections (3) and (4) of section 28.36, Florida Statutes, are
155 redesignated as subsections (4) and (5), a new subsection (3) is
156 added to that section, and subsection (1), paragraph (b) of
157 subsection (2), and present subsection (4) of that section are
158 amended, to read:

159 28.36 Budget procedure.—There is established a budget
160 procedure for the court-related functions of the clerks of the
161 court.

162 (1) Only those functions listed in s. 28.35(3)(a) may be
163 funded from fees, service charges, court costs, and fines
164 retained by the clerks of the court.

165 (2) Each proposed budget shall further conform to the
166 following requirements:

167 (b) The proposed budget must be balanced such that the
168 total of the estimated revenues available equals or exceeds the
169 total of the anticipated expenditures. Such revenues include
170 revenue projected to be received from fees, service charges,
171 court costs, and fines for court-related functions during the
172 fiscal period covered by the budget, plus the total of unspent



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173 budgeted funds for court-related functions carried forward by
174 the clerk of the court from the previous county fiscal year and
175 plus the portion of the balance of funds remaining in the Clerks
176 of the Court Trust Fund after the transfer of funds to the
177 General Revenue Fund required pursuant to s. 28.37(4)(b) ~~s.~~
178 ~~28.37(3)(b)~~ which has been allocated to each respective clerk of
179 the court by the Florida Clerks of Court Operations Corporation.
180 For the purposes of this paragraph, the term "unspent budgeted
181 funds for court-related functions" means undisbursed funds
182 included in the clerk of the courts' budget for court related
183 functions established pursuant to s. 28.35 and this section. The
184 anticipated expenditures must be itemized as required by the
185 corporation.

186 (3)(a) The Florida Clerks of Court Operations Corporation
187 shall establish and manage a reserve for contingencies within
188 the Clerks of the Court Trust Fund which must consist of an
189 amount not to exceed 16 percent of the total budget authority
190 for the clerks of court during the current county fiscal year,
191 to be carried forward at the end of the fiscal year. Funds to be
192 held in reserve include transfers of cumulative excess, as
193 provided in s. 28.37(4)(b), from the Clerks of the Court Trust
194 Fund and may also include revenues provided by law or moneys
195 appropriated by the Legislature.

196 (b) The corporation shall provide a reporting of the
197 balance and use of these funds during each county fiscal year as
198 part of the corporation's annual report submitted under s.
199 28.35(2)(h).

200 (c) The corporation may use the reserve to ensure the
201 clerks of court can perform the court-related functions as



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202 provided in s. 28.35(3)(a). Moneys in the Clerks of the Court
203 Trust Fund which are held in reserve may be used by the
204 corporation under the following circumstances:

205 1. To offset a current deficit between the revenue
206 available and the original budget authority. A deficit is deemed
207 to occur when the revenue available to the clerks of court falls
208 below the original revenue projection for that county fiscal
209 year.

210 2. To provide funding for an emergency, as defined in s.
211 252.34(4). The emergency must have been declared by the
212 Governor, pursuant to s. 252.36, or otherwise declared by law.

213 3. To provide funds in the development of the total
214 aggregate budget of the clerks of court to ensure that a minimum
215 continuation budget is met. For purposes of this subparagraph, a
216 minimum continuation budget is the budget approved for the
217 current county fiscal year or some lesser amount adopted by the
218 corporation.

219 (d) To use the reserve, the corporation must request a
220 budget amendment pursuant to s. 216.292.

221 (5)(4) The corporation may approve increases or decreases
222 to the previously authorized budgets approved for individual
223 clerks of the court pursuant to s. 28.35 for court-related
224 functions, if:

225 (a) The additional budget authority is necessary to pay the
226 cost of performing new or additional functions required by
227 changes in law or court rule; or

228 (b) The additional budget authority is necessary to pay the
229 cost of supporting increases in the number of judges or
230 magistrates authorized by the Legislature, or for increases in



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231 the use of hearing officers and senior judges assigned by the
232 courts.

233 Section 4. Effective upon this act becoming a law, section
234 28.37, Florida Statutes, is amended to read:

235 28.37 Fines, fees, service charges, and costs remitted to
236 the state.-

237 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
238 selected salaries, costs, and expenses of the state courts
239 system and court-related functions shall be funded from a
240 portion of the revenues derived from statutory fines, fees,
241 service charges, and court costs collected by the clerks of the
242 court, and from adequate and appropriate supplemental funding
243 from state revenues as appropriated by the Legislature.

244 (2) DEFINITIONS.-As used in this section, the term:

245 (a) "Cumulative excess" means revenues derived from fines,
246 fees, service charges, and court costs collected by the clerks
247 of the court which are greater than the original revenue
248 projection.

249 (b) "Original revenue projection" means the official
250 estimate, as determined by the Revenue Estimating Conference, of
251 revenues from fines, fees, service charges, and court costs
252 available for court-related functions for the county fiscal year
253 covered by the projection.

254 (3) ~~The Beginning November 1, 2013,~~ that portion of all
255 fines, fees, service charges, and costs collected by the clerks
256 of the court for the previous month which is in excess of one-
257 twelfth of the clerks' total budget for the performance of
258 court-related functions must ~~shall~~ be remitted to the Department
259 of Revenue for deposit into the Clerks of the Court Trust Fund.



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260 Such collections do not include funding received for the
261 operation of the Title IV-D child support collections and
262 disbursement program. The clerk of the court shall remit the
263 revenues collected during the previous month due to the state on
264 or before the 10th day of each month.

265 ~~(4) (a) (3) (a)~~ Each year, no later than January 25, for the
266 previous county fiscal year, the clerks of court, in
267 consultation with the Florida Clerks of Court Operations
268 Corporation, shall remit to the Department of Revenue for
269 deposit in the Clerks of the Court Trust Fund the cumulative
270 excess of all fines, fees, service charges, and court costs
271 retained by the clerks of the court, plus any funds received by
272 the clerks of the court from the Clerks of the Court Trust Fund
273 under s. 28.36(4) s. 28.36(3), which exceed the amount needed to
274 meet their authorized budget amounts established under s. 28.35.

275 (b) No later than February 1, 2022, and each February 1
276 thereafter, the Department of Revenue shall transfer 50 percent
277 of the cumulative excess of the original revenue projection from
278 the Clerks of the Court Trust Fund to the General Revenue Fund.
279 The remaining 50 percent in the Clerks of the Court Trust Fund
280 may be used in the development of the total combined budgets of
281 the clerks of the court as provided in s. 28.35(2)(f)6. However,
282 a minimum of 10 percent of the clerk-retained portion of the
283 cumulative excess amount must be held in reserve until such
284 funds reach an amount equal to at least 16 percent of the total
285 budget authority from the current county fiscal year, as
286 provided in s. 28.36(3) (a)

287 ~~1. No later than February 1, 2020, the Department of~~
288 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~



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289 ~~to the General Revenue Fund the sum of the cumulative excess of~~
290 ~~all fines, fees, service charges, and costs submitted by the~~
291 ~~clerks of court pursuant to subsection (2) and the cumulative~~
292 ~~excess of all fines, fees, service charges, and costs remitted~~
293 ~~by the clerks of court pursuant to paragraph (a) in excess of~~
294 ~~\$10 million.~~

295 ~~2. No later than February 1, 2021, the Department of~~
296 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
297 ~~to the General Revenue Fund not less than 50 percent of the sum~~
298 ~~of the cumulative excess of all fines, fees, service charges,~~
299 ~~and costs submitted by the clerks of court pursuant to~~
300 ~~subsection (2) and the cumulative excess of all fines, fees,~~
301 ~~service charges, and costs remitted by the clerks of court~~
302 ~~pursuant to paragraph (a); provided however, the balance~~
303 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
304 ~~may not be more than \$20 million.~~

305 ~~3. No later than February 1, 2022, the Department of~~
306 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
307 ~~to the General Revenue Fund not less than 50 percent of the sum~~
308 ~~of the cumulative excess of all fines, fees, service charges,~~
309 ~~and costs submitted by the clerks of court pursuant to~~
310 ~~subsection (2) and the cumulative excess of all fines, fees,~~
311 ~~service charges, and costs remitted by the clerks of court~~
312 ~~pursuant to paragraph (a); provided however, the balance~~
313 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
314 ~~may not be more than \$20 million.~~

315 ~~4. No later than February 1, 2023, and each February 1~~
316 ~~thereafter, the Department of Revenue shall transfer from the~~
317 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~



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318 ~~cumulative excess of all fines, fees, service charges, and costs~~
319 ~~submitted by the clerks of court pursuant to subsection (2) and~~
320 ~~the cumulative excess of all fines, fees, service charges, and~~
321 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

322 ~~(5)(4)~~ The Department of Revenue shall collect any funds
323 that the Florida Clerks of Court Operations Corporation
324 determines upon investigation were due but not remitted to the
325 Department of Revenue. The corporation shall notify the clerk of
326 the court and the Department of Revenue of the amount due to the
327 Department of Revenue. The clerk of the court shall remit the
328 amount due no later than the 10th day of the month following the
329 month in which notice is provided by the corporation to the
330 clerk of the court.

331 ~~(6)(5)~~ Ten percent of all court-related fines collected by
332 the clerk, except for penalties or fines distributed to counties
333 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
334 ~~must shall~~ be deposited into the fine and forfeiture fund to be
335 used exclusively for clerk court-related functions, as provided
336 in s. 28.35(3)(a).

337 Section 5. Section 28.42, Florida Statutes, is amended to
338 read:

339 28.42 Manual of filing fees, charges, costs, and fines;
340 payment plan form.-

341 ~~(1)~~ The clerks of court, through their association and in
342 consultation with the Office of the State Courts Administrator,
343 shall prepare and disseminate a manual of filing fees, service
344 charges, costs, and fines imposed pursuant to state law, for
345 each type of action and offense, and classified as mandatory or
346 discretionary. The manual also shall classify the fee, charge,



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347 cost, or fine as court-related revenue or noncourt-related
348 revenue. The clerks, through their association, shall
349 disseminate this manual to the chief judge, state attorney,
350 public defender, and court administrator in each circuit and to
351 the clerk of the court in each county. The clerks, through their
352 association and in consultation with the Office of the State
353 Courts Administrator, shall at a minimum update and disseminate
354 this manual on July 1 of each year.

355 (2) By October 1, 2021, the clerks of court, through the
356 Florida Clerks of Court Operations Corporation, shall develop a
357 uniform payment plan form for use by persons seeking to
358 establish a payment plan in accordance with s. 28.246(4). The
359 form must inform the person of the minimum payment due each
360 month, the term of the plan, acceptable payment methods, and the
361 circumstances under which a case may be sent to collections for
362 nonpayment.

363 (3) By January 1, 2022, each clerk of court shall use the
364 uniform payment plan form developed pursuant to subsection (2)
365 when establishing payment plans.

366 Section 6. Paragraph (a) of subsection (1) of section
367 318.15, Florida Statutes, is amended to read:

368 318.15 Failure to comply with civil penalty or to appear;
369 penalty.-

370 (1)(a) If a person fails to comply with the civil penalties
371 provided in s. 318.18 within the time period specified in s.
372 318.14(4), fails to enter into or comply with the terms of a
373 penalty payment plan with the clerk of the court in accordance
374 with ss. 318.14 and 28.246, fails to attend driver improvement
375 school, or fails to appear at a scheduled hearing, the clerk of



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376 the court ~~must shall~~ notify the Department of Highway Safety and
377 Motor Vehicles of such failure within 10 days after such
378 failure. Upon receipt of such notice, the department ~~must shall~~
379 immediately issue an order suspending the driver license and
380 privilege to drive of such person effective 20 days after the
381 date the order of suspension is mailed in accordance with s.
382 322.251(1), (2), and (6). The order also must inform the person
383 that he or she may contact the clerk of the court to establish a
384 payment plan pursuant to s. 28.246(4) to make partial payments
385 for court-related fines, fees, service charges, and court costs.
386 Any such suspension of the driving privilege which has not been
387 reinstated, including a similar suspension imposed outside of
388 this state ~~Florida~~, ~~must shall~~ remain on the records of the
389 department for a period of 7 years from the date imposed and
390 ~~must shall~~ be removed from the records after the expiration of 7
391 years from the date it is imposed. The department may not accept
392 the resubmission of such suspension.

393 Section 7. Section 318.20, Florida Statutes, is amended to
394 read:

395 318.20 Notification; duties of department.-The department
396 shall prepare a notification form to be appended to, or
397 incorporated as a part of, the Florida uniform traffic citation
398 issued in accordance with s. 316.650. The notification form ~~must~~
399 ~~shall~~ contain language informing persons charged with
400 infractions to which this chapter applies of the procedures
401 available to them under this chapter. Such notification form
402 must shall contain a statement that, if the official determines
403 that no infraction has been committed, no costs or penalties may
404 ~~shall~~ be imposed and any costs or penalties that which have been



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405 paid ~~will shall~~ be returned. Additionally, the notification form
406 must include information on paying the civil penalty to the
407 clerk of the court and the ability to establish a payment plan
408 pursuant to s. 28.246(4). A uniform traffic citation that is
409 produced electronically must also include the information
410 required by this section.

411 Section 8. Subsections (1) and (3) and paragraph (a) of
412 subsection (5) of section 322.245, Florida Statutes, are amended
413 to read:

414 322.245 Suspension of license upon failure of person
415 charged with specified offense under chapter 316, chapter 320,
416 or this chapter to comply with directives ordered by traffic
417 court or upon failure to pay child support in non-IV-D cases as
418 provided in chapter 61 or failure to pay any financial
419 obligation in any other criminal case.-

420 (1) If a person charged with a violation of any of the
421 criminal offenses enumerated in s. 318.17 or with the commission
422 of any offense constituting a misdemeanor under chapter 320 or
423 this chapter fails to comply with all of the directives of the
424 court within the time allotted by the court, the clerk of the
425 ~~traffic court must provide shall mail to~~ the person, either
426 electronically or by mail sent to ~~at~~ the address specified on
427 the uniform traffic citation, a notice of such failure,
428 notifying him or her that, if he or she does not comply with the
429 directives of the court within 30 days after the date of the
430 notice and pay a delinquency fee of up to \$25 to the clerk, from
431 which the clerk shall remit \$10 to the Department of Revenue for
432 deposit into the General Revenue Fund, his or her driver license
433 will be suspended. The notice ~~must shall~~ be sent mailed no later



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434 than 5 days after such failure. The delinquency fee may be
435 retained by the office of the clerk to defray the operating
436 costs of the office.

437 (3) If the person fails to comply with the directives of
438 the court within the 30-day period, or, in non-IV-D cases, fails
439 to comply with the requirements of s. 61.13016 within the period
440 specified in that statute, the depository or the clerk of the
441 court ~~must shall~~ electronically notify the department of such
442 failure within 10 days. Upon electronic receipt of the notice,
443 the department shall immediately issue an order suspending the
444 person's driver license and privilege to drive effective 20 days
445 after the date the order of suspension is mailed in accordance
446 with s. 322.251(1), (2), and (6). The order of suspension must
447 also contain information specifying that the person may contact
448 the clerk of the court to establish a payment plan pursuant to
449 s. 28.246(4) to make partial payments for fines, fees, service
450 charges, and court costs.

451 (5) (a) When the department receives notice from a clerk of
452 the court that a person licensed to operate a motor vehicle in
453 this state under the provisions of this chapter has failed to
454 pay financial obligations for any criminal offense other than
455 those specified in subsection (1), in full or in part under a
456 payment plan pursuant to s. 28.246(4), the department ~~must shall~~
457 suspend the license of the person named in the notice. The
458 department shall mail an order of suspension in accordance with
459 s. 322.251(1), (2), and (6), which must also contain information
460 specifying that the person may contact the clerk of the court to
461 establish a payment plan pursuant to s. 28.246(4) to make
462 partial payments for fines, fees, service charges, and court



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463 costs.

464 Section 9. Present subsection (3) of section 775.083,
465 Florida Statutes, is redesignated as subsection (4), and a new
466 subsection (3) is added to that section, to read:

467 775.083 Fines.—

468 (3) The clerk of the court of each county is the entity
469 responsible for collecting payment of fines, fees, service
470 charges, and court costs. Unless otherwise designated by the
471 court, a person who has been ordered to pay court obligations
472 under this section shall immediately contact the clerk to pay
473 fines, fees, service charges, and court costs in full, or to
474 apply for enrollment in a payment plan, pursuant to s.
475 28.246(4).

476 Section 10. Except as otherwise expressly provided in this
477 act and except for this section, which shall take effect upon
478 this act becoming a law, this act shall take effect October 1,
479 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 Appropriations

BILL: CS/CS/SB 838

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Boyd and others

SUBJECT: Clerks of the Circuit Court

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Dale</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Dale</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 838 amends laws related to the funding of the clerks of court to:

- Require the Clerk of Courts Operations Corporation to establish and maintain a budget reserve of up to 16 percent of the budget from the previous year;
- Specify that portions of certain service charges collected by a clerk of court that are required to be transferred to the General Revenue Fund only apply for performing services related to a “court record”;
- Revise the appellate filing fee for an appeal from county court to circuit court by eliminating the requirement that \$20 of the \$100 fee be transferred to the General Revenue Fund; and
- Revise the procedure for clerks of the circuit court to receive payments for management of the jury process for the court system.

The bill amends laws related to monies owed to a clerk of court to:

- Specify that fines, costs, service charges, and court costs are due immediately upon assessment.
- Require a person owing monies to the clerk who cannot immediately pay to contact the clerk and set up a payment plan.
- Require an offender to contact the clerk within 30 days after release from incarceration to arrange for payment of any outstanding court obligations.
- Require creation of a statewide uniform payment plan form for monies owed to a clerk.

- Require notice of the availability of payment plans to individuals receiving a traffic infraction or a notice of suspension of driving privilege.

On March 5, 2021, the Office of Economic and Demographic Research (EDR), Revenue Estimating Impact Conference (REC) adopted a positive indeterminate impact for various state and local funds related to the bill's changes to payment plans. Additionally, the REC estimates an out-year negative indeterminate impact to the General Revenue Fund and a positive indeterminate impact to the clerks under certain circumstances. See Section V. Fiscal Impact Statement.

For the sections relating to the clerks' budget process changes, the effective date is upon becoming law. For the sections relating to the payment of juror costs, service charges, and correcting service charge cross-references, the bill is effective July 1, 2021. For the sections pertaining to payment plans, the bill's effective date is October 1, 2021.

II. Present Situation:

Clerk of the Circuit Court

The clerk of the circuit court is a constitutional officer. Each of Florida's 67 counties are required to elect a clerk of the circuit court¹ to serve as both the clerk of court, completing judiciary functions, and as the "*ex officio*"² clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."³ In other words, the clerk of the circuit court wears approximately five hats. In wearing the auditor and custodian of county funds hats, the clerk may also be referred to as the comptroller.⁴

Florida Clerks of Court Operations Corporation

The Legislature created the Florida Clerks of Court Operations Corporation (CCOC) in 2003. It is a public corporation organized to perform the specific functions assigned in ss. 28.35, 28.36, and 28.37, F.S., which outline the CCOC's duties, the clerks' budget procedure for court-related functions, and how fines, fees, service charges, and costs are to be remitted to the state. All clerks of the circuit court are members and hold their position and authority as *ex officio* members. The responsibilities assigned to the Corporation are performed by an executive council composed of eight clerks from various size populations and three *ex officio* members designated by the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.⁵

¹ FLA. CONST. art. V, s. 16; FLA. CONST. art. VIII, s. 1.

² See BLACK'S LAW DICTIONARY (10th ed. 2014) ("*ex officio*" means "By virtue or because of an office; by virtue of the authority implied by office.")

³ FLA. CONST. art. V, s. 16. This provision also provides that two officials may split the position, one serving as clerk of court and one serving in the *ex officio* position. Additionally, this provision permits the election of a county clerk of court when authorized by general or special law. *Id.*

⁴ See generally Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Mar. 5, 2021). See also BLACK'S LAW DICTIONARY (10th ed. 2014) ("*comptroller*" means "An officer of a business or a private, state, or municipal corporation who is charged with duties usu. relating to fiscal affairs, including auditing and examining accounts and reporting the financial status periodically.")

⁵ Section 28.35(1), F.S

In general terms, the CCOC was created to provide professional budget support to the 67 clerks of court and ensure that resources are fairly and equitably distributed for the operation of the courts.⁶ The CCOC's duties include, but are not limited to:

- Recommending to the Legislature changes in the amounts of various court-related fines, fees, service charges, and costs that are established in law to ensure that the clerks have reasonable and adequate funding to perform their court-related functions.
- Developing and certifying a uniform system of workload measures and workload standards for court-related functions.
- Entering into a contract with the Department of Financial Services for the department to audit the court-related expenditures of individual clerks.
- Approving the proposed budgets submitted by clerks.⁷

When approving the clerks' proposed budgets, the CCOC must ensure that the total combined budgets of the clerks do not exceed:

- The total estimated revenues from fees, service charges, costs, and fines for court-related functions that are available for court-related expenditures (as determined by the most recent Revenue Estimating Conference);
- The total of unspent budgeted funds for court-related functions carried forward by the clerks from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of Court Trust Fund after funds are transferred to the General Revenue Fund as required by law.

Clerks of the Court Trust Fund

The Legislature created the Clerks of the Court Trust Fund in 2001⁸ within the Department of Revenue (DOR). The Trust Fund was transferred to the JAC in 2009 when the clerks' budget was placed in the state budget process. The Trust Fund was transferred back to the DOR in 2013 when the clerks' budget was removed from the General Appropriations Act (GAA). The Trust Fund exists as a one sentence item in the statutes with no mention of a purpose.

According to the CCOC, the Trust Fund is used as a repository for funds from counties that have a projected revenue surplus. Section 28.37(2), F.S., provides that, since November 1, 2013, all fines, fees, service charges, and costs that are collected by the clerks for the previous month which exceed one-twelfth of the clerks' total budget for performing court-related functions must be remitted to DOR for deposit into the Clerks of the Court Trust Fund. Those funds are distributed by DOR to clerks in counties that have a projected revenue deficit. The CCOC also uses the Trust Fund to annually reconcile the clerks' expenditures. In the reconciliation process at the end of the year, a clerk's total revenues are compared to total expenditures. Some clerks will receive additional money to meet expenses, and other clerks will be required to return money because he or she had a surplus of revenue after covering expenses.

Additionally, during the 2019 legislative session, s. 28.37, F.S., was amended to require:

⁶ Florida Clerks of Court Operations Corporation, Welcome to Florida Clerks of Court Operations Corporation (CCOC), available at <https://flccoc.org/>.

⁷ Section 28.35(2)(c), (d), (e), and (f), F.S.

⁸ Section 213.131, F.S.

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million be transferred to the General Revenue Fund;
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs be transferred to the General Revenue Fund; provided, however, that the balance remaining in the Clerks of the Court Trust Fund after the transfer may not exceed \$20 million; and
- No later than February 1, 2023, and each February 1 thereafter, the cumulative excess of all fines, fees, services charges, and costs be transferred to the General Revenue Fund.

Service Charges Collected by a Clerk of Court

Clerks of circuit courts are required to charge for services rendered in recording documents and instruments.⁹ Section 28.24, F.S., specifies the maximum amount a clerk may charge for these services. Some services described in s. 28.24, F.S., are “court-related” functions, while other services are “county-related” functions performed by the clerk in its capacity as County Recorder,¹⁰ such as providing certified copies of official county records. Some functions described in s. 28.24, F.S., can be either court-related or county-related functions, depending on the type of document or service requested. For example, s. 28.24(3), F.S., describes a charge for certifying copies of any instrument in the public records. If the requested record is a court filing, the clerk’s providing of certified copies of this record is a court-related function, while if the requested record is in the Official Records, the clerk’s providing of certified copies of this record is a county-related function.

Appellate Filing Fees

Prior to 2008, s. 28.241(2), F.S., required court clerks to collect a \$250 filing fee for appeals from the county to circuit courts and a \$50 filing fee for appeals from the circuit court to the district court of appeal (DCA) or the Supreme Court.¹¹ Clerks were required to remit \$50 of these fees to the DOR for deposit into the General Revenue Fund.¹² Therefore, the clerks were able to retain \$200 of the fees for appeals from county to circuit courts, but none of the fees from appeals from circuit courts to the DCAs or the Supreme Court.¹³

In 2008, the Legislature amended s. 28.241(2), F.S., increasing the filing fee for appeals from the county to the circuit courts from \$250 to \$280 and increasing the fee for appeals from the circuit courts to the DCAs or Supreme Court from \$50 to \$100.¹⁴ The amendment required the clerks to remit \$80 from both fees to the DOR for deposit in the General Revenue Fund, and to remit one-third of the fees collected in excess of \$80 to the DOR for deposit into the Clerks of Court Trust Fund.¹⁵ Thus, the clerks’ retention of the fee for appeal from the county to circuit courts remained at \$200, but the clerks were now allowed to retain \$20 of the DCA and Supreme Court

⁹ Section 28.24, F.S.

¹⁰ See s. 28.222(1), F.S.

¹¹ See Ch. 2008-111, s. 8, Laws of Fla.

¹² See *Id.*

¹³ Florida Clerks of Court Operations Corporation, Senate Bill 382 Analysis, p 4 (January 29, 2021).

¹⁴ *Id.*

¹⁵ *Id.*

appellate fee.¹⁶ But the 2008 amendments included a provision stating that the Florida Court Clerks of Court Operations Corporation (CCOC) could not approve increases in court clerks' budgets based on increased revenue generated by the amendments.¹⁷ As a result, the new money collected in excess of the \$80 filing fee, i.e. the \$20 retained from the fees for appeals to the DCAs or Supreme Court, sent to the DOR for deposit in the Clerks of Court Trust Fund, could not be used for court clerks' budgets. Thus, all of the \$100 fee for appeals from the circuit courts to the DCAs or Supreme Court was deposited in the General Revenue Fund.¹⁸

In 2017, the Legislature again amended s. 28.241(2), F.S., removing the requirement that clerks remit \$80 of the appellate filing fees to the DOR for deposit in the General Revenue Fund.¹⁹ But the provision barring the clerks' use of revenue generated by the 2008 fee increases remained intact, and the clerks continued remitting \$20 of the \$100 DCA and Supreme Court appellate fee to the DOR for deposit in the General Revenue Fund. Thus, after the 2017 amendments, the clerks were able to retain all of the \$280 fee for appeals from the county to the circuit courts, and retain \$80 of the \$100 fee for appeals from the circuit courts to the DCAs or Supreme Court.²⁰

When the Legislature amended s. 28.241(2), F.S., in 2019, the clerks were required to remit \$20 from the \$280 filing fee for appeals from the county court to the circuit courts to the DOR for deposit into the General Revenue Fund.²¹ The 2019 amendments to s. 28.241, F.S., were "remedial and clarifying in nature" and applied retroactively to July 1, 2008.²²

Effective January 1, 2021, most appeals from the county court are filed in the district court of appeal, rather than with the circuit court.²³

Funding for the Clerks' Court-Related Functions

In its capacity as the clerk of the circuit and county courts, the clerk is required to perform various court-related, administrative and ministerial functions. Any court-related function authorized by law or court rule must be funded by the clerk's collection of filing fees, service charges, costs, and fines, including all of the following:

- Case maintenance.
- Records management.
- Court preparation and attendance.
- Processing the assignment, reopening, and reassignment of cases.
- Processing appeals.
- Collection and distribution of fines, fees, service charges, and court costs.
- Data collection and reporting.
- Determinations of indigent status.

¹⁶ *Id.*

¹⁷ See Ch. 2008-111, s. 47, Laws of Fla.

¹⁸ Florida Clerks of Court Operations Corporation, Senate Bill 382 Analysis, p 4 (January 29, 2021).

¹⁹ Chapter 2017-126, s 2, Laws of Fla.

²⁰ Florida Clerks of Court Operations Corporation, Senate Bill 382 Analysis, p 4 (January 29, 2021)

²¹ Chapter 2019-58, s 8, Laws of Fla.

²² *Id.* at s. 30.

²³ Chapter 2020-61, Laws of Fla.

- Paying reasonable administrative support costs to enable the clerks to carry out court-related functions.²⁴

Court funding is governed by Art. V, s. 14 of the Florida Constitution. For the clerks of the circuit courts, Art. V, s. 14(b) provides that the clerks are self-sustaining and fund their court-related functions through the collection of filing fees, service charges, and other costs. Specifically, Art. V, s. 14(b) states:

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the Legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.²⁵

County Funding Referenced in Article V, Section 14(c)

As referenced above, Art. V, s. 14(c) of the Florida Constitution states that while funding for the state courts system, including the clerks of court, will *not* be required by a county or municipality, the counties are responsible to fund certain types of court infrastructure and maintenance, including “the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems and the cost of construction or lease, maintenance, utilities, and security of facilities for . . . the offices of the clerks of the circuit and county courts performing court-related functions.”²⁶ Additionally, counties pay “reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.”²⁷

No-Fee Court Functions

Additionally, as referenced above, there are certain categories of cases and certain types of filings for which the clerks of court cannot charge a filing fee and possibly other service charges or other costs. These types of cases and filings include the following:

²⁴ Section 28.35(3)(a), F.S. *See also* Florida Court Clerks & Comptrollers, *About Us, Clerks Duties & Services*, available at <https://www.flclerks.com/page/ClerksDuties> (last visited Mar. 5, 2021).

²⁵ FLA. CONST. art. V, s. 14(b) (emphasis added).

²⁶ FLA. CONST. art. V, s. 14(c).

²⁷ *Id.* Additionally, Art. V, s. 14(a) provides that funding for state court systems as well as state attorney’s offices, public defender’s offices, and court-appointed counsel will generally be paid from “state revenues appropriated by general law; and section 14(d) clarifies that the court system has no appropriations authority.

- Various services and filings for indigent parties to pending litigation.²⁸
- Petitions for Habeas Corpus filed by persons detained as mental health patients.²⁹
- Filing an ex parte order for involuntary examination (Baker Act).³⁰
- Petitions for involuntary inpatient placement for mental health.³¹
- Appellate filing fees for indigent persons determined to be and involuntarily committed as a sexually violent predator.³²
- Petitions for involuntary assessment and stabilization for substance abuse impairment.³³
- Petitions for a risk protection order (Marjory Stoneman Douglas High School Public Safety Act).³⁴
- Petitions for protective injunctions against domestic violence,³⁵ repeat, dating, or sexual violence,³⁶ or stalking.³⁷

History of the Clerks of Court Funding Model

1998 Article V Revision (“Revision 7”) and Implementing Legislation

Article V, section 14, was amended in 1998 to “substantially and significantly revise[] judicial system funding, greatly reducing funding from local governments and placing the responsibility primarily on the state.”³⁸ The statement of intent accompanying the revision of Art. V, s. 14(b), also known as “Revision 7,” reflects that the proposers intended for the Legislature to adopt procedures: (1) to fund the clerks’ office in the event “filing fees, services charges and costs are insufficient to cover the court-related salaries, costs, and expenses of the offices of the clerks . . . in a given fiscal year”; and (2) for the disposition of excess revenues collected by the clerks’ offices in a given fiscal year.³⁹

Further, the statement of intent clarifies that the purpose for Revision 7 is to require legislative oversight and an independent review of clerk funding and spending practices. The reason for independent oversight is set out as follows:

The drafters of subsection (b) recognize that there currently exists significant disparities among what the various clerks’ offices spend to perform the same functions. The determination by the [L]egislature as to

²⁸ Sections 57.081 and 57.082, F.S. This does not include prisoners as defined in s. 57.085, F.S.

²⁹ Section 394.459, F.S.

³⁰ Section 394.463, F.S. *See also Collins v. State*, 125 So. 3d 1046, 1047 (Fla. 4th DCA 2013) (noting s. 394.463, F.S., is also known as the Florida Statutes Florida Mental Health Act or *Baker Act*).

³¹ Section 394.467, F.S.

³² Section 394.917, F.S.

³³ Section 397.6814, F.S.

³⁴ Section 790.401, F.S.; Ch. 2018-3, s. 16, Laws of Fla.

³⁵ Section 741.30, F.S.

³⁶ Section 784.046, F.S.

³⁷ Section 784.0485, F.S.

³⁸ *City of Fort Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008) (“In its Statement of Intent, the Constitution Revision Commission explained: ‘The state’s obligation includes, but is not limited to, funding for all core functions and requirements of the state courts system and all other court-related functions and requirements *which are statewide in nature.*’ [e.s.] 26 Fla. Stat. Ann. (Supp.) 67.”).

³⁹ William A. Buzzett and Deborah K. Kearney, *Commentary <1998 Amendment (1997-1998 Constitution Revision Commission Revision 7)>*, FLA. STAT. ANN., FLA. CONST. art. V, s. 14.

the appropriate level of spending should not entail an acceptance of the current level of spending by the clerks' offices throughout the state to perform court-related functions. Rather, it is the intent of this proposal that the clerks be held accountable and responsible to a cost standard which is independently established by the [L]egislature.⁴⁰

Revision 7's 1998 amendment to Art. V of the Florida Constitution had to be implemented by July 1, 2004.⁴¹ In order to implement the 1998 amendment, the Legislature responded "in stages, beginning with passage of SB 1212 in 2000 (Chapter 200-237, Laws of Florida), followed by additional changes to that law in 2001, and, finally in 2002, through the funding of a study to assist in the final phase of implementation."⁴²

The final stage was implemented during the 2003 legislative session. To provide Revision 7's envisioned oversight, accountability, uniformity, and procedures in funding and budgeting for the clerks of court, the Legislature enacted sections 28.35, 28.36, and 28.37, F.S.⁴³:

- Section 28.35, F.S., created the Florida Clerks of Court Operations Corporation (Corporation),⁴⁴ which is responsible to provide accountability, procedural review, and oversight to the clerks of court budgeting process throughout the state.
- Section 28.36, F.S., established budget review and approval procedures of individual clerk of court budgets by the Corporation.
- Section 28.37, F.S., ensures that a portion of certain fines, fees, service charges, and costs collected by the clerks of court are remitted to the state to fund other court-related salaries, costs, and expenses.

Post-Article V Revision to Clerk Funding: 2004-2008⁴⁵

Between 2004 and 2008, the clerks collected and deposited into their local fine and forfeiture funds revenues from court filing fees, service charges, court costs, and fines assessed in civil and criminal proceedings.⁴⁶ A portion of the revenues in a clerk's fine and forfeiture fund was retained to finance the clerk's operations. However, another portion of these revenues were distributed to the General Revenue Fund or other state trust funds to meet other court-related costs. For example, the clerks were required to remit one-third of all fines, fees, service charges, and costs collected to the Department of Revenue for deposit into the Clerk of the Court Trust Fund,⁴⁷ a fund established to assist the clerks in meeting revenue deficits.

Regarding budget planning, the clerks had the discretion to set their individual budgets based on anticipated revenues and expenditures. Each clerk's proposed budget had to be balanced with

⁴⁰ *Id.*

⁴¹ *Office of State Attorney for Eleventh Judicial Circuit v. Polites*, 904 So. 2d 527, 530 (Fla. 3d DCA 2005).

⁴² Florida House of Representatives, *House Bill 113A Staff Analysis*, (May 14, 2003).

⁴³ 2003 Fla. Sess. Law Serv. Ch. 2003-402 (H.B. 113-A). See also *City of Ft. Lauderdale v. Crowder*, 983 So. 2d 37, 39 (Fla. 4th DCA 2008). Note also that the bill seeks to amend each of these provisions.

⁴⁴ See *supra* note 5, and text. When it was first enacted, section 28.35 the "Clerk of court Operations Conference" which was changed in 2004 to the "Florida Clerks of Court Operations Corporation." Chapter 2004-265, s. 23, Laws of Fla. All clerks are members of the Corporation.

⁴⁵ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

⁴⁶ Section 142.01, F.S.

⁴⁷ Section 28.37(2), F.S. (2008).

estimated revenues equaling or exceeding anticipated expenditures, although the budget could include a 10 percent contingency reserve.⁴⁸ If a clerk estimated that available funds plus projected revenues were insufficient to meet anticipated expenditures for court-related functions, that clerk could follow the statutory procedure for receiving funds from the Clerks of the Court Trust Fund to address the deficit.⁴⁹

Each clerk had to submit its proposed budget to the Corporation for review and certification that the individual budget was complete and complied with budget procedures.⁵⁰ Upon review and certification by the Corporation, revenue exceeding the amount needed to fund each budget was deposited in the General Revenue Fund.⁵¹

During this time, the Legislature's involvement in the clerks' budgets was limited. The Legislative Budget Commission (LBC) had the authority to approve increases to the maximum annual budgets approved for individual clerks if the additional funding was necessary to:

- Pay the cost of performing new or additional functions required by changes in law or court rule; or
- Pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.⁵²

Clerks in the General Appropriations Act: 2009-2012⁵³

In an effort to gain greater oversight and accountability for the operations and funding of the clerks of court, the Legislature passed Chapter 2009-204, Laws of Fla., which substantially amended the clerks' statutory budget process and procedures. The new law brought the clerks into the state budget and appropriated their funding in the annual General Appropriations Act.

More specifically, the 2009 law required that all revenues received by the clerks from court-related fees, fines, costs, and service charges be remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund within the Justice Administrative Commission (JAC).⁵⁴ The law permitted the clerks, however, to deposit 10 percent of all court-related fines in the Public Records Modernization Trust Fund to be used in addition to state appropriations for operational needs.⁵⁵

By 2009, revenues accruing to the Clerks of Court Trust Fund began to decline due to the downturn in the economy and the reduction in foreclosure filing fees. As a result, the Legislature reinforced the clerks' budgets with additional money from the General Revenue Fund. The 2011 Legislature appropriated \$44.2 million from the General Revenue Fund to address FY 2010-2011

⁴⁸ Section 28.36(3)(b), (c), F.S. (2008).

⁴⁹ Section 28.36(4), F.S. (2008).

⁵⁰ Section 28.36(3), F.S. (2008).

⁵¹ Section 28.37(4), F.S. (2008).

⁵² Section 28.36(6), F.S. (2008).

⁵³ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

⁵⁴ Chapter 2009-204, ss. 5-8, 12, 14, 19, Laws of Fla. The clerks' budgets were appropriated within the JAC budget from 2009-2012. *See also* s. 43.16, F.S. (establishes the Justice Administrative Commission, which administratively serves 49 judicial-related entities, as well as provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors).

⁵⁵ Section 28.37(5), F.S.

revenue deficits, and the 2012 Legislature appropriated \$57.6 million to address FY 2011-2012 deficits.

Return to Pre-2009 Funding Model: 2013-2019⁵⁶

In 2013, the Legislature reversed many of the 2009 funding model changes but expanded the oversight and accountability in the clerks' budget process. Chapter 2013-44, Laws of Florida, added the following:

- Monthly accounting: required each clerk to submit all collected revenues exceeding one-twelfth of the clerk's total budget for the prior month to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.
- Annual accounting: required the transfer of revenue exceeding one-twelfth of the clerks' total budget out of the Clerks of Court Trust Fund into the General Revenue Fund each January *unless* the official estimate by the Revenue Estimating Conference projects a trust fund deficit (based on the current budget) in the current or upcoming fiscal year.
- Corporation audits: directed the Corporation to conduct annual base budget reviews, conduct cost-comparisons of similarly situated clerks, report pay and benefit issues, and provide an explanation of any clerk expenditure increases over 3 percent.⁵⁷
- Corporation budget standards: required the Corporation to use the official Article V Revenue Estimating Conference revenue estimates for the clerks' budget process.⁵⁸

The 2013 law also enhanced the role and responsibilities of the Legislative Budget Commission (LBC) and directed the LBC to review the budgets of the clerks and either: (1) approve, (2) disapprove, or (3) amend and approve the budgets by October 1 of each year.⁵⁹ In 2017, however, the Legislature removed these duties from the LBC to review the clerks' budgets.⁶⁰

Most Recent Changes: 2019 to present

The clerk's budget process was amended again in 2019.⁶¹ In addition to the total estimated revenues from fees, service charges, costs, and fines for court-related functions available for court-related expenditures as determined by the most recent Revenue Estimating Conference, the combined budget for the clerks of court may also include:

- The unspent budgeted funds for court-related functions carried forward by the clerks of court from the previous county fiscal year; and
- The balance of funds remaining in the Clerks of the Court Trust Fund after the transfer of funds to the General Revenue Fund required pursuant to s. 28.37, F.S.

In 2019, the requirement that the cumulative excess of all fines, fees, service charges, and costs retained by the clerks of court exceeding the amount needed to fund their authorized budgets was transferred to the General Revenue Fund, was changed as follows:

⁵⁶ This section adapted or used in its entirety from the Appropriations Committee staff analysis in SB 2506 (2017).

⁵⁷ Section 28.35(2)(f), F.S.

⁵⁸ Section 28.35(2)(f)6., F.S.

⁵⁹ Section 11.90(6)(d), F.S.

⁶⁰ Chapter 2017-126, s. 1, Laws of Fla.

⁶¹ Chapter 2019-58, Laws of Fla.

- No later than February 1, 2020, the cumulative excess of all fines, fees, services charges, and costs exceeding \$10 million will be transferred to the General Revenue Fund.
- No later than February 1, 2021, and no later than February 1, 2022, not less than 50 percent of the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund; provided, however, that the balance remaining in the Clerks of the Court Trust Fund after the transfer may not exceed \$20 million.
- No later than February 1, 2023, and each February 1 thereafter, the cumulative excess of all fines, fees, services charges, and costs will be transferred to the General Revenue Fund.

In that same act, the 2019 Legislature was looking ahead to 2022 and included the following language:

Section 32. Before the 2022 Regular Session of the Legislature, the Legislature shall review and consider the results of the analysis submitted pursuant to Specific Appropriation 2754 of the 2019-2020 General Appropriations Act regarding the review of the Clerk of Court Processes for the purpose of considering the extension or reenactment of provisions in this act relating to clerk funding.⁶²

Specific appropriation 2754 reads in relevant part:

From the funds in Specific Appropriation 2754, the Office of Program Policy Analysis and Government Accountability is directed to contract with an independent third party consulting firm to assist with a review of the Clerk of Court processes including collection and compilation of empirical evidence based on observation of a random sample of clerks' offices employees; comparison of clerks' office work patterns to propose efficiency and productivity standards; and assessment and comparison of organizational arrangements and deployment of personnel resources among all clerks' offices. Sample groups must include a broad number of large and small counties and include entities from all areas of the state. The analysis shall be submitted to the chair of the Senate Appropriations Committee and the chair of the House of Representatives Appropriations Committee by November 15, 2019.

The report contains 26 recommendations for operational efficiency and cost savings in five categories.⁶³ It is unknown how many recommendations have been implemented.

Payment Plans

Persons who pay money to the clerk of court for an outstanding fine, penalty, fee, service charge, or court cost are expected to pay in full. Many individuals, however, cannot afford to pay. Section 28.246(4), F.S., authorizes a clerk to accept partial payments and to enter into payment

⁶² Chapter 2019-58, s. 32, Laws of Fla.

⁶³ Florida Clerks of Court Study, *Final Report* (November 15, 2019), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=19-CLERKS>

plans with individuals. Monthly payments of no more than 2 percent of the individual's net pay is presumed to be within an individual's ability to pay.⁶⁴

Jury Management

Court clerks' responsibilities include managing the jury process. This includes determining the qualifications of jurors, issuing jury summons, providing selection lists, reporting, and compensating jurors when necessary to prevent financial hardship.⁶⁵ It is estimated that Florida clerks summon almost 2 million jurors annually.⁶⁶

Juror Cost Reimbursement

Under Revision 7 to article V of the Florida Constitution, juror compensation and related expenses were initially a state court system responsibility and paid for with state revenues appropriated by general law.⁶⁷ The 2004 Legislature amended s. 28.35, F.S., to require the clerks to pay the payment to jurors and witnesses as well as juror meals and lodging.⁶⁸ Each clerk prepared quarterly estimates of needed funds for the Office of State Court Administrator (OSCA). Based on these estimates, OSCA approved the payment for each clerk. In 2008, the Legislature amended the law to clarify that the clerks were financially responsible for paying juror meals and lodging as well as juror and witness payments.⁶⁹

In recognition of clerk revenue deficits, the 2016 Legislature passed a provision to reimburse the clerks for juror expenses and jury-related personnel costs during the 2016-2017 fiscal year.⁷⁰ The Legislature also appropriated \$11.7 million in recurring general revenue in the General Appropriations Act within the Justice Administrative Commission to support funding these jury expenses.

Budget Procedure for Payment of Jury Costs

The Justice Administration Commission (JAC) is required by s. 40.29(5), F.S., to provide funds to the clerks to compensate jurors, pay for meals or lodging for jurors, and pay jury-related personnel costs. As noted above, since 2016, the Legislature has provided \$11.7 million annually from General Revenue to cover the projected costs of managing the jury process.⁷¹ The funds are released quarterly.

The process established in s. 40.29, F.S., for clerks to submit information to the JAC to request funding, has been modified slightly from statute by agreement between the clerks and the CCOC. The process is as follows:

⁶⁴ Using the 2021 Florida minimum wage at full-time employment and subtracting the standard federal payroll deductions, an unmarried individual would pay no more than \$26.80 a month on a clerk's payment plan.

⁶⁵ See s. 40.001, F.S.

⁶⁶ Florida Clerks of Court Operations Corporation, Senate Bill 590 Analysis (February 6, 2020), on file with Senate Appropriations Subcommittee on Criminal and Civil Justice.

⁶⁷ Chapter 2003-402, s. 40, Laws of Fla.

⁶⁸ Chapter 2004-265, Laws of Fla.

⁶⁹ Chapter 2008-111, Laws of Fla.

⁷⁰ Chapter 2016-62, s. 66, Laws of Fla.

⁷¹ For the Fiscal Year 2020-2021 appropriation, see ch. 2020-111, s. 4, Laws of Fla., Specific Appropriation 736).

- Each clerk of the circuit court forwards to the CCOC a quarterly estimate of funds needed to compensate jurors, pay for meals or lodging, and personnel and other costs related to jury management for the upcoming quarter. Each clerk must include a signed and dated certification letter by the 10th of the month immediately before the beginning of the requested quarter.
- The CCOC reviews the quarterly requests and determines a funding allocation for each of the 67 clerks, then forwards the funding estimate to the JAC for its review.
- The JAC reviews the funding estimate for the individual counties, determines that the funds are available for the upcoming quarterly funding allocation from General Revenue, and processes the payment through the Department of Financial Services for pre-imburement payments to each clerk.

Pursuant to s. 40.29(5), F.S., if the JAC believes the amount appropriated by the Legislature is not sufficient to meet the costs for the remainder of the state fiscal year, the JAC may apportion funds appropriated in the General Appropriations Act (GAA) among the counties. The apportionment is based upon the amount expended for those purposes in each county during the previous fiscal year. The Chief Financial Officer will then issue the appropriate apportioned amount to each county. The statute further provides that the clerks are responsible for any compensation costs that exceed the funding provided in the GAA.

III. Effect of Proposed Changes:

Service Charges Collected by a Clerk of Court

The bill amends various service charges in s 28.24, F.S., to provide that service charges related to a “court record” is required to have a designated portion of the service charge transferred to the General Revenue Fund. A service charge not related to a court record is fully retained by the clerk. No service charge is increased or decreased by the bill.

The bill defines the term “court record” to mean the contents of a court file, to include:

- Progress dockets and other similar records generated to document activity in a case.
- Transcripts filed with the clerk.
- Documentary exhibits in the custody of the clerk.
- Electronic records, video recordings, and stenographic tapes of depositions or other proceedings filed with the clerk.
- Electronic records, video recordings, and stenographic tapes of court proceedings.

The bill amends s. 28.222, F.S., regarding the clerk’s role as county recorder, to provide that a service charge related to an instrument recorded in the Official Records is fully retained by the clerk, except that a service charge related to a court record or a court function in the Official Records is subject to the partial distribution to the General Revenue Fund. The bill also amends several sections of statute to correct cross-references to specific service charges.

Appellate Filing Fees

The bill amends s. 28.241, F.S., to provide that the \$20 distribution to the General Revenue Fund from the filing fee paid to a clerk of court of the lower court when filing an appeal does not apply

to an appeal from the county court to the circuit court. Thus, the bill provides that a clerk of court retains the entire \$100 fee.

The bill also clarifies in that subsection that the \$100 filing fee payable to the clerk of court as the lower court in the appeal is in addition to the filing fee payable to the appellate court.

Clerk of Court Budgeting and Finances

The bill amends s. 28.37, F.S., regarding funds collected in the Clerk of the Courts Trust Fund. Currently, if the clerks have a budget surplus at the end of their fiscal year, 50 percent of the surplus must be transferred to the General Revenue Fund, with a maximum retainage in the trust fund of \$20 million. After the county fiscal year 2021-22, 100 percent of the annual surplus with no retainage is to be transferred to the General Revenue Fund. The bill repeals the current sweeps and retainage laws and requires instead that 50 percent of the surplus be transferred to the General Revenue Fund. Of the remaining 50 percent, a minimum of 10 percent must be held in reserve in the Clerk of the Courts Trust Fund, and the remainder may be used to increase clerk budgets. The reserve may not exceed 16 percent of the total budget authority of the clerks from the current county fiscal year.⁷²

The bill amends s. 28.36, F.S., to allow the Florida Clerks of Court Operations Corporation to create a budget reserve in the Clerks of the Court Trust Fund of up to 16 percent of the total budget authority during the current county fiscal year. The budget reserve will only accrue should the clerks have a budget surplus that is not otherwise subject to being swept by the Department of Revenue. The budget reserve may only be used to:

- Offset a current-year deficit caused by a revenue shortfall;
- Provide supplemental funding related to a declared emergency; and
- Provide for a minimum continuation budget where the clerks have projected a deficit and the legislature did not appropriate funds sufficient to create a minimum continuation budget. A minimum continuation budget is the current county fiscal year budget unless the Corporation requires a lesser budget.

The bill requires the Corporation to request a budget amendment from the Governor in order to access the reserve. This is in line with the requirements for Executive Branch agencies seeking to establish trust fund budget from a reserve.

The bill amends s. 28.36, F.S., to allow a clerk of the court to request, and the Florida Clerks of Court Operations Corporation to approve, an increase in a clerk's budget authority for a financial impact resulting from increases in use of hearing officers and senior judges.

Monies Owed to a Clerk of Court

The bill amends s. 28.246, F.S., to direct the clerks of court to offer a payment plan to every person who owes money to the clerk and cannot immediately pay. The clerk is responsible for

⁷² For the latest county fiscal year (FY 2019-20), the total budget authority of the clerks was approximately \$403 million. If this bill were in effect, the maximum reserve would be approximately \$64.5 million.

setting the terms of individual plans, although the trial court may review the reasonableness of the plan.

The bill amends s. 28.42, F.S., to require the Florida Clerks of Court Operations Corporation to create a uniform payment plan form. The form must be created by October 1, 2021, and must be used by each clerk starting January 1, 2022. The bill amends traffic and licensing laws at ss. 318.15, 318.20, and 322.45, F.S., to require notice of the availability of payment plans through the clerk of court. The notice must be included with a notice of suspension of a license and must be appended to a citation.

The bill amends s. 28.246, F.S., to require that an individual released from incarceration contact the clerk within 30 days after release to either pay the outstanding fines and fees in full or set up a payment plan.

The bill amends the criminal fine statute at s. 775.083, F.S., to add that the clerk of the court is the entity that collects fines, fees, service charges, and court costs. This reflects current law. The bill also adds the requirement that an offender must contact the clerk to pay, or set up a payment plan, upon assessment by the court.

Jury Management

The bill modifies the process by which clerks receive funds for jury management by changing the current practice under which clerks receive pre-imburements for their costs to one in which they will receive reimbursements for the costs they have incurred.

The new process by which the clerks will receive reimbursement for jury-related costs is as follows:

- Each clerk of the court shall submit a request for reimbursement to the Florida Clerks of Court Operations Corporation (CCOC) within 20 days after each quarter attesting to the clerk's actual costs to compensate jurors, to pay for meals or lodging provided to jurors, and to pay jury-related personnel costs.
- The CCOC will review the request for reimbursement to ensure that the costs are reasonably and directly related to jury management.
- The CCOC will then forward the request for reimbursement to the Justice Administrative Commission (JAC) unless the requests total more than is available, in which case the CCOC will adjust the cumulative total to match the available funds before submittal.
- The JAC will then review the amount requested for the most recently completed quarter to determine if funds are available and submit a request for payment to the Chief Financial Officer.

For the sections relating to the clerks' budget process changes, the effective date is upon becoming law. For the sections relating to the payment of juror costs, service charges, and correcting service charge cross-references, the bill is effective July 1, 2021. For the sections pertaining to payment plans, the bill's effective date is October 1, 2021.

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

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida 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:

On March 5th, 2021, the Office of Economic and Demographic Research (EDR), Revenue Estimating Impact Conference (REC) evaluated SB 838 and its companion HB 903. The conference adopted a positive indeterminate impact for various state and local trust funds, the General Revenue Fund, Clerks of Court Trust Fund, and Clerk's Fine and Forfeiture Funds as it relates to the bill's changes to payment plans.⁷³

Currently, if the Article V Estimating Conference forecasts that revenue will exceed the clerks' total budget, 50 percent of the surplus is transferred to General Revenue and the clerks retain the other 50 percent up to a maximum of \$20 million. This procedure is set to expire at the end of County Fiscal Year (CFY) 2021-22 after which time 100 percent

⁷³ Office of Economic and Demographic Research, Results of the Revenue Estimating Impact Conference held March 5, 2021, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/Impact0305.pdf

of any surplus revenue will be transferred to the General Revenue Fund. Because the bill permanently codifies the existing revenue split, if clerk revenues surpass the total clerks' budget, the REC estimates there will be an indeterminate negative impact to the General Revenue Fund and a positive indeterminate impact to the clerks.

The sections of the bill related to service charges, appellate filing fees and jury management are expected to have an indeterminate but likely minimal fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 27.52, 28.222, 28.22205, 28.24, 28.241, 28.246, 28.35, 28.36, 28.37, 28.42, 40.29, 45.035, 55.141, 57.082, 197.502, 197.532, 197.542, 197.582, 318.15, 318.20, 322.245, 569.23, 712.06, and 775.083.

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 April 15, 2021:

The committee substitute:

- Removes provisions modifying the duties of the Florida Clerks of Court Operations Corporation with respect to the funding of clerks' offices;
- Incorporates the substance of SB 382 into the bill which:
 - Specifies that portions of certain service charges collected by a clerk of court that are required to be transferred to the General Revenue Fund only apply for performing services related to a "court record";
 - Revises the appellate filing fee for an appeal from county court to circuit court by eliminating the requirement that \$20 of the \$100 fee be transferred to the General Revenue Fund; and
 - Revises the procedure for clerks of the circuit court to receive payments for management of the jury process for the court system.

CS by Judiciary on March 9, 2021:

The committee substitute removes a provision that would have allowed a clerk of court to request a budget increase due to requirements of the courts, changes the effective date of portions of the bill other than clerk budgeting to October 1, 2021, and makes technical corrections and clarifications.

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 Judiciary; and Senator Boyd

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1 A bill to be entitled
 2 An act relating to clerks of the circuit court;
 3 amending s. 28.246, F.S.; clarifying the
 4 responsibility of an individual released from
 5 incarceration regarding enrolling in a payment plan
 6 for any outstanding court obligations; modifying the
 7 manner of calculating a monthly payment amount under a
 8 payment plan; requiring the clerk to establish all
 9 terms of a payment plan; amending s. 28.35, F.S.;
 10 modifying duties of the Florida Clerks of Court
 11 Operations Corporation with respect to the funding of
 12 clerks' offices; conforming a cross-reference;
 13 amending s. 28.36, F.S.; conforming a cross-reference;
 14 requiring the corporation to establish and manage a
 15 contingency reserve within the Clerks of the Court
 16 Trust Fund for specified purposes; prescribing
 17 reporting requirements; specifying circumstances under
 18 which moneys held in reserve may be used; prescribing
 19 procedures for the release of such funds; amending s.
 20 28.37, F.S.; modifying a provision regarding state
 21 court system funding; defining terms; conforming a
 22 cross-reference; revising provisions governing the
 23 transfer of certain funds from the Clerks of the Court
 24 Trust Fund to the General Revenue Fund by the
 25 Department of Revenue; amending s. 28.42, F.S.;
 26 requiring the clerks to develop a uniform payment plan
 27 form by a specified date; prescribing requirements for
 28 the form; requiring the clerks to use such form by a
 29 specified date; amending ss. 318.15, 318.20, and

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30 322.245, F.S.; requiring orders and notifications for
 31 certain traffic citations and suspensions to include
 32 information regarding payment plans; amending s.
 33 775.083, F.S.; designating the clerk as the entity
 34 responsible for collecting payment of certain court
 35 obligations; requiring a person ordered to pay such
 36 obligations to contact the clerk in order to pay or
 37 establish a payment plan, unless otherwise provided;
 38 providing effective dates.

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

41 Section 1. Subsection (4) of section 28.246, Florida
 42 Statutes, is amended to read:

43 28.246 Payment of court-related fines or other monetary
 44 penalties, fees, charges, and costs; partial payments;
 45 distribution of funds.—

46 (4) (a) Each ~~The~~ clerk of the circuit court shall accept
 47 partial payments for each case type for court-related fees,
 48 service charges, court costs, and fines in accordance with the
 49 terms of an established payment plan developed by the clerk.

50 (b) An individual seeking to defer payment of fees, service
 51 charges, court costs, or fines imposed by operation of law or
 52 order of the court under any provision of general law shall
 53 apply to the clerk for enrollment in a payment plan. The clerk
 54 shall enter into a payment plan with an individual who the court
 55 determines is indigent for costs. It is the responsibility of an
 56 individual who is released from incarceration and has
 57 outstanding court obligations to contact the clerk within 30
 58

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59 days after release to pay fees, service charges, court costs,
 60 and fines in full, or to apply for enrollment in a payment plan.

61 A monthly payment amount, calculated based upon all fees and all
 62 anticipated fees, service charges, court costs, and fines, is
 63 presumed to correspond to the person's ability to pay if the
 64 amount does not exceed 2 percent of the person's annual net
 65 income, as defined in s. 27.52(1), divided by 12. The clerk
 66 shall establish all terms of a payment plan and the court may
 67 review the reasonableness of the payment plan.

68 Section 2. Effective upon this act becoming a law,
 69 paragraph (f) of subsection (2) and paragraph (a) of subsection
 70 (3) of section 28.35, Florida Statutes, are amended, and
 71 paragraphs (i) and (j) are added to subsection (2) of that
 72 section, to read:

73 28.35 Florida Clerks of Court Operations Corporation.—

74 (2) The duties of the corporation shall include the
 75 following:

76 (f) Approving the proposed budgets submitted by clerks of
 77 the court pursuant to s. 28.36. The corporation must ensure that
 78 the total combined budgets of the clerks of the court do not
 79 exceed the total estimated revenues from fees, service charges,
 80 court costs, and fines for court-related functions available for
 81 court-related expenditures as determined by the most recent
 82 Revenue Estimating Conference, plus the total of unspent
 83 budgeted funds for court-related functions carried forward by
 84 the clerks of the court from the previous county fiscal year,
 85 ~~and~~ plus the balance of funds remaining in the Clerks of the
 86 Court Trust Fund after the transfer of funds to the General
 87 Revenue Fund required pursuant to s. 28.37(4)(b), and plus any

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88 appropriations for court-related functions s. 28.37(3)(b). The
 89 corporation may amend any individual clerk of the court budget
 90 to ensure compliance with this paragraph and must consider
 91 performance measures, workload performance standards, workload
 92 measures, and expense data before modifying the budget. As part
 93 of this process, the corporation shall:

94 1. Calculate the minimum amount of revenue necessary for
 95 each clerk of the court to efficiently perform the list of
 96 court-related functions specified in paragraph (3)(a). The
 97 corporation shall apply the workload measures appropriate for
 98 determining the individual level of review required to fund the
 99 clerk's budget.

100 2. Prepare a cost comparison of similarly situated clerks
 101 of the court, based on county population and numbers of filings,
 102 using the standard list of court-related functions specified in
 103 paragraph (3)(a).

104 3. Conduct an annual base budget review and an annual
 105 budget exercise examining the total budget of each clerk of the
 106 court. The review shall examine revenues from all sources,
 107 expenses of court-related functions, and expenses of noncourt-
 108 related functions as necessary to determine that court-related
 109 revenues are not being used for noncourt-related purposes. The
 110 review and exercise shall identify potential targeted budget
 111 reductions in the percentage amount provided in Schedule VIII-B
 112 of the state's previous year's legislative budget instructions,
 113 as referenced in s. 216.023(3), or an equivalent schedule or
 114 instruction as may be adopted by the Legislature.

115 4. Identify those proposed budgets containing funding for
 116 items not included on the standard list of court-related

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117 functions specified in paragraph (3) (a) .

118 5. Identify those clerks projected to have court-related
119 revenues insufficient to fund their anticipated court-related
120 expenditures.

121 6. Use revenue estimates based on the official estimate for
122 funds from fees, service charges, court costs, and fines for
123 court-related functions accruing to the clerks of the court made
124 by the Revenue Estimating Conference, as well as any unspent
125 budgeted funds for court-related functions carried forward by
126 the clerks of the court from the previous county fiscal year and
127 the balance of funds remaining in the Clerks of the Court Trust
128 Fund after the transfer of funds to the General Revenue Fund
129 required pursuant to s. 28.37(4) (b), plus any appropriations for
130 the purpose of funding court-related functions ~~s. 28.37(3) (b)~~.

131 7. Identify pay and benefit increases in any proposed clerk
132 budget, including, but not limited to, cost of living increases,
133 merit increases, and bonuses.

134 8. Identify increases in anticipated expenditures in any
135 clerk budget that exceeds the current year budget by more than 3
136 percent.

137 9. Identify the budget of any clerk which exceeds the
138 average budget of similarly situated clerks by more than 10
139 percent.

140 10. Request the Governor to order, pursuant to s.
141 215.18(1), a temporary transfer of moneys from unobligated funds
142 in the State Treasury to the Clerks of the Court Trust Fund in
143 the Department of Revenue to meet temporary deficiencies in that
144 fund.

145 11. Determine if the estimated revenue available for the

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146 upcoming county fiscal year is adequate to fund court-related
147 functions, and certify and submit any aggregate difference to
148 the chairs of the legislative appropriations committees and the
149 Executive Office of the Governor for consideration, at least 30
150 days before the start of the next regular session of the
151 Legislature.

152
153 For the purposes of this paragraph, the term "unspent budgeted
154 funds for court-related functions" means undisbursed funds
155 included in the clerks of the courts budgets for court-related
156 functions established pursuant to this section and s. 28.36.

157 (i) If the corporation determines that the cumulative
158 budget for all clerks will vary by more than 5 percent from the
159 approved cumulative budget for the previous year, certify to the
160 Legislature the specific causes for the variance and how each
161 variance relates to the clerks' responsibilities in performing
162 their court-related functions.

163 (j) Prepare and submit legislative budget requests to the
164 Legislature, consistent with the requirements of s. 216.023.
165 Such requests must be submitted for any fiscal year for which
166 the corporation determines that new duties or financial
167 obligations under s. 28.36(4), beyond those funded in prior
168 fiscal years, have been imposed on the court-related functions
169 of clerks of the court; and for any fiscal year for which the
170 corporation determines that the total estimated revenues
171 available for court-related expenditures as determined by the
172 most recent Revenue Estimating Conference, unspent revenues
173 carried forward from the previous fiscal year, and budget
174 amendments and appropriations made by law for the purpose of

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175 funding court-related functions will be inadequate to provide
 176 funding for court-related functions of clerks of the court at
 177 the current level of operations.

178 (3) (a) The list of court-related functions that clerks may
 179 fund from filing fees, service charges, court costs, and fines
 180 is limited to those functions expressly authorized by law or
 181 court rule. Those functions include the following: case
 182 maintenance; records management; court preparation and
 183 attendance; processing the assignment, reopening, and
 184 reassignment of cases; processing of appeals; collection and
 185 distribution of fines, fees, service charges, and court costs;
 186 processing of bond forfeiture payments; data collection and
 187 reporting; determinations of indigent status; and paying
 188 reasonable administrative support costs to enable the clerk of
 189 the court to carry out these court-related functions.

190 Section 3. Effective upon this act becoming a law, present
 191 subsections (3) and (4) of section 28.36, Florida Statutes, are
 192 redesignated as subsections (4) and (5), a new subsection (3) is
 193 added to that section, and subsection (1), paragraph (b) of
 194 subsection (2), and present subsection (4) of that section are
 195 amended, to read:

196 28.36 Budget procedure.—There is established a budget
 197 procedure for the court-related functions of the clerks of the
 198 court.

199 (1) Only those functions listed in s. 28.35(3) (a) may be
 200 funded from fees, service charges, court costs, and fines
 201 retained by the clerks of the court.

202 (2) Each proposed budget shall further conform to the
 203 following requirements:

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204 (b) The proposed budget must be balanced such that the
 205 total of the estimated revenues available equals or exceeds the
 206 total of the anticipated expenditures. Such revenues include
 207 revenue projected to be received from fees, service charges,
 208 court costs, and fines for court-related functions during the
 209 fiscal period covered by the budget, plus the total of unspent
 210 budgeted funds for court-related functions carried forward by
 211 the clerk of the court from the previous county fiscal year and
 212 plus the portion of the balance of funds remaining in the Clerks
 213 of the Court Trust Fund after the transfer of funds to the
 214 General Revenue Fund required pursuant to s. 28.37(4) (b) ~~s.~~
 215 ~~28.37(3) (b)~~ which has been allocated to each respective clerk of
 216 the court by the Florida Clerks of Court Operations Corporation.
 217 For the purposes of this paragraph, the term "unspent budgeted
 218 funds for court-related functions" means undisbursed funds
 219 included in the clerk of the courts' budget for court related
 220 functions established pursuant to s. 28.35 and this section. The
 221 anticipated expenditures must be itemized as required by the
 222 corporation.

223 (3) (a) The Florida Clerks of Court Operations Corporation
 224 shall establish and manage a reserve for contingencies within
 225 the Clerks of the Court Trust Fund which must consist of an
 226 amount not to exceed 16 percent of the total budget authority
 227 for the clerks of court during the current county fiscal year,
 228 to be carried forward at the end of the fiscal year. Funds to be
 229 held in reserve include transfers of cumulative excess, as
 230 provided in s. 28.37(4) (b), from the Clerks of the Court Trust
 231 Fund and may also include revenues provided by law or moneys
 232 appropriated by the Legislature.

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233 (b) The corporation shall provide a reporting of the
 234 balance and use of these funds during each county fiscal year as
 235 part of the corporation's annual report submitted under s.
 236 28.35(2)(h).

237 (c) The corporation may use the reserve to ensure the
 238 clerks of court can perform the court-related functions as
 239 provided in s. 28.35(3)(a). Moneys in the Clerks of the Court
 240 Trust Fund which are held in reserve may be used by the
 241 corporation under the following circumstances:

242 1. To offset a current deficit between the revenue
 243 available and the original budget authority. A deficit is deemed
 244 to occur when the revenue available to the clerks of court falls
 245 below the original revenue projection for that county fiscal
 246 year.

247 2. To provide funding for an emergency, as defined in s.
 248 252.34(4). The emergency must have been declared by the
 249 Governor, pursuant to s. 252.36, or otherwise declared by law.

250 3. If, after the corporation has notified the Legislature
 251 of a deficit under s. 28.35(2)(f)11., there remains a deficit
 252 between the total revenues available and the total budget from
 253 the current county fiscal year, to provide funds in the
 254 development of the total aggregate budget of the clerks of court
 255 to ensure that a minimum continuation budget is met. For
 256 purposes of this subparagraph, a minimum continuation budget is
 257 the budget approved for the current county fiscal year or some
 258 lesser amount adopted by the corporation.

259 (d) To use the reserve, the corporation must request a
 260 budget amendment pursuant to s. 216.292.

261 (5)(4) The corporation may approve increases or decreases

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262 to the previously authorized budgets approved for ~~individual~~
 263 clerks of the court pursuant to s. 28.35 for court-related
 264 functions, if:

265 (a) The additional budget authority is necessary to pay the
 266 cost of performing new or additional functions required by
 267 changes in law or court rule; or

268 (b) The additional budget authority is necessary to pay the
 269 cost of supporting increases in the number of judges or
 270 magistrates authorized by the Legislature, or for increases in
 271 the use of hearing officers and senior judges assigned by the
 272 courts.

273 Section 4. Effective upon this act becoming a law, section
 274 28.37, Florida Statutes, is amended to read:

275 28.37 Fines, fees, service charges, and costs remitted to
 276 the state.—

277 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
 278 selected salaries, costs, and expenses of the state courts
 279 system and court-related functions shall be funded from a
 280 portion of the revenues derived from statutory fines, fees,
 281 service charges, and court costs collected by the clerks of the
 282 court, and from adequate and appropriate supplemental funding
 283 from state revenues as appropriated by the Legislature.

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

285 (a) "Cumulative excess" means revenues derived from fines,
 286 fees, service charges, and court costs collected by the clerks
 287 of the court which are greater than the original revenue
 288 projection.

289 (b) "Original revenue projection" means the official
 290 estimate, as determined by the Revenue Estimating Conference, of

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291 revenues from fines, fees, service charges, and court costs
 292 available for court-related functions for the county fiscal year
 293 covered by the projection.

294 ~~(3) The Beginning November 1, 2013, that~~ portion of all
 295 fines, fees, service charges, and costs collected by the clerks
 296 of the court for the previous month which is in excess of one-
 297 twelfth of the clerks' total budget for the performance of
 298 court-related functions must ~~shall~~ be remitted to the Department
 299 of Revenue for deposit into the Clerks of the Court Trust Fund.
 300 Such collections do not include funding received for the
 301 operation of the Title IV-D child support collections and
 302 disbursement program. The clerk of the court shall remit the
 303 revenues collected during the previous month due to the state on
 304 or before the 10th day of each month.

305 (4) (a) (3) (a) Each year, no later than January 25, for the
 306 previous county fiscal year, the clerks of court, in
 307 consultation with the Florida Clerks of Court Operations
 308 Corporation, shall remit to the Department of Revenue for
 309 deposit in the Clerks of the Court Trust Fund the cumulative
 310 excess of all fines, fees, service charges, and court costs
 311 retained by the clerks of the court, plus any funds received by
 312 the clerks of the court from the Clerks of the Court Trust Fund
 313 under s. 28.36(4) ~~s. 28.36(3)~~, which exceed the amount needed to
 314 meet their authorized budget amounts established under s. 28.35.

315 (b) No later than February 1, 2022, and each February 1
 316 thereafter, the Department of Revenue shall transfer 50 percent
 317 of the cumulative excess of the original revenue projection from
 318 the Clerks of the Court Trust Fund to the General Revenue Fund.
 319 The remaining 50 percent in the Clerks of the Court Trust Fund

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320 may be used in the development of the total combined budgets of
 321 the clerks of the court as provided in s. 28.35(2)(f)6. However,
 322 a minimum of 10 percent of the clerk-retained portion of the
 323 cumulative excess amount must be held in reserve until such
 324 funds reach an amount equal to at least 16 percent of the total
 325 budget authority from the current county fiscal year, as
 326 provided in s. 28.36(3)(a)

327 ~~1. No later than February 1, 2020, the Department of~~
 328 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
 329 ~~to the General Revenue Fund the sum of the cumulative excess of~~
 330 ~~all fines, fees, service charges, and costs submitted by the~~
 331 ~~clerks of court pursuant to subsection (2) and the cumulative~~
 332 ~~excess of all fines, fees, service charges, and costs remitted~~
 333 ~~by the clerks of court pursuant to paragraph (a) in excess of~~
 334 ~~\$10 million.~~

335 ~~2. No later than February 1, 2021, the Department of~~
 336 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
 337 ~~to the General Revenue Fund not less than 50 percent of the sum~~
 338 ~~of the cumulative excess of all fines, fees, service charges,~~
 339 ~~and costs submitted by the clerks of court pursuant to~~
 340 ~~subsection (2) and the cumulative excess of all fines, fees,~~
 341 ~~service charges, and costs remitted by the clerks of court~~
 342 ~~pursuant to paragraph (a); provided however, the balance~~
 343 ~~remaining in the Clerks of Courts Trust Fund after such transfer~~
 344 ~~may not be more than \$20 million.~~

345 ~~3. No later than February 1, 2022, the Department of~~
 346 ~~Revenue shall transfer from the Clerks of the Court Trust Fund~~
 347 ~~to the General Revenue Fund not less than 50 percent of the sum~~
 348 ~~of the cumulative excess of all fines, fees, service charges,~~

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349 and costs submitted by the clerks of court pursuant to
 350 subsection (2) and the cumulative excess of all fines, fees,
 351 service charges, and costs remitted by the clerks of court
 352 pursuant to paragraph (a); provided however, the balance
 353 remaining in the Clerks of Courts Trust Fund after such transfer
 354 may not be more than \$20 million.

355 ~~4. No later than February 1, 2023, and each February 1~~
 356 ~~thereafter, the Department of Revenue shall transfer from the~~
 357 ~~Clerks of the Court Trust Fund to the General Revenue Fund the~~
 358 ~~cumulative excess of all fines, fees, service charges, and costs~~
 359 ~~submitted by the clerks of court pursuant to subsection (2) and~~
 360 ~~the cumulative excess of all fines, fees, service charges, and~~
 361 ~~costs remitted by the clerks of court pursuant to paragraph (a).~~

362 (5)(4) The Department of Revenue shall collect any funds
 363 that the Florida Clerks of Court Operations Corporation
 364 determines upon investigation were due but not remitted to the
 365 Department of Revenue. The corporation shall notify the clerk of
 366 the court and the Department of Revenue of the amount due to the
 367 Department of Revenue. The clerk of the court shall remit the
 368 amount due no later than the 10th day of the month following the
 369 month in which notice is provided by the corporation to the
 370 clerk of the court.

371 (6)(5) Ten percent of all court-related fines collected by
 372 the clerk, except for penalties or fines distributed to counties
 373 or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
 374 must shall be deposited into the fine and forfeiture fund to be
 375 used exclusively for clerk court-related functions, as provided
 376 in s. 28.35(3)(a).

377 Section 5. Section 28.42, Florida Statutes, is amended to

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378 read:

379 28.42 Manual of filing fees, charges, costs, and fines;
 380 payment plan form.

381 (1) The clerks of court, through their association and in
 382 consultation with the Office of the State Courts Administrator,
 383 shall prepare and disseminate a manual of filing fees, service
 384 charges, costs, and fines imposed pursuant to state law, for
 385 each type of action and offense, and classified as mandatory or
 386 discretionary. The manual also shall classify the fee, charge,
 387 cost, or fine as court-related revenue or noncourt-related
 388 revenue. The clerks, through their association, shall
 389 disseminate this manual to the chief judge, state attorney,
 390 public defender, and court administrator in each circuit and to
 391 the clerk of the court in each county. The clerks, through their
 392 association and in consultation with the Office of the State
 393 Courts Administrator, shall at a minimum update and disseminate
 394 this manual on July 1 of each year.

395 (2) By October 1, 2021, the clerks of court, through the
 396 Florida Clerks of Court Operations Corporation, shall develop a
 397 uniform payment plan form for use by persons seeking to
 398 establish a payment plan in accordance with s. 28.246(4). The
 399 form must inform the person of the minimum payment due each
 400 month, the term of the plan, acceptable payment methods, and the
 401 circumstances under which a case may be sent to collections for
 402 nonpayment.

403 (3) By January 1, 2022, each clerk of court shall use the
 404 uniform payment plan form developed pursuant to subsection (2)
 405 when establishing payment plans.

406 Section 6. Paragraph (a) of subsection (1) of section

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407 318.15, Florida Statutes, is amended to read:

408 318.15 Failure to comply with civil penalty or to appear;
409 penalty.—

410 (1) (a) If a person fails to comply with the civil penalties
411 provided in s. 318.18 within the time period specified in s.
412 318.14(4), fails to enter into or comply with the terms of a
413 penalty payment plan with the clerk of the court in accordance
414 with ss. 318.14 and 28.246, fails to attend driver improvement
415 school, or fails to appear at a scheduled hearing, the clerk of
416 the court must ~~shall~~ notify the Department of Highway Safety and
417 Motor Vehicles of such failure within 10 days after such
418 failure. Upon receipt of such notice, the department must ~~shall~~
419 immediately issue an order suspending the driver license and
420 privilege to drive of such person effective 20 days after the
421 date the order of suspension is mailed in accordance with s.
422 322.251(1), (2), and (6). The order also must inform the person
423 that he or she may contact the clerk of the court to establish a
424 payment plan pursuant to s. 28.246(4) to make partial payments
425 for court-related fines, fees, service charges, and court costs.
426 Any such suspension of the driving privilege which has not been
427 reinstated, including a similar suspension imposed outside of
428 this state Florida, must ~~shall~~ remain on the records of the
429 department for a period of 7 years from the date imposed and
430 must ~~shall~~ be removed from the records after the expiration of 7
431 years from the date it is imposed. The department may not accept
432 the resubmission of such suspension.

433 Section 7. Section 318.20, Florida Statutes, is amended to
434 read:

435 318.20 Notification; duties of department.—The department

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

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436 shall prepare a notification form to be appended to, or
437 incorporated as a part of, the Florida uniform traffic citation
438 issued in accordance with s. 316.650. The notification form must
439 ~~shall~~ contain language informing persons charged with
440 infractions to which this chapter applies of the procedures
441 available to them under this chapter. Such notification form
442 must ~~shall~~ contain a statement that, if the official determines
443 that no infraction has been committed, no costs or penalties may
444 ~~shall~~ be imposed and any costs or penalties that which have been
445 paid will ~~shall~~ be returned. Additionally, the notification form
446 must include information on paying the civil penalty to the
447 clerk of the court and the ability to establish a payment plan
448 pursuant to s. 28.246(4). A uniform traffic citation that is
449 produced electronically must also include the information
450 required by this section.

451 Section 8. Subsections (1) and (3) and paragraph (a) of
452 subsection (5) of section 322.245, Florida Statutes, are amended
453 to read:

454 322.245 Suspension of license upon failure of person
455 charged with specified offense under chapter 316, chapter 320,
456 or this chapter to comply with directives ordered by traffic
457 court or upon failure to pay child support in non-IV-D cases as
458 provided in chapter 61 or failure to pay any financial
459 obligation in any other criminal case.—

460 (1) If a person charged with a violation of any of the
461 criminal offenses enumerated in s. 318.17 or with the commission
462 of any offense constituting a misdemeanor under chapter 320 or
463 this chapter fails to comply with all of the directives of the
464 court within the time allotted by the court, the clerk of the

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

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465 ~~traffic court must provide shall mail to~~ the person, either
 466 electronically or by mail sent to at the address specified on
 467 the uniform traffic citation, a notice of such failure,
 468 notifying him or her that, if he or she does not comply with the
 469 directives of the court within 30 days after the date of the
 470 notice and pay a delinquency fee of up to \$25 to the clerk, from
 471 which the clerk shall remit \$10 to the Department of Revenue for
 472 deposit into the General Revenue Fund, his or her driver license
 473 will be suspended. The notice ~~must shall~~ be sent mailed no later
 474 than 5 days after such failure. The delinquency fee may be
 475 retained by the office of the clerk to defray the operating
 476 costs of the office.

477 (3) If the person fails to comply with the directives of
 478 the court within the 30-day period, or, in non-IV-D cases, fails
 479 to comply with the requirements of s. 61.13016 within the period
 480 specified in that statute, the depository or the clerk of the
 481 court ~~must shall~~ electronically notify the department of such
 482 failure within 10 days. Upon electronic receipt of the notice,
 483 the department shall immediately issue an order suspending the
 484 person's driver license and privilege to drive effective 20 days
 485 after the date the order of suspension is mailed in accordance
 486 with s. 322.251(1), (2), and (6). The order of suspension must
 487 also contain information specifying that the person may contact
 488 the clerk of the court to establish a payment plan pursuant to
 489 s. 28.246(4) to make partial payments for fines, fees, service
 490 charges, and court costs.

491 (5) (a) When the department receives notice from a clerk of
 492 the court that a person licensed to operate a motor vehicle in
 493 this state under the provisions of this chapter has failed to

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494 pay financial obligations for any criminal offense other than
 495 those specified in subsection (1), in full or in part under a
 496 payment plan pursuant to s. 28.246(4), the department ~~must shall~~
 497 suspend the license of the person named in the notice. The
 498 department shall mail an order of suspension in accordance with
 499 s. 322.251(1), (2), and (6), which must also contain information
 500 specifying that the person may contact the clerk of the court to
 501 establish a payment plan pursuant to s. 28.246(4) to make
 502 partial payments for fines, fees, service charges, and court
 503 costs.

504 Section 9. Present subsection (3) of section 775.083,
 505 Florida Statutes, is redesignated as subsection (4), and a new
 506 subsection (3) is added to that section, to read:

507 775.083 Fines.—

508 (3) The clerk of the court of each county is the entity
 509 responsible for collecting payment of fines, fees, service
 510 charges, and court costs. Unless otherwise designated by the
 511 court, a person who has been ordered to pay court obligations
 512 under this section shall immediately contact the clerk to pay
 513 fines, fees, service charges, and court costs in full, or to
 514 apply for enrollment in a payment plan, pursuant to s.
 515 28.246(4).

516 Section 10. Except as otherwise expressly provided in this
 517 act, and except for this section, which shall take effect upon
 518 this act becoming a law, this act shall take effect October 1,
 519 2021.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/15/21

Meeting Date

CS/SB 838

Bill Number (if applicable)

Topic Clerks of Court

Amendment Barcode (if applicable)

Name Jason Welty

Job Title Budget & Communications Director

Address 2560 Barrington Circle

Phone 850 386 2723

City

State

Zip

Email jwelty@fleccc.org

Speaking: For Against Information

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

Representing Florida Clerks of Court Operations Corporation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21
Meeting Date

CS/53838
Bill Number (if applicable)

2124745DA
Amendment Barcode (if applicable)

Topic Clerks of Court

Name Jason Welty

Job Title Budget & Communications Director

Address 2560 Barrington Circle

Phone 8503862223

Tallahassee FL 32308
City State Zip

Email jwelty@flccoc.org

Speaking: For Against Information

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

Representing Florida Clerks of Court Operations Corporation

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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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

838
Bill Number (if applicable)

Topic SB 838 Clerks of the Circuit Court

Amendment Barcode (if applicable)

Name Jim Taylor

Job Title Government Relations Director for Hillsborough County

Address 601 E Kennedy Blvd Phone

Tampa FL 33611
City State Zip Email

Speaking: For Against Information

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

Representing Hillsborough County Board of County Commissioner

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 15, 2021

Meeting Date

SB 838

Bill Number (if applicable)

Topic Clerks of the Circuit Court

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland

FL

33802

Email shepp@thesoutherngroup.com

City

State

Zip

Speaking: For Against Information

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

Representing Polk County Clerk of Court

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

4-15-21

Meeting Date

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

SB 838

Bill Number (if applicable)

Topic Clerk of Courts

Amendment Barcode (if applicable)

Name Jenna Hodgens

Job Title Sr. Director, Government Relations

Address 601 E. Kennedy Blvd

Phone 813-307-7194

Street
City 1pa

State FL

Zip 33602

Email jenna.hodgens@hillsclerk.com

Speaking: For Against Information

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

Representing Hillsborough County Clerk + Comptroller ✓

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

838

Bill Number (if applicable)

Topic Clerks of the Circuit Court

Amendment Barcode (if applicable)

Name Jason Harrell

Job Title Director of Legislative & Public Affairs

Address 215 S. Monore Street, Suite 600

Phone 850-345-6835

Street

Tallahassee

FL

32301

Email jasonharrell@flclerks.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Court Clerks & Comptrollers

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

4/15/2021

Meeting Date

838

Bill Number (if applicable)

212474

Amendment Barcode (if applicable)

Topic Clerks of the Circuit Court

Name Jason Harrell

Job Title Director of Legislative & Public Affairs

Address 215 S. Monore Street, Suite 600

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-345-6835

Email jasonharrell@flclerks.com

Speaking: For Against Information

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

Representing Florida Court Clerks & Comptrollers

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 Appropriations

BILL: PCS/CS/SB 1024 (716122)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Brodeur and others

SUBJECT: Increasing Access to Mental Health Care

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1024 requires the Department of Financial Services (DFS) to submit a report to the Legislature and the Governor regarding complaints submitted by individuals covered by an individual or group health insurance policy or health maintenance organization (HMO) contract about the adequacy of coverage and access to mental health services. The report is due January 31, 2022.

Insurers and HMOs are required to provide insureds and subscribers a direct notice regarding the federal and state coverage requirements for mental health services, as well as contact information for the Division of Consumer Services within the DFS. Insurers and HMOs are also required to make this information available on their website.

The bill will have an insignificant fiscal impact on the DFS that can be absorbed within existing resources.

The bill is effective October 1, 2021.

II. Present Situation:

Mental health is a state of mind characterized by emotional well-being, good behavioral adjustment, relative freedom from anxiety and disabling symptoms, and a capacity to establish constructive relationships and cope with the ordinary demands and stresses of life.¹ Mental illness refers collectively to all diagnosable mental disorders – health conditions involving significant changes in thinking, emotion or behavior or distress or problems functioning in social, work, or family activities.² In the United States, mental illnesses are common. Nearly one in five U.S. adults, or 51.5 million people, in 2019, were living with a mental illness, which represents 20.6 percent of all U.S. adults.³ Mental illnesses include many different conditions that vary in degree of severity, ranging from mild to moderate to severe. Serious mental illness (SMI) is a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.⁴ The burden of mental illnesses is particularly concentrated among those who experience disability due to SMI. In 2019, there were an estimated 13.1 million adults aged 18 or older in the United States with SMI. This number represented 5.2 percent of all U.S. adults. In 2019, among the 13.1 million adults with SMI, 8.6 million (65.5 percent) received mental health treatment in the past year.⁵

Some mental health conditions have been identified as risk factors for developing a substance use disorder.⁶ For example, research suggests that people with mental illness may use drugs or alcohol as a form of self-medication.⁷ In the United States, approximately 8.2 million adults (3.4 percent of all adults) had co-occurring disorders, which is the existence of both a mental health and a substance use disorder.⁸

Mental Health Insurance Coverage in the Private Health Insurance Market

Federal Requirements

Prior to 1996, health insurance coverage for mental illness was generally not as comprehensive as coverage for medical and surgical benefits. In response, Congress enacted the Mental Health Parity Act of 1996⁹ (MHPA), which requires parity of medical and surgical benefits with mental health benefits for annual and aggregate lifetime limits of large group plans.

¹ American Psychological Association, APA Dictionary of Psychology, <https://dictionary.apa.org/mental-health> (last visited Feb. 20, 2021).

² American Psychological Association, What is Mental Illness? <https://www.psychiatry.org/patients-families/what-is-mental-illness> (last visited Jan. 30, 2021).

³ National Institute of Mental Health, *Mental Illness*, available at <https://www.nimh.nih.gov/health/statistics/mental-illness.shtml> (last viewed Feb. 20, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ M. Baigent, Managing patients with dual diagnosis in psychiatric practice. *Curr Opin Psychiatry*. 2012;25(3):201-205.

⁷ K. Santucci, Psychiatric disease and drug abuse. *Curr Opin Pediatr*. 2012;24(2):233-237.

⁸ Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health (Sep. 2017), available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.pdf> (last viewed Feb. 20, 2021).

⁹ Pub. L. No. 104-204.

In 2008, Congress passed the Mental Health Parity and Addiction Equity Act¹⁰ (MHPAEA), which generally applies to large group health plans.¹¹ The MHPAEA expanded parity of coverage to include financial requirements, treatment limitations, and in- and out-of-network coverage if a plan provided coverage for mental illness. The MHPAEA also applies to the treatment of substance use disorders.¹² Like the MHPA, the MHPAEA does not require large groups to provide benefits for mental health or substance use disorders. The MHPAEA contains a cost exemption, which allows a group health plan to receive a waiver, exempting them from some of the key requirements, if the plan demonstrates that costs increased at least one percent because of compliance.¹³

In 2010, the Patient Protection and Affordable Care Act¹⁴ (PPACA) amended the MHPAEA to apply the provisions to individual health insurance coverage. The PPACA mandates that qualified health plans must provide coverage of 10 essential health benefits,¹⁵ including coverage for mental health and substance use disorders for individual and small group qualified health plans. The final rule, implementing these provisions, generally requires health insurers offering health insurance coverage in the individual and small group markets to comply with the requirements of the MHPAEA regulations in order to satisfy the essential health benefit requirement.¹⁶

State Requirements

Section 627.668, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for mental and nervous disorders for an appropriate additional premium that would include specified benefits. Section 627.669, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for substance abuse that would include certain benefits.

Department of Financial Services

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the chief fiscal officer of the State of Florida,¹⁷ is designated as the State Fire Marshal,¹⁸ and is known as the Treasurer.¹⁹ The CFO is the head of the DFS.²⁰ Section 20.121, F.S., establishes the Office of

¹⁰ Pub. L. No. 110-343.

¹¹ 45 CFR Parts 146 and 147.

¹² 45 CFR Parts 146 and 160.

¹³ Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least two percent in the first year that MHPAEA applies to the plan or coverage or at least one percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage. These exemptions last one year. After that, the plan or coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least one percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year.

¹⁴ Pub. L. No. 111-148, as amended by Pub. L. No. 111-152.

¹⁵ 45 CFR s. 156.115.

¹⁶ 45 CFR ss. 147.150 and 156.115.

¹⁷ FLA. CONST. art. IV, s. 4.

¹⁸ Section 633.104(1), F.S.

¹⁹ Section 20.121, F.S.

²⁰ *Id.*

the Insurance Consumer Advocate and numerous divisions within the DFS, including the Division of Consumer Services.

Division of Consumer Services

The Division of Consumer Services (division) of the DFS assists consumers with issues and complaints related to products or services regulated by the DFS or the Office of Insurance (OIR). The division:

- Receives inquiries and complaints from consumers;
- Prepares and disseminates information as the DFS deems appropriate to inform or assist consumers;
- Provides direct assistance and advocacy for consumers; and
- Reports potential violations of law or applicable rules by a person or entity licensed by the DFS or the OIR to the appropriate division within the DFS or the OIR, as applicable.²¹

A consumer may request assistance from the division regarding coverage questions and concerns, or file a formal complaint by telephone, email, or online.²² An insurer or other entity licensed or issued a certificate of authority by the DFS or the OIR must respond in writing to the division within 20 days after receipt of a written request for information from the division concerning a consumer complaint.²³ The division may impose an administrative penalty on an entity licensed by the DFS or the OIR that fails to respond to the division.²⁴

The division currently tracks and monitors complaint activity using a database known as ServicePoint.²⁵ The division can generate reports, by request, on any entity, individual, line of business, or reason by accessing ServicePoint codes along with the use of key word searches. Individuals requesting reports can request any key words to be used in their report request. The division refers managed care consumer complaints regarding allegations of lack of an adequate provider network to the agency once the division has assisted the individual to the extent of its ability.²⁶

The Office of Insurance Regulation

The OIR regulates insurers, HMOs, and other risk-bearing entities.²⁷ Rates and forms of health insurers and HMOs are subject to prior approval by the OIR.²⁸ The OIR reviews health insurance rates and forms for compliance with state and federal laws, such as the MHPAEA.²⁹ The OIR communicates any violations of MHPAEA to the insurer or HMO. If the insurer or HMO fails to

²¹ Section 624.307(10), F.S.

²² DFS, Division of Consumer Services, *File an insurance complaint*, at <https://www.myfloridacfo.com/Division/Consumers/needourhelp.htm> (last viewed Feb. 24, 2021).

²³ Section 624.307(10)(b), F.S.

²⁴ *Id.*

²⁵ DFS, *2021 Legislative Bill Analysis of SB 1024* (Feb. 25, 2021).

²⁶ *Id.*

²⁷ Section 20.121(3)(a), F.S.

²⁸ Sections 627.410, 627.411, and 627.413, F.S.

²⁹ Office of Insurance Regulation, MHPAEA Compliance Checklist to be Completed by Regulated Entity, <https://www.floir.com/sitedocuments/2021ACAEnhancedAttestation.pdf> (last viewed Feb. 21, 2021).

correct the issue, the OIR would refer the issue to the appropriate federal regulator as a possible violation of federal law.³⁰

III. Effect of Proposed Changes:

Section 1 creates s. 624.36, F.S., to require the DFS to submit a report by January 31, 2022, to the Legislature and the Governor regarding the disposition of complaints relating to access and affordability of mental health services and benefits during the prior calendar year. The report must include all of the following information:

- The total number of complaints received.
- The nature of the complaints; including but not limited to, concerns related to access to providers, facilities, and inpatient or outpatient services; affordability of services. equivalency of mental health benefits with respect to medical and surgical benefits; quality of care; and denial of services.
- The disposition of complaints.
- Any recommendations made by the DFS to the Legislature for ensuring access to and the affordability of mental health services to insureds and subscribers.

Further, the section also requires the DFS to make available on its website a description of mental health benefits required to be made available pursuant to state and federal law for individual and group policies and contracts.

Sections 2 and 3 create ss. 627.4215 and 641.31085, F.S., to require health insurers and HMOs, respectively, to provide direct notices to insureds and subscribers and make information available on their websites. Health insurers and HMOs are required to provide insureds and subscribers an annual direct notice regarding the federal and state requirements for coverage of mental health services, as well as contact information for the DFS' Division of Consumer Services. Further, insurers and HMOs are required to make the same information contained in the written notices available at their respective websites.

Section 4 provides the bill has an effective date of October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁰ Section 624.26(2), F.S.

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 written disclosures regarding the state and federal mental health coverage requirements and the contact information for the DFS Consumer Hotline that insurers and HMOs would provide insureds and subscribers may assist insureds and subscribers in understanding their coverage and obtaining mental health services.

C. Government Sector Impact:

Department of Financial Services³¹

The fiscal impact is indeterminate. The Division of Consumer Services of the DFS currently uses a database for monitoring and tracking complaints and generating reports. The DFS may incur insignificant costs associated with producing a complaint report for the prior calendar year and modifying their website to include a description of mental health benefits required to be made available pursuant to state and federal law. These costs can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 624.36, 627.4215, and 641.31085.

³¹ See *Supra* note 36.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee Agriculture, Environment, and General Government on March 24, 2021:

The committee substitute clarifies that health insurers and HMOs shall provide direct versus written notice to insurers and subscribers, respectively, on an annual basis.

CS by Banking and Insurance on March 10, 2021:

The CS:

- Requires the DFS to submit a report to the Legislature and the Governor using information generated from their current complaint database and eliminates the requirement that the Agency for Health Care Administration collaborate on complaint tracking and the issuance of a joint report with the DFS.
- Revises the information that must be included in the DFS report about complaints received from insureds and subscribers relating to the access and affordability of mental health services and benefits.
- Requires the DFS to make available on their website a description of mental health benefits required to be made available pursuant to state and federal laws for individual and group policies and contracts.
- Requires insurers and HMOs to provide written notices to insureds and subscribers, respectively, and information on their website regarding federal and state requirements for coverage of mental health services and contact information for the Division of Consumer Services of the DFS.
- Revises the report due date from January 1, 2022, to January 31, 2022 and the effective date of the bill from July 1, 2021, to October 1, 2021.

- B. **Amendments:**

None.



716122

576-03361-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to increasing access to mental health
care; creating s. 624.36, F.S.; requiring the
Department of Financial Services to submit a specified
report to the Governor and Legislature by a specified
date; specifying the minimum information the report
must contain; requiring the department to make certain
information available on its website; creating ss.
627.4215 and 641.31085, F.S.; requiring insurers and
health maintenance organizations, respectively, to
disclose specified information on their websites;
requiring insurers and health maintenance
organizations, respectively, to annually provide
certain direct notices to insureds or subscribers;
providing an effective date.

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

Section 1. Section 624.36, Florida Statutes, is created to
read:

624.36 Coverage of and access to mental health services;
complaints; reporting.-

(1) By January 31, 2022, the department shall submit a
report to the Governor, the President of the Senate, and the
Speaker of the House of Representatives relating to the
disposition of complaints received from insureds and subscribers



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of insurers or health maintenance organizations regulated by the
office relating to the access and affordability of mental health
services and benefits during the prior calendar year. At a
minimum, the report must include all of the following
information:

(a) The total number of complaints received.

(b) The nature of complaints, including, but not limited
to, concerns related to access to in-network providers or
facilities; access to inpatient or outpatient services;
availability of specialists; affordability of services;
equivalency of mental health benefits with respect to medical
and surgical benefits; quality of care; and denial of services,
including the types of services denied and the stated reason for
the denials.

(c) The disposition of complaints.

(d) Any recommendations made by the department to the
Legislature for ensuring access to and the affordability of
mental health services to insureds and subscribers.

(2) The department shall make available on its website a
description of mental health benefits required to be made
available pursuant to s. 627.668 and federal law for individual
and group policies and contracts.

Section 2. Section 627.4215, Florida Statutes, is created
to read:

627.4215 Disclosures to policyholders; coverage of mental
and nervous disorders.-

(1) An insurer shall make all of the following information
available on its website:

(a) The federal and state requirements for coverage of



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56 mental health services.

57 (b) Contact information for the Division of Consumer
58 Services of the Department of Financial Services, including a
59 hyperlink, for consumers to submit inquiries or complaints
60 relating to insurer or health maintenance organization products
61 or services regulated by the department or the office.

62 (2) On an annual basis, an insurer shall provide direct
63 notice to insureds which must include a description of the
64 federal and state requirements for coverage of mental health
65 services. Such notice must also include the website address and
66 statewide toll-free telephone number of the Division of Consumer
67 Services of the department for receiving and logging complaints.

68 Section 3. Section 641.31085, Florida Statutes, is created
69 to read:

70 641.31085 Disclosures to subscribers; coverage of mental
71 and nervous disorders.-

72 (1) A health maintenance organization shall make all of the
73 following information available on its website:

74 (a) The federal and state requirements for coverage of
75 mental health services.

76 (b) Contact information for the Division of Consumer
77 Services of the Department of Financial Services, including a
78 hyperlink, for consumers to submit inquiries or complaints
79 relating to insurer or health maintenance organization products
80 or services regulated by the department or the office.

81 (2) On an annual basis, a health maintenance organization
82 shall provide direct notice to subscribers which must include a
83 description of the federal and state requirements for coverage
84 of mental health services. Such notice must also include the



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85 website address and statewide toll-free telephone number of the
86 Division of Consumer Services of the department for receiving
87 and logging complaints.

88 Section 4. This act shall take effect October 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 Appropriations

BILL: CS/CS/SB 1024

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Brodeur and others

SUBJECT: Increasing Access to Mental Health Care

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1024 requires the Department of Financial Services (DFS) to submit a report to the Legislature and the Governor regarding complaints submitted by individuals covered by an individual or group health insurance policy or health maintenance organization (HMO) contract about the adequacy of coverage and access to mental health services. The report is due January 31, 2022.

Insurers and HMOs are required to provide insureds and subscribers a direct notice regarding the federal and state coverage requirements for mental health services, as well as contact information for the Division of Consumer Services within the DFS. Insurers and HMOs are also required to make this information available on their website.

The bill will have an insignificant fiscal impact on the DFS that can be absorbed within existing resources.

The bill is effective October 1, 2021.

II. Present Situation:

Mental health is a state of mind characterized by emotional well-being, good behavioral adjustment, relative freedom from anxiety and disabling symptoms, and a capacity to establish constructive relationships and cope with the ordinary demands and stresses of life.¹ Mental illness refers collectively to all diagnosable mental disorders – health conditions involving significant changes in thinking, emotion or behavior or distress or problems functioning in social, work, or family activities.² In the United States, mental illnesses are common. Nearly one in five U.S. adults, or 51.5 million people, in 2019, were living with a mental illness, which represents 20.6 percent of all U.S. adults.³ Mental illnesses include many different conditions that vary in degree of severity, ranging from mild to moderate to severe. Serious mental illness (SMI) is a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.⁴ The burden of mental illnesses is particularly concentrated among those who experience disability due to SMI. In 2019, there were an estimated 13.1 million adults aged 18 or older in the United States with SMI. This number represented 5.2 percent of all U.S. adults. In 2019, among the 13.1 million adults with SMI, 8.6 million (65.5 percent) received mental health treatment in the past year.⁵

Some mental health conditions have been identified as risk factors for developing a substance use disorder.⁶ For example, research suggests that people with mental illness may use drugs or alcohol as a form of self-medication.⁷ In the United States, approximately 8.2 million adults (3.4 percent of all adults) had co-occurring disorders, which is the existence of both a mental health and a substance use disorder.⁸

Mental Health Insurance Coverage in the Private Health Insurance Market

Federal Requirements

Prior to 1996, health insurance coverage for mental illness was generally not as comprehensive as coverage for medical and surgical benefits. In response, Congress enacted the Mental Health Parity Act of 1996⁹ (MHPA), which requires parity of medical and surgical benefits with mental health benefits for annual and aggregate lifetime limits of large group plans.

¹ American Psychological Association, APA Dictionary of Psychology, <https://dictionary.apa.org/mental-health> (last visited Feb. 20, 2021).

² American Psychological Association, What is Mental Illness? <https://www.psychiatry.org/patients-families/what-is-mental-illness> (last visited Jan. 30, 2021).

³ National Institute of Mental Health, *Mental Illness*, available at <https://www.nimh.nih.gov/health/statistics/mental-illness.shtml> (last viewed Feb. 20, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ M. Baigent, Managing patients with dual diagnosis in psychiatric practice. *Curr Opin Psychiatry*. 2012;25(3):201-205.

⁷ K. Santucci, Psychiatric disease and drug abuse. *Curr Opin Pediatr*. 2012;24(2):233-237.

⁸ Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health (Sep. 2017), available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.pdf> (last viewed Feb. 20, 2021).

⁹ Pub. L. No. 104-204.

In 2008, Congress passed the Mental Health Parity and Addiction Equity Act¹⁰ (MHPAEA), which generally applies to large group health plans.¹¹ The MHPAEA expanded parity of coverage to include financial requirements, treatment limitations, and in- and out-of-network coverage if a plan provided coverage for mental illness. The MHPAEA also applies to the treatment of substance use disorders.¹² Like the MHPA, the MHPAEA does not require large groups to provide benefits for mental health or substance use disorders. The MHPAEA contains a cost exemption, which allows a group health plan to receive a waiver, exempting them from some of the key requirements, if the plan demonstrates that costs increased at least one percent because of compliance.¹³

In 2010, the Patient Protection and Affordable Care Act¹⁴ (PPACA) amended the MHPAEA to apply the provisions to individual health insurance coverage. The PPACA mandates that qualified health plans must provide coverage of 10 essential health benefits,¹⁵ including coverage for mental health and substance use disorders for individual and small group qualified health plans. The final rule, implementing these provisions, generally requires health insurers offering health insurance coverage in the individual and small group markets to comply with the requirements of the MHPAEA regulations in order to satisfy the essential health benefit requirement.¹⁶

State Requirements

Section 627.668, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for mental and nervous disorders for an appropriate additional premium that would include specified benefits. Section 627.669, F.S., requires insurers and HMOs offering group coverage to make available optional coverage for substance abuse that would include certain benefits.

Department of Financial Services

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the chief fiscal officer of the State of Florida,¹⁷ is designated as the State Fire Marshal,¹⁸ and is known as the Treasurer.¹⁹ The CFO is the head of the DFS.²⁰ Section 20.121, F.S., establishes the Office of

¹⁰ Pub. L. No. 110-343.

¹¹ 45 CFR Parts 146 and 147.

¹² 45 CFR Parts 146 and 160.

¹³ Plans and issuers that make changes to comply with MHPAEA and incur an increased cost of at least two percent in the first year that MHPAEA applies to the plan or coverage or at least one percent in any subsequent plan year may claim an exemption from MHPAEA based on their increased cost. If such a cost is incurred, the plan or coverage is exempt from MHPAEA requirements for the plan or policy year following the year the cost was incurred. The plan sponsors or issuers must notify the plan beneficiaries that MHPAEA does not apply to their coverage. These exemptions last one year. After that, the plan or coverage is required to comply again; however, if the plan or coverage incurs an increased cost of at least one percent in that plan or policy year, the plan or coverage could claim the exemption for the following plan or policy year.

¹⁴ Pub. L. No. 111-148, as amended by Pub. L. No. 111-152.

¹⁵ 45 CFR s. 156.115.

¹⁶ 45 CFR ss. 147.150 and 156.115.

¹⁷ FLA. CONST. art. IV, s. 4.

¹⁸ Section 633.104(1), F.S.

¹⁹ Section 20.121, F.S.

²⁰ Id.

the Insurance Consumer Advocate and numerous divisions within the DFS, including the Division of Consumer Services.

Division of Consumer Services

The Division of Consumer Services (division) of the DFS assists consumers with issues and complaints related to products or services regulated by the DFS or the Office of Insurance (OIR). The division:

- Receives inquiries and complaints from consumers;
- Prepares and disseminates information as the DFS deems appropriate to inform or assist consumers;
- Provides direct assistance and advocacy for consumers; and
- Reports potential violations of law or applicable rules by a person or entity licensed by the DFS or the OIR to the appropriate division within the DFS or the OIR, as applicable.²¹

A consumer may request assistance from the division regarding coverage questions and concerns, or file a formal complaint by telephone, email, or online.²² An insurer or other entity licensed or issued a certificate of authority by the DFS or the OIR must respond in writing to the division within 20 days after receipt of a written request for information from the division concerning a consumer complaint.²³ The division may impose an administrative penalty on an entity licensed by the DFS or the OIR that fails to respond to the division.²⁴

The division currently tracks and monitors complaint activity using a database known as ServicePoint.²⁵ The division can generate reports, by request, on any entity, individual, line of business, or reason by accessing ServicePoint codes along with the use of key word searches. Individuals requesting reports can request any key words to be used in their report request. The division refers managed care consumer complaints regarding allegations of lack of an adequate provider network to the agency once the division has assisted the individual to the extent of its ability.²⁶

The Office of Insurance Regulation

The OIR regulates insurers, HMOs, and other risk-bearing entities.²⁷ Rates and forms of health insurers and HMOs are subject to prior approval by the OIR.²⁸ The OIR reviews health insurance rates and forms for compliance with state and federal laws, such as the MHPAEA.²⁹ The OIR communicates any violations of MHPAEA to the insurer or HMO. If the insurer or HMO fails to

²¹ Section 624.307(10), F.S.

²² DFS, Division of Consumer Services, *File an insurance complaint*, at <https://www.myfloridacfo.com/Division/Consumers/needourhelp.htm> (last viewed Feb. 24, 2021).

²³ Section 624.307(10)(b), F.S.

²⁴ *Id.*

²⁵ DFS, *2021 Legislative Bill Analysis of SB 1024* (Feb. 25, 2021).

²⁶ *Id.*

²⁷ Section 20.121(3)(a), F.S.

²⁸ Sections 627.410, 627.411, and 627.413, F.S.

²⁹ Office of Insurance Regulation, MHPAEA Compliance Checklist to be Completed by Regulated Entity, <https://www.floir.com/sitedocuments/2021ACAEnhancedAttestation.pdf> (last viewed Feb. 21, 2021).

correct the issue, the OIR would refer the issue to the appropriate federal regulator as a possible violation of federal law.³⁰

III. Effect of Proposed Changes:

Section 1 creates s. 624.36, F.S., to require the DFS to submit a report by January 31, 2022, to the Legislature and the Governor regarding the disposition of complaints relating to access and affordability of mental health services and benefits during the prior calendar year. The report must include all of the following information:

- The total number of complaints received.
- The nature of the complaints; including but not limited to, concerns related to access to providers, facilities, and inpatient or outpatient services; affordability of services. equivalency of mental health benefits with respect to medical and surgical benefits; quality of care; and denial of services.
- The disposition of complaints.
- Any recommendations made by the DFS to the Legislature for ensuring access to and the affordability of mental health services to insureds and subscribers.

Further, the section also requires the DFS to make available on its website a description of mental health benefits required to be made available pursuant to state and federal law for individual and group policies and contracts.

Sections 2 and 3 create ss. 627.4215 and 641.31085, F.S., to require health insurers and HMOs, respectively, to provide direct notices to insureds and subscribers and make information available on their websites. Health insurers and HMOs are required to provide insureds and subscribers an annual direct notice regarding the federal and state requirements for coverage of mental health services, as well as contact information for the DFS' Division of Consumer Services. Further, insurers and HMOs are required to make the same information contained in the written notices available at their respective websites.

Section 4 provides the bill has an effective date of October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁰ Section 624.26(2), F.S.

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 written disclosures regarding the state and federal mental health coverage requirements and the contact information for the DFS Consumer Hotline that insurers and HMOs would provide insureds and subscribers may assist insureds and subscribers in understanding their coverage and obtaining mental health services.

C. Government Sector Impact:

Department of Financial Services³¹

The fiscal impact is indeterminate. The Division of Consumer Services of the DFS currently uses a database for monitoring and tracking complaints and generating reports. The DFS may incur insignificant costs associated with producing a complaint report for the prior calendar year and modifying their website to include a description of mental health benefits required to be made available pursuant to state and federal law. These costs can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 624.36, 627.4215, and 641.31085.

³¹ See *Supra* note 36.

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 April 15, 2021:

The committee substitute clarifies that health insurers and HMOs shall provide direct versus written notice to insurers and subscribers, respectively, on an annual basis.

CS by Banking and Insurance on March 10, 2021:

The CS:

- Requires the DFS to submit a report to the Legislature and the Governor using information generated from their current complaint database and eliminates the requirement that the Agency for Health Care Administration collaborate on complaint tracking and the issuance of a joint report with the DFS.
- Revises the information that must be included in the DFS report about complaints received from insureds and subscribers relating to the access and affordability of mental health services and benefits.
- Requires the DFS to make available on their website a description of mental health benefits required to be made available pursuant to state and federal laws for individual and group policies and contracts.
- Requires insurers and HMOs to provide written notices to insureds and subscribers, respectively, and information on their website regarding federal and state requirements for coverage of mental health services and contact information for the Division of Consumer Services of the DFS.
- Revises the report due date from January 1, 2022, to January 31, 2022 and the effective date of the bill from July 1, 2021, to October 1, 2021.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senators Brodeur and Rouson

597-02653-21

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1 A bill to be entitled
 2 An act relating to increasing access to mental health
 3 care; creating s. 624.36, F.S.; requiring the
 4 Department of Financial Services to submit a specified
 5 report to the Governor and Legislature by a specified
 6 date; specifying the minimum information the report
 7 must contain; requiring the department to make certain
 8 information available on its website; creating ss.
 9 627.4215 and 641.31085, F.S.; requiring insurers and
 10 health maintenance organizations, respectively, to
 11 disclose specified information on their websites;
 12 requiring insurers and health maintenance
 13 organizations, respectively, to annually provide
 14 certain written notices to insureds or subscribers;
 15 providing an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Section 624.36, Florida Statutes, is created to
 20 read:
 21 624.36 Coverage of and access to mental health services;
 22 complaints; reporting.-
 23 (1) By January 31, 2022, the department shall submit a
 24 report to the Governor, the President of the Senate, and the
 25 Speaker of the House of Representatives relating to the
 26 disposition of complaints received from insureds and subscribers
 27 of insurers or health maintenance organizations regulated by the
 28 office relating to the access and affordability of mental health
 29 services and benefits during the prior calendar year. At a

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30 minimum, the report must include all of the following
 31 information:
 32 (a) The total number of complaints received.
 33 (b) The nature of complaints, including, but not limited
 34 to, concerns related to access to in-network providers or
 35 facilities; access to inpatient or outpatient services;
 36 availability of specialists; affordability of services;
 37 equivalency of mental health benefits with respect to medical
 38 and surgical benefits; quality of care; and denial of services,
 39 including the types of services denied and the stated reason for
 40 the denials.
 41 (c) The disposition of complaints.
 42 (d) Any recommendations made by the department to the
 43 Legislature for ensuring access to and the affordability of
 44 mental health services to insureds and subscribers.
 45 (2) The department shall make available on its website a
 46 description of mental health benefits required to be made
 47 available pursuant to s. 627.668 and federal law for individual
 48 and group policies and contracts.
 49 Section 2. Section 627.4215, Florida Statutes, is created
 50 to read:
 51 627.4215 Disclosures to policyholders; coverage of mental
 52 and nervous disorders.-
 53 (1) An insurer shall make all of the following information
 54 available on its website:
 55 (a) The federal and state requirements for coverage of
 56 mental health services.
 57 (b) Contact information for the Division of Consumer
 58 Services of the Department of Financial Services, including a

Page 2 of 4

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59 hyperlink, for consumers to submit inquiries or complaints
 60 relating to insurer or health maintenance organization products
 61 or services regulated by the department or the office.

62 (2) On an annual basis, an insurer shall provide written
 63 notice to insureds which must include a description of the
 64 federal and state requirements for coverage of mental health
 65 services. Such notice must also include the website address and
 66 statewide toll-free telephone number of the Division of Consumer
 67 Services of the department for receiving and logging complaints.

68 Section 3. Section 641.31085, Florida Statutes, is created
 69 to read:

70 641.31085 Disclosures to subscribers; coverage of mental
 71 and nervous disorders.-

72 (1) A health maintenance organization shall make all of the
 73 following information available on its website:

74 (a) The federal and state requirements for coverage of
 75 mental health services.

76 (b) Contact information for the Division of Consumer
 77 Services of the Department of Financial Services, including a
 78 hyperlink, for consumers to submit inquiries or complaints
 79 relating to insurer or health maintenance organization products
 80 or services regulated by the department or the office.

81 (2) On an annual basis, a health maintenance organization
 82 shall provide written notice to subscribers which must include a
 83 description of the federal and state requirements for coverage
 84 of mental health services. Such notice must also include the
 85 website address and statewide toll-free telephone number of the
 86 Division of Consumer Services of the department for receiving
 87 and logging complaints.

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88 Section 4. This act shall take effect October 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill 1024**, relating to Increasing Access to Mental Health Care, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 1086 (518944)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Operation and Safety of Motor Vehicles and Vessels

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1086 contains numerous changes to existing laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities.

Relating to rulemaking, the bill provides additional rulemaking authority to the FWC to implement provisions relating to derelict vessels.

Relating to boater safety, the bill:

- Effective October 1, 2021, revises conditions under which a person operating a motor vehicle or vessel commits a misdemeanor by failing to submit to breath or urine testing for alcohol, chemical substances, and controlled substances.
- Deletes the provisions establishing a misdemeanor for the refusal to submit to blood testing for alcohol, chemical substances, and controlled substances.
- Defines the term “human-powered vessel” and restricts the operation of such vessels within the boundaries of the Florida Intracoastal Waterway.
- Prohibits a livery from leasing, hiring, or renting a vessel to a person required to complete a FWC-approved boating safety education course, unless the person presents certain documentation indicating compliance.
- Revises boating-restricted areas to include certain areas around public or private marinas, permitted public mooring fields, and the Florida Intracoastal Waterway.

- Designates Monroe County as an anchoring limitation area under certain conditions.
- Authorizes the FWC to establish anchoring/mooring/beaching/grounding protection zones for springs.
- Prohibits the operation of vessels faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.

Relating to derelict vessels, the bill:

- Authorizes officers to provide in-person notice that a vessel is at risk of becoming derelict if there is a body camera recording.
- Authorizes law enforcement officers to relocate at-risk vessels to a certain distance from mangroves or vegetation.
- Authorizes the FWC to establish a derelict vessel prevention program.
- Authorizes local governments to enact and enforce regulations to remove an abandoned or lost vessel affixed to a public mooring.
- Authorizes law enforcement officers to relocate or remove public nuisance vessels from the waters of this state.
- Prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict, and beginning in 2023, authorizes the DHSMV to reject an application for a certificate of title for a vessel that has been deemed derelict.
- Authorizes the FWC to provide local government grants for the destruction and disposal of derelict vessels.
- Creates specific procedures for derelict vessels or vessels that have been declared a public nuisance that are present on waters of this state, including notice and hearing requirements and liability for removal costs.
- Revises the definition of the term “derelict vessel” to specify requirements for a vessel to be considered “wrecked,” “junked,” or “substantially dismantled.”
- Authorizes certain governmental subdivisions to perform relocation or removal activities and specifies requirements for licensure, insurance, and equipment.

Relating to marine sanitation devices, the bill requires the owner/operator of a live-aboard vessel or houseboat equipped with a marine sanitation device to maintain records of each pump out.

Relating to penalties, the bill:

- Increases the civil penalties for a vessel deemed at risk of becoming derelict.
- Creates civil penalties for vessels creating special hazards as specified in the bill.
- Adds operating a human-powered vessel in the Intracoastal Waterway to the list of violations resulting in a noncriminal infraction.

Relating to spaceflight, the bill authorizes the FWC to establish temporary protective zones in certain water bodies in preparation for a launch service or reentry service, or for the recovery of spaceflight assets before or after a launch service or reentry service.

There may be a positive fiscal impact to the FWC due to the new and increased civil penalties provided under the bill. However, the FWC may also experience increased costs due to increased enforcement.

The bill provides that except as otherwise expressly provided, the effective date is July 1, 2021.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.² Under Article IV, Section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid the FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.³

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁴ The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.⁵ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁶

Boater Safety Education

A person born on or after January 1, 1988, who will be operating a boat in Florida waters with an engine of 10 horsepower or more, must obtain a Florida boating safety identification card.⁷ To obtain a card, a person must complete an approved boating safety course.⁸ There are several courses available at various price points ranging from free up to \$50.⁹ The course must meet the eight-hour instruction requirement established by the National Association of State Boating Law

¹ FLA. CONST. art. IV, s. 9.

² *Id.*; see also s. 379.102(1), F.S.

³ FLA. CONST. art. IV, s. 9.

⁴ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁵ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Feb. 13, 2021).

⁶ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Feb. 15, 2021). See s. 327.70(1) and (4), F.S.

⁷ Section 327.395(1), F.S.

⁸ FWC, *Boater Education Identification Card*, <https://myfwc.com/boating/safety-education/id/> (last visited Feb. 23, 2021).

This card is not a boating license; it is a certification that the person named on the card has successfully completed the required boating safety course.

⁹ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited Feb. 23, 2021).

Administrators and must include a component regarding diving vessels.¹⁰ The card is valid for life, unless it was obtained by passing a temporary certificate examination, in which case it is valid for 90 days after the date of issuance.¹¹

Certain persons are exempt from the requirement to obtain a boating safety identification card. A person is exempt if he or she:

- Is licensed by the United States Coast Guard (Coast Guard) to serve as master of a vessel.
- Operates a vessel only on a private lake or pond.
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalent examination in another state which meets or exceeds the requirements in Florida.
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale.
- Is operating a vessel within 90 days after completing the boater education course and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.
- Is exempted by FWC rule.¹²

A person who operates a vessel without the required boating safety identification card can be charged with a noncriminal infraction and is subject to a uniform boating citation and a \$50 civil penalty.¹³

A livery may not knowingly lease, hire, or rent vessels under certain conditions meant to ensure boater safety.¹⁴ A livery may also not knowingly lease, hire, or rent any vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless the person presents photographic identification and a valid boater safety identification card to the livery or meets one of the listed exemptions.¹⁵

Boating Safety Regulations

An operator of a vessel in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person

¹⁰ Section 327.395(1), F.S.

¹¹ Section 327.395(5), F.S.

¹² Section 327.395(6), F.S.

¹³ Section 327.73(1)(s), F.S.

¹⁴ Section 327.54(1), F.S. For example, vessels must have proper safety equipment and be seaworthy and the number of vessel occupants may not exceed the maximum safety load of the vessel.

¹⁵ Section 327.54(2), F.S.

outside the vessel or due to vessel overloading or excessive speed.¹⁶ Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.¹⁷

Vessel owners and operators must carry, store, maintain, and use safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.¹⁸ Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.¹⁹

Anchoring or Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.²⁰ Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²¹

State law prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.²² Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.²³

The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility (a facility that services or repairs a yacht with a water line of 120 feet or more in length); or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.²⁴

However, there are exceptions if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first; or

¹⁶ Section 327.33, F.S.

¹⁷ Section 327.73(h), F.S.

¹⁸ Section 327.50, F.S.

¹⁹ *Id.*

²⁰ Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

²¹ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf (last visited Mar. 10, 2021).

²² Section 327.44, F.S.

²³ Section 327.73, F.S.

²⁴ Section 327.4109(1)(a), F.S.

- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.²⁵

Additionally, the owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.²⁶

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.²⁷ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.²⁸

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²⁹ or live-aboard vessels³⁰ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.³¹ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.³²

Anchoring Limitation Areas

State law designates certain densely populated urban areas as anchoring limitation areas.³³ To promote the public's use and enjoyment of these waterways, anchoring a vessel is prohibited at any time between 30 minutes after sunset and 30 minutes before sunrise in an anchoring limitation area.³⁴ However, there are some exceptions where anchoring is permitted in an anchoring limitation area:

²⁵ Section 327.4109(2), F.S.

²⁶ Section 327.4109(3), F.S.

²⁷ See s. 373.118, F.S. and Fla. Admin. Code R. 62-330.420(1).

²⁸ See Fla. Admin. Code R. 62-330.420.

²⁹ Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

³⁰ Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats."

³¹ Section 327.60(3), F.S.

³² Section 327.60(2)(f), F.S.

³³ Section 327.4108(1), F.S.

³⁴ Section 327.4108(2), F.S.

- When a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors; or
- During certain special events.³⁵

Certain types of vessels are exempt from anchoring limitation areas, including certain government, construction, and fishing vessels.³⁶ Law enforcement officers or agencies may remove and impound vessels from anchoring limitation areas when a vessel operator who was previously issued a citation continues to anchor the vessel in or refuses to leave the anchoring limitation area.³⁷

Boating-Restricted Areas

The FWC may establish boating-restricted areas on the waters of this state for any purpose deemed necessary to ensure the safety of the public if the restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.³⁸ The FWC adopts boating-restricted areas by rule.³⁹

Each boating-restricted area must be developed in consultation and coordination with the governing body of the county or municipality in which the boating-restricted area is located. When the boating-restricted area is to be on the navigable waters of the United States, the FWC must consult and coordinate with the Coast Guard and the United States Army Corps of Engineers.⁴⁰

Local governments also have authority to establish boating-restricted areas by ordinance.⁴¹ These areas include, but are not limited to:

- Idle-speed, no wake areas;
- Slow speed, minimum wake areas; and
- Vessel-exclusion zones.

Local ordinances establishing boating-restricted areas are subject to FWC review and approval. The FWC must make its determination based on substantial competent evidence that the ordinance is necessary to protect public safety.⁴² However, navigational hazards are presumed to

³⁵ Section 327.4108(3), F.S.

³⁶ Section 327.4108(4), F.S.

³⁷ Section 327.4108(5), F.S.

³⁸ Section 327.46, F.S. Boating-restricted areas can include, but are not limited to, restrictions of vessel speeds and vessel traffic.

³⁹ See Fla. Admin. Code R. 68D-24, for established boating restricted areas by county.

⁴⁰ Section 327.46(3), F.S.

⁴¹ Section 327.46(1), F.S.

⁴² *Id.*

exist in several areas noted under FWC rule and statute.⁴³ In these cases, a showing of substantial competent evidence is not required.

Additionally, the Coast Guard can establish safety zones,⁴⁴ security zones,⁴⁵ regulated navigation areas,⁴⁶ or naval vessel protection zones⁴⁷ where persons may not knowingly operate a vessel or authorize the operation of a vessel in violation of the restrictions under the zone.⁴⁸ The restricted vessel access protects against destruction, loss, or injury from various causes.⁴⁹ Generally, the Coast Guard establishes security zones around vessels, harbors, ports, and waterfront facilities. The Coast Guard has established several safety zones, security zones, and regulated navigation areas in Florida,⁵⁰ including a security zone around the Kennedy Space Center.⁵¹

A person who knowingly operates a vessel or authorizes the operation of a vessel in violation of an established zone or area, and without authorization by the Coast Guard Captain of the Port, commits a misdemeanor of the first degree.⁵² A person who continues to do so after receiving a warning, or refusing to leave, commits a felony of the third degree.⁵³ State and local law enforcement may enforce these zones at the request of a federal authority if necessary to augment federal law enforcement efforts and if there is a compelling need to protect the residents and infrastructure of the state.⁵⁴

Protection Zones for Springs

The FWC is authorized to establish protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs, including negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.⁵⁵ To develop a springs protection zone, the FWC consults and coordinates with the appropriate water management district, the Department of Environmental Protection, and the county and municipality, if applicable, where the zone is located.⁵⁶

⁴³ *Id.*; Fla. Admin. Code R. 68D-21.004. Navigational hazards are presumed to exist in areas including: within certain distances of launching and landing facilities, fuel pumps, lock structures, bridge fenders; in certain small waterways or areas designated as a public bathing or swimming area; near certain bends in the waterway; areas subject to unsafe levels of vessel traffic congestion, hazardous water levels or currents; and canoe trails.

⁴⁴ 33 C.F.R. pt. 165 subpart C.

⁴⁵ 33 C.F.R. pt. 165 subpart D.

⁴⁶ 33 C.F.R. pt. 165 subpart B.

⁴⁷ 33 C.F.R. pt. 165 subpart G.

⁴⁸ Section 327.461(1)(a), F.S.

⁴⁹ 33 C.F.R. pt. 165; see United States Coast Guard, *Regulated Navigation Areas*, <https://www.dco.uscg.mil/RNA/> (last visited Feb. 17, 2021).

⁵⁰ 33 C.F.R. s. 165.T07-0794 - 165.786, providing safety and security zones and regulated navigation areas in the Seventh Coast Guard District.

⁵¹ 33 C.F.R. s. 165.701.

⁵² Section 327.461(2), (7), F.S.

⁵³ Section 327.461(3), F.S.

⁵⁴ Section 327.461(1)(a), F.S.

⁵⁵ Section 327.45(2), F.S.

⁵⁶ Section 327.45(3), F.S. If the zone includes navigable waters of the United States, FWC is required to coordinate with the United States Coast Guard and the United States Army Corps of Engineers.

The restrictions in a springs protection zone do not apply to certain law enforcement, firefighting, or rescue personnel operating a vessel in the course of performing their official duties, or in emergency situations.⁵⁷

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.⁵⁸ It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in this state.⁵⁹

At-Risk Vessels

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of this state.⁶⁰ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.⁶¹

Abandoned Vessels

“Abandoned property”⁶² means all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in s. 823.11, F.S.

When an article of lost or abandoned property is present on public property and is not easily removable, the law enforcement officer must place a notice of removal on the property. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.⁶³

⁵⁷ Section 327.45(5), F.S.

⁵⁸ Section 823.11(1)(b), F.S.

⁵⁹ Section 376.15, F.S.; s. 823.11(2), F.S.

⁶⁰ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

⁶¹ Section 327.4107, F.S.

⁶² Section 705.101(3), F.S.

⁶³ Section 705.103(2), F.S.

If, after five days of posting the notice and mailing such notice, the owner has not removed the items from public property or shown reasonable cause for failure to do so, the law enforcement agency may retain the property for its own use, trade the property, donate the property, sell the property, or remove the property.⁶⁴

The owner of abandoned or lost property who does not remove the property after being noticed, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the property, less any salvage value obtained by the disposal of the property.⁶⁵ Upon the final disposition of the property, the law enforcement officer is required to notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.⁶⁶

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.⁶⁷

Removal of Derelict Vessels

The FWC's Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.⁶⁸

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.⁶⁹ FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁷⁰

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁷¹ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁷²

⁶⁴ *Id.*

⁶⁵ Section 705.103(4), F.S.

⁶⁶ *Id.*

⁶⁷ Section 327.60(5), F.S.

⁶⁸ Section 327.70, F.S.

⁶⁹ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

⁷⁰ Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁷¹ Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁷² Section 705.103(4), F.S.

The FWC may provide grants, funded from the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁷³ Grants are awarded based on a set of criteria outlined in FWC rules.⁷⁴ Removal or relocation of a vessel on private property is not eligible for grant funding.⁷⁵ However, each fiscal year, if all program funds are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or to pay private contractors to remove, derelict vessels.⁷⁶

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁷⁷ Violations are punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.⁷⁸ Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.⁷⁹ Each day during any portion of which the violation occurs constitutes a separate offense.⁸⁰

Section 327.73(1)(aa), F.S., provides that an owner or operator of a vessel at risk of becoming derelict on waters of this state or who allows such vessel to occupy such waters, is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$50 for a first offense;
- \$100 for a second offense occurring 30 days or more after a first offense; and
- \$250 for a third offense occurring 30 days or more after a previous offense.⁸¹

Section 327.73(1)(bb), F.S., provides that an owner or operator of a vessel or floating structure who anchors or moors in a prohibited area is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.⁸²

Finally, s. 327.73(1), F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.⁸³

⁷³ Section 376.15, F.S.

⁷⁴ Fla. Admin. Code R. 68-1.003.

⁷⁵ National Oceanic and Atmospheric Association, Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Feb. 22, 2021).

⁷⁶ Section 376.15, F.S.

⁷⁷ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁷⁸ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁷⁹ Sections 376.15(2) and 376.16(1), F.S.

⁸⁰ Section 376.16(1), F.S.

⁸¹ Section 327.73(1)(aa), F.S.

⁸² Section 327.73(1)(bb), F.S.

⁸³ Sections 775.082 and 775.083, F.S.

Artificial Reef Program

Artificial reefs are reef habitats using one or more objects of natural or human origin intentionally placed on the seafloor to enhance marine life for human use. Artificial reefs provide benefits including:

- Enhancing recreational and diving opportunities;
- Providing socio-economic benefits to local coastal communities;
- Increasing reef fish habitat;
- Mitigation reefs to replace hard bottom habitat lost through activities such as beach renourishment and damage caused by vessel groundings;
- Oyster reef regeneration; and
- Shoreline protection.⁸⁴

Florida has one of the most active artificial reef programs in the nation. Since the 1940s, more than 3,750 planned public artificial reefs have been placed in state and federal waters off of Florida's coast.⁸⁵ The FWC is authorized to accept title, on behalf of the state, of vessels to use as offshore reefs in the artificial reef program.⁸⁶ Under the program, the FWC provides grants and financial and technical assistance to coastal local governments, state universities, and qualified nonprofit organizations for the siting and development of artificial reefs, and for monitoring and evaluating such reefs and their recreational, economic, and biological effectiveness.⁸⁷

Marine Sanitation Devices

Certain vessels, including those that are 26 feet or longer with an enclosed cabin and berthing facilities, houseboats,⁸⁸ and floating structures with an enclosed living space with berthing facilities or work space with public access, are required to have a working toilet on board.⁸⁹ Permanently installed toilets must be properly attached to a Coast Guard certified or labeled marine sanitation device.⁹⁰ A marine sanitation device is equipment that is designed to receive, retain, treat, or discharge sewage and the process to treat such sewage.⁹¹

Florida prohibits the discharge of untreated sewage from any vessel, including houseboats, or any floating structure into state waters.⁹² This prohibition also applies to live-aboard vessels, which are defined as: a vessel used solely as a residence and not for navigation; a vessel for which a declaration of domicile has been filed; or a vessel used as a residence that does not have an effective means of propulsion for safe navigation; and specifically excludes commercial

⁸⁴ FWC, *Artificial Reefs*, <https://myfwc.com/fishing/saltwater/artificial-reefs/> (last visited Feb. 22, 2021).

⁸⁵ *Id.*

⁸⁶ Section 379.249(1), F.S.

⁸⁷ *Id.*

⁸⁸ Section 327.02(17), F.S. defines a "houseboat" as a vessel used primarily as a residence and not moved for 21 out of 30 days in a county of this state if the residential use of the vessel is to the preclusion of its use as a means of transportation. Section 327.02(17).

⁸⁹ Section 327.53(1)-(3), F.S.

⁹⁰ *Id.*

⁹¹ DEP, *Clean Boater FAQ*, <https://floridadep.gov/rcp/cva/content/clean-boater-faq> (last visited Feb. 22, 2021).

⁹² Section 327.53(4)(a), F.S.

fishing vessels.⁹³ Vessel owners with Type III⁹⁴ marine sanitation devices must dispose of sewage in an approved pump-out facility.⁹⁵ Violators are subject to a noncriminal infraction, for which the penalty is \$50.⁹⁶

Nuisance Vessels

Florida law declares that vessels or floating structures that are operated or occupied on the waters of this state and violate marine sanitation device requirements are a nuisance and hazard to public safety and health.⁹⁷ If an owner or operator does not correct a violation within 30 days after a citation is issued, and their vessel or floating structure remains on the waters of this state, law enforcement officers are required to apply to the appropriate court in the county where the vessel or floating structure is located, to order or cause the removal of the vessel or floating structure from the waters of this state at the owner's expense.⁹⁸ If the owner cannot be found or fails to pay the removal costs, the vessel or floating structure will be sold at a nonjudicial sale and the proceeds will be used to pay the removal costs.⁹⁹

Testing for Alcohol, Chemical Substances, and Controlled Substances

Anyone who operates a motor vehicle or vessel in the state is, by operating such a vehicle or vessel, deemed to have given his or her consent to submit to an approved chemical or physical test of his or her breath to determine the alcoholic content of his or her blood or breath, or a urine test to detect the presence of chemical substances or controlled substances.¹⁰⁰ These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances.¹⁰¹

Additionally, anyone who operates a motor vehicle or vessel in the state is deemed to have given his or her consent to submit to an approved blood test to determine the alcoholic content of his or her blood or to detect the presence of chemical substances or controlled substances.¹⁰² These tests may be performed if there is reasonable cause to believe that the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or emergency vehicle, and the administration of a breath or urine test is impractical or impossible.¹⁰³

⁹³ Section 327.02(22), F.S.

⁹⁴ Type III marine sanitation devices hold sewage, preventing the direct overboard discharge of sewage. Type I marine sanitation devices treat sewage by chemical or thermal means before discharge. Type II marine sanitation devices treat sewage by biological means, using bacteria, before discharge.

⁹⁵ Section 327.53(4)(b), F.S.

⁹⁶ Section 327.53(6)(a), F.S.

⁹⁷ Section 327.53(7), F.S.

⁹⁸ *Id.*

⁹⁹ Section 328.17, F.S.

¹⁰⁰ Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

¹⁰¹ *Id.*

¹⁰² Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

¹⁰³ *Id.*

A person who operates a motor vehicle and fails to submit to a breath, urine, or blood test will have his or her driver's license suspended for a period of one year for a first refusal, or 18 months for a repeat refusal.¹⁰⁴ A person who operates a motor vehicle who fails to submit to such test who has previously had his or her license suspended for a prior refusal commits a misdemeanor of the first degree and is subject to additional penalties.¹⁰⁵

A person who operates a vessel and fails to submit to a breath, urine, or blood test is subject to a civil penalty of \$500 for a first refusal.¹⁰⁶ A person who operates a vessel and fails to submit to such test who has been previously fined commits a misdemeanor and is subject to additional penalties.¹⁰⁷

However, in 2016, the United States Supreme Court issued a ruling in *Birchfield v. North Dakota* that prohibits warrantless blood tests incident to arrests for driving under the influence.¹⁰⁸ The Court held that the Fourth Amendment prohibits unreasonable searches, and the taking of a blood sample or administration of a blood test is a search.¹⁰⁹ Under the Court's ruling, refusing a blood test may not subject a person to criminal penalties.¹¹⁰ Thus, Florida's current laws relating to the penalties for refusal to submit to a blood test are unenforceable.

Mangroves

Mangroves are tropical plants that are adapted to loose, wet soils, salt water, and periodic submersion by tides.¹¹¹ They provide protected nursery areas for fishes, crustaceans, and shellfish; food, shelter, and nesting areas for a multitude of species;¹¹² protection of the shoreline from storm surge and erosion;¹¹³ and water quality protection.¹¹⁴

Currently, there are not any state regulations for anchoring or mooring near mangroves, although the trimming of mangroves is regulated under the Mangrove Trimming and Preservation Act.¹¹⁵ Through the Mangrove Trimming and Preservation Act, the Legislature intends to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.¹¹⁶ The FWC notes that removing derelict and at-risk vessels from areas in close proximity to mangroves and other upland vegetation can be considerably more expensive than from other areas due to conservation and depth concerns.¹¹⁷

¹⁰⁴ Section 316.1932(1)(a) and (1)(c), F.S.

¹⁰⁵ *Id.*; s. 316.1939, F.S.

¹⁰⁶ Section 327.352(1)(a) and (1)(c), F.S.

¹⁰⁷ *Id.*; s. 327.259, F.S.

¹⁰⁸ *Birchfield v. North Dakota*, 136 U.S. 2160 (2016).

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ DEP, *What is a Mangrove?*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/what-mangrove> (last visited Feb. 23, 2021).

¹¹² DEP, *Florida's Mangroves*, <https://floridadep.gov/rcp/rcp/content/floridas-mangroves> (last visited Feb. 23, 2021).

¹¹³ FWC, *Mangrove Forests*, <https://myfwc.com/research/habitat/coastal-wetlands/information/mangroves/> (last visited Feb. 23, 2021).

¹¹⁴ *Id.*

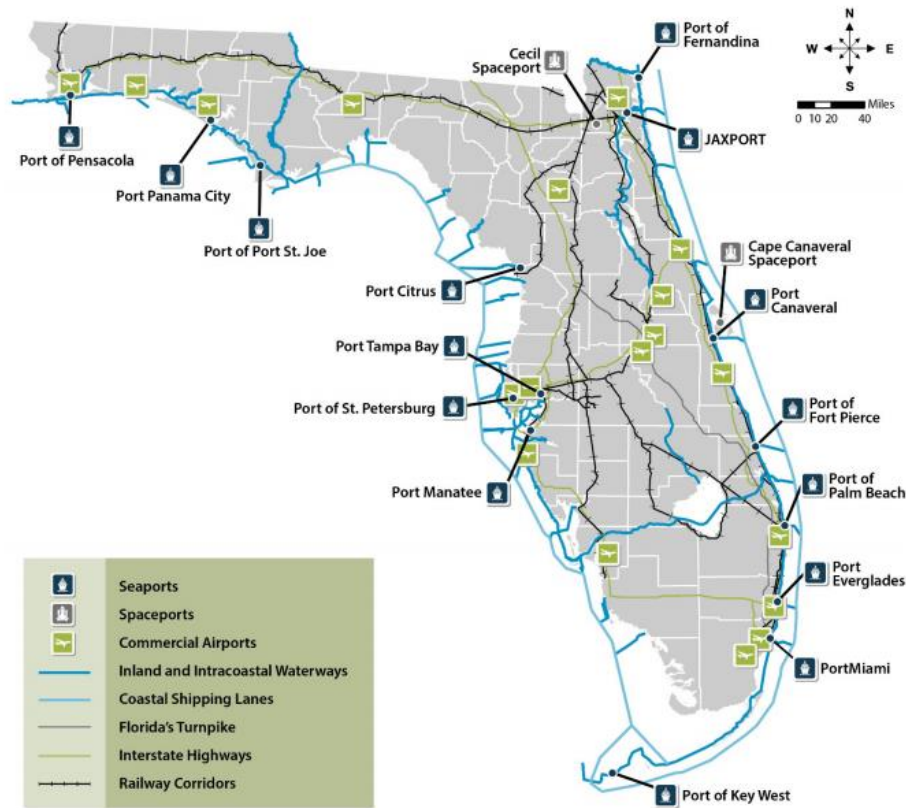
¹¹⁵ Sections 403.9321-403.9333, F.S.

¹¹⁶ Section 403.9323, F.S.

¹¹⁷ FWC, *Senate Bill 1086 Agency Bill Analysis* (February 10, 2021)(on file with the Senate Committee on Environment and Natural Resources).

Florida Intracoastal Waterway

The Florida Intracoastal Waterway is defined as the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.¹¹⁸ The Florida Intracoastal Waterway is shown in the map below.¹¹⁹



Spaceflight

With the recent resurgence of space activity, Florida is emerging as a national leader in spaceflight activities. In 2020, the space industry in Florida completed 31 launches from Cape

¹¹⁸ Section 327.02(15), F.S.

¹¹⁹ Florida Department of Transportation, *Florida Waterways System Plan*, Figure 1-2 on p. 1-12 (2015), available at https://www.fdot.gov/docs/default-source/seaport/pdfs/2015-Florida-Waterways-System-Plan_Final.pdf (last visited Mar. 1, 2021).

Canaveral Spaceport,¹²⁰ including the SpaceX Demo-2 mission in May 2020¹²¹ and the SpaceX Crew-1 mission in November 2020.¹²² According to Space Florida, over 50 launches are expected in 2021, and up to 100 launches are expected annually going forward.¹²³ Upon re-entry, the space capsules splashed down in waters off of Florida's coasts for the first time in 45 years.¹²⁴ The National Aeronautics and Space Administration (NASA) and SpaceX teams coordinated with the Coast Guard to ensure crew safety upon splashdown, including providing extra ships and air assets to patrol the splashdown zone to mitigate safety concerns for boaters approaching the landing area.¹²⁵

When the capsule landed in waters near Pensacola in August 2020, private boats approached the landing area too closely, according to NASA.¹²⁶ This led to confusion as recovery crews tried to reach the spacecraft. There were concerns that private boats could have interfered with the emergency recovery operation and that the spacecraft's thrusters could have released toxic propellant fumes.¹²⁷ Although the Coast Guard had patrol boats in the area ahead of the splashdown, it stated that "numerous boaters ignored the Coast Guard crews' requests and decided to encroach the area, putting themselves and those involved in the operation in potential danger."¹²⁸

There are no existing state statutes in place to protect spaceflight operations and astronauts. The FWC stated in its agency bill analysis that "spectator separation is necessary to prevent interference with sensitive operations, as well as for public safety reasons."¹²⁹

III. Effect of Proposed Changes:

Testing for Alcohol, Chemical Substances, or Controlled Substances: Sections 1, 2, 6, and 7

Section 1 of the bill, effective October 1, 2021, amends s. 316.1932, F.S., relating to tests for alcohol, chemical substances, or controlled substances while driving a motor vehicle.

¹²⁰ Space Florida, *Space Florida and the Future of Aerospace* (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

¹²¹ National Aeronautics and Space Administration (NASA), *NASA, SpaceX Successfully Launch Demo-2 Mission*, <https://blogs.nasa.gov/kennedy/2020/05/30/nasa-spacex-successfully-launch-demo-2-mission/> (last visited Feb. 22, 2021).

¹²² NASA, *NASA, SpaceX Officials Thrilled with Crew-1 Launch Success*, <https://blogs.nasa.gov/kennedy/2020/11/15/nasa-spacex-officials-thrilled-with-crew-1-launch-success/> (last visited Feb. 22, 2021).

¹²³ Space Florida, *Space Florida and the Future of Aerospace* (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

¹²⁴ AP News, *SpaceX Capsule and NASA Crew Make 1st Splashdown in 45 Years*, <https://apnews.com/article/virus-outbreak-ap-top-news-ca-state-wire-gulf-of-mexico-pensacola-bf77af89c527340793d15a9957d30c84> (last visited Feb. 22, 2021).

¹²⁵ NASA, *NASA and SpaceX Teams Prepare for Crew-1 Mission*, <https://blogs.nasa.gov/kennedy/2020/09/30/nasa-and-spacex-teams-prepare-for-crew-1-mission/> (last visited Feb. 22, 2021).

¹²⁶ AP News, *SpaceX Capsule and NASA Crew Make 1st Splashdown in 45 Years*, <https://apnews.com/article/virus-outbreak-ap-top-news-ca-state-wire-gulf-of-mexico-pensacola-bf77af89c527340793d15a9957d30c84> (last visited Feb. 22, 2021).

¹²⁷ The Verge, *SpaceX capsule Swarmed by Boaters After Successful Splashdown*, <https://www.theverge.com/2020/8/2/21351811/spacex-capsule-boaters-splashdown-boats> (last visited Feb. 22, 2021).

¹²⁸ *Id.*

¹²⁹ FWC, *Senate Bill 1086 Agency Bill Analysis* (February 10, 2021) (on file with the Senate Committee on Environment and Natural Resources).

Section 2 of the bill, effective October 1, 2021, amends s. 316.1939, F.S., relating to refusal to submit to testing for alcohol, chemical substances, or controlled substances.

The bill revises the conditions under which a person's driving privilege is suspended and under which a person commits a misdemeanor relating to tests for alcohol, chemical substances, or controlled substances. The bill provides that failure to submit to a lawful breath test for alcohol, chemical substances, or controlled substances if a person has previously been fined for failure to submit to such test is a misdemeanor of the first degree.

Section 6 of the bill, effective October 1, 2021, amends s. 327.352, F.S., relating to tests for alcohol, chemical substances, or controlled substances while operating a vessel. The bill revises the conditions under which a person commits a misdemeanor relating to boating while impaired or intoxicated. The bill provides that failure to submit to a lawful breath or urine test for alcohol, chemical substances, or controlled substances if a person has previously been fined for failure to submit to such test, or had his or her driver's license suspended for an unlawful blood-alcohol or breath-alcohol level, is a misdemeanor of the first degree.

Section 7 of the bill, effective October 1, 2021, amends s. 327.359, F.S., relating to refusal to submit to testing for alcohol, chemical substances, or controlled substances. The bill revises the conditions under which a person commits a misdemeanor of the first degree for failure to submit to a chemical or physical breath or urine test for alcohol, chemical substances, or controlled substances to include refusal to submit to such a test, and either a previous fine for failure to submit to a chemical or physical breath test, or a driver's license suspension for an unlawful blood-alcohol or breath-alcohol level. The bill deletes from the list of misdemeanors the refusal to submit to a lawful blood test for alcohol, chemical substances, or controlled substances.

In **Sections 1, 2, 6, and 7**, the bill deletes the provisions establishing that a person commits a misdemeanor for refusing to submit to a lawful blood test for alcohol, chemical substances, or controlled substances if the person has been previously fined for refusal to submit to a lawful breath, urine, or blood test.

Human-Powered Vessels: Sections 3 and 8

Section 3 of the bill amends s. 327.02, F.S., relating to definitions. The bill defines the term "human-powered vessel" to mean a vessel powered only by its occupant or occupants, including, but not limited to, a vessel powered only by the occupants' hands or feet, oars, or paddles.

The bill revises references to the International Navigational Rules Act of 1977 and Inland Navigational Rules Act of 1980 to the most recent versions of the Acts, as amended.

Section 8 of the bill creates a new section of law, s. 327.371, F.S., regulating human-powered vessels. The bill authorizes persons to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway only under the following conditions:

- When the marked channel is the only navigable portion of the waterway available due to vessel congestion or obstructions on the water and the operator proceeds with diligence to a location where he or she may safely operate the vessel outside the marked channel;

- While crossing the marked channel in the most direct, continuous, and expeditious manner possible and not interfering with other vessel traffic in the channel; or
- During an emergency endangering life or limb.

The bill provides that a person who operates a human-powered vessel within the marked channel outside of these conditions commits a noncriminal infraction.

Rulemaking Authority: Section 4

Section 4 of the bill amends s. 327.04, F.S., related to the Fish and Wildlife Conservation Commission (FWC) rules. The bill provides additional rulemaking authority to the FWC to implement the provisions of:

- Chapter 705, F.S., relating to lost or abandoned vessels;
- Section 376.15, F.S., relating to relocation or removal of derelict vessels from public waters; and
- Section 823.11, F.S., relating to criminal penalties for relocation or removal of derelict vessels.

Spaceflight: Section 5

Section 5 of the bill creates a new section of law, s. 327.462, F.S., regulating the temporary establishment of protection zones in water bodies to ensure security around the launch and recovery of spaceflight assets.

The bill defines the following terms for the new section of law:

- “Launch services” means the conduct of a launch and activities involved in the preparation of a launch vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such launch.
- “Reentry services” means the conduct of a reentry and activities involved in the preparation of a reentry vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such reentry.
- “Spaceflight assets” means any item, or any part of an item, owned by a spaceflight entity which is used in launch services or reentry services, including crewed and uncrewed spacecraft, launch vehicles, parachutes and other landing aids, and any spacecraft or ancillary equipment that was attached to the launch vehicle during launch, orbit, or reentry.
- “Spaceflight entity” means any public or private entity holding a United States Federal Aviation Administration (FAA) launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the FAA as part of issuing such a license, permit, or authorization.¹³⁰

The bill authorizes the head of a law enforcement agency or entity, or his or her designee (law enforcement), to, within the agency or entity’s jurisdiction, temporarily establish a protection zone requiring vessels to leave, or prohibiting vessels from entering, water bodies when

¹³⁰ The bill defines “spaceflight entity” to have the same definition as in s. 331.501, F.S.

necessary for preparations in advance of or for recovery of spaceflight assets before or after a launch service or reentry service.

A temporary protection zone must be established under the following conditions:

- The zone must be located within five hundred yards of where launch services, reentry services, or spaceflight asset recovery operations are being conducted. However, the protection zone may be located at a distance greater than five hundred yards if law enforcement determines that such greater distance is in the best interest of public safety.
- The zone may remain in effect only as long as necessary to ensure security around the launch and recovery areas and to recover spaceflight assets and any personnel being transported within a spacecraft following the launch or reentry activity. Such protection zone may not be in place more than 72 hours before or 72 hours after the launch.
- Law enforcement may also restrict vessels from operating within up to 500 yards of any vessel transporting recovered spaceflight assets following a launch or reentry while the transport vessel is continuously underway transporting such assets to a location for removal.
- Law enforcement may not restrict vessel movement within the Florida Intracoastal Waterway, except as necessary during the transport of spaceflight assets to or from port or during exigent circumstances.
- Law enforcement must report the establishment of the temporary protection zone via email to The FWC's Division of Law Enforcement, Boating and Waterways Section, and to the appropriate Coast Guard Sector Command having responsibility over the water body, at least 72 hours before establishment of the protection zone. The report must include:
 - Reasons for the protection zone;
 - The portion of the water body or water bodies that will be included in the protection zone; and
 - The duration of the protection zone.
- Law enforcement must report via email to the FWC's Division of Law Enforcement, Boating and Waterways Section, the details of all citations issued for violation of the protection zone no later than 72 hours after the end of the protection zone period.

The section of law applies only to launch services, reentry services, or the recovery of spaceflight assets occurring or originating within spaceport territory,¹³¹ and to federally licensed or federally authorized launches and reentries occurring or transiting to an end destination upon waters of this state.

The bill provides that a person who violates this section or any directive given by law enforcement relating to an established temporary protection zone after being advised of the establishment of the protection zone commits a misdemeanor of the second degree.

Boating Safety: Sections 10, 16, 15, and 19

Section 10 of the bill amends s. 327.395, F.S., relating to boater safety identification.

¹³¹ Section 331.304, F.S. establishes as spaceport territory specified real property in Brevard, Santa Rosa, Okaloosa, Gulf, Walton, and Duval Counties, and real property which is a spaceport licensed by the FAA, as designated by the board of directors of Space Florida.

The bill clarifies what documentation and certifications persons operating a vessel must have in their possession aboard the vessel.

The bill exempts, from the boater safety identification card requirement, persons who have been previously licensed by the Coast Guard to serve as master of a vessel, provided proof of such licensure to the FWC, and requested that a boating safety identification card be issued in his or her name.

The bill deletes a provision authorizing the FWC to appoint liveries, marinas, or other persons as its agents to administer a boating safety education course or temporary certificate examination and issue identification cards or temporary certificates, and requiring the agent to charge a \$2 examination fee. However, the provision is retained in another subsection within the same section of law.

Section 16 of the bill creates s. 327.463, F.S., relating to special hazards requiring slow speeds by vessel operators. The bill specifies conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake.

A vessel is considered to be operating at slow speed, minimum wake only if it is:

- Fully off plane and completely settled into the water; and
- Proceeding without wake or with minimum wake.

A vessel is not considered to be operating at slow speed, minimum wake if it is:

- Operating on plane;
- In the process of coming off plane and settling into the water or getting on plane; or
- Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels.

The bill prohibits a vessel that is required to operate at slow speed, minimum wake from proceeding at a speed greater than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

The bill prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions and provides that a vessel operator found in violation of this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a Coast Guard vessel, or a firefighting vessel, when such emergency vessel has its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge displaying an orange flag indicating that the vessel or barge is actively engaged in construction operations.
 - The flag must be displayed from a pole that extends at least 10 feet above the tallest portion of the vessel or barge, or at least five feet above any superstructure permanently installed upon the vessel or barge.
 - The flag must meet certain requirements, including:
 - Be a size of at least two feet by three feet;

- Include a wire or other stiffener or be otherwise constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze; and
- Be displayed so the visibility of the flag is not obscured in any direction.

The bill specifies that a person may not be cited for a violation during periods of low visibility, including any time between the hours from 30 minutes after sunset to 30 minutes before sunrise, unless the orange flag is illuminated and visible from a distance of at least two nautical miles. Such illumination does not relieve the construction vessel or barge from complying with all navigation rules.

The bill also provides that a person operating a vessel who violates this section, or the owner of or responsible party for a construction vessel or barge that displays an orange flag when it is not actively engaged in construction operations, is guilty of a noncriminal infraction.

The bill specifies that the speed and penalty provisions of this section do not apply to law enforcement, firefighting, or rescue vessels that are owned or operated by a governmental entity.

Section 19 of the bill amends s. 327.54, F.S., relating to safety regulations of liveries. The bill prohibits liveries from knowingly leasing, hiring, or renting a vessel unless the person renting presents:

- Photographic identification and a valid boater safety identification card issued by the FWC;
- A state-issued identification card or driver license indicating possession of the boating safety identification card; or
- Photographic identification and a valid temporary certificate issued or approved by the FWC.
- These provisions do not apply to those individuals that are exempt from boating safety education requirements (Individuals born before January 1, 1988).

Boating-Restricted Areas: Sections 12, 13, 14, and 15

Section 12 of the bill amends s. 327.4108, F.S., relating to anchoring of vessels in anchoring limitation areas. The bill designates Monroe County as an anchoring limitation area within which a vessel may only be anchored in the same location for a maximum of 90 days. The bill requires the FWC to adopt rules to implement the anchoring limitation area. The bill provides that this anchoring limitation area does not apply to an approved and permitted mooring field. The bill provides that this section is not effective until Monroe County approves, permits, and opens new moorings for public use, at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. Until such time the FWC shall designate the area within one mile of the Key West Bight City Dock as a priority for the expedited removal of derelict vessels, notwithstanding the FWC rules adopted pursuant to this section.

The bill deletes a provision that references an obsolete section of law.

Section 13 of the bill amends s. 327.4109, F.S., relating to prohibited anchoring and mooring. The bill revises existing anchoring and mooring restrictions to prohibit anchoring and mooring within 150 feet of a *public or private* marina or other *public* vessel launching or loading facility. However, vessels may anchor and moor within these areas under the exemptions in existing law.

Section 14 of the bill amends s. 327.45, F.S., relating to protection zones for springs. The bill authorizes the FWC to establish protection zones for springs which prohibit the anchoring, mooring, beaching, or grounding of vessels, to protect and prevent harm to first, second, and third magnitude springs and springs groups, including their associated spring runs, as determined by the FWC using the most recent Florida Geological Survey springs bulletin.

Section 15 of the bill amends s. 327.46, F.S., relating to boating-restricted areas. The bill authorizes municipalities and counties to establish slow speed, minimum wake boating-restricted areas by ordinance if the area is within the boundaries of a permitted public mooring field and up to a 100 foot buffer around the mooring field.

Derelict/At-Risk Vessels: Sections 11, 20, 22, 23, 24, 25, and 27

Section 11 of the bill amends s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of this state. The bill revises the conditions under which a vessel is determined to be at risk of becoming derelict to delete vessels that are left or stored aground unattended in such a state that would prevent the vessel from getting underway or are sunk or partially sunk.

The bill authorizes the FWC and other law enforcement officers to provide notice to a vessel owner or operator that a vessel is at risk of becoming derelict via in-person notice recorded on an agency-approved body camera.

The bill authorizes the FWC and other law enforcement officers to relocate or cause to be relocated a vessel at risk of becoming derelict to a distance greater than 20 feet from a mangrove or upland vegetation. Law enforcement agencies and officers must be held harmless for damages to an at-risk vessel that result from relocation unless the damage results from gross negligence¹³² or willful misconduct.¹³³

The bill authorizes the FWC to establish a derelict vessel prevention program to address vessels at risk of becoming derelict. The program may, but is not required to, include:

- Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with state law;
- Creation of a vessel turn-in program allowing the owner of a vessel determined by law enforcement to be at risk of becoming derelict to turn his or her vessel and vessel title over to the FWC to be destroyed without penalty;
- Removal and destruction of an abandoned vessel for which an owner cannot be identified or the owner of which is deceased and no heir is interested in acquiring the vessel;
- Purchase of anchor line, anchors, and other equipment necessary for securing vessels at risk of becoming derelict; and
- Creation or acquisition of moorings designated for securing vessels at risk of becoming derelict.

¹³² “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct. Section 823.11, F.S.

¹³³ “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner. Section 823.11, F.S.

The bill authorizes the FWC to adopt rules to implement the program. Implementation of the program is subject to appropriation by the Legislature and is funded by the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

Section 20 of the bill amends s. 327.60, F.S., relating to local regulations. The bill authorizes local governments to enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove an abandoned or lost vessel within its jurisdiction that is affixed to a public mooring.

Section 22 and Section 23 of the bill amend s. 328.09, F.S., relating to the refusal to issue and authority to cancel a certificate of title or registration. The bill prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict.

Section 23 of the bill takes effect on July 1, 2023. At that time, the bill authorizes the DHSMV to reject an application for a certificate of title for a vessel that has been deemed derelict.

Section 24 of the bill amends s. 376.15, F.S., relating to the relocation or removal of derelict vessels from public waters. The bill deletes the prohibition in existing law against storing or abandoning a derelict vessel and provides that it is unlawful for any person, firm, or corporation to leave a derelict vessel upon the waters of this state. The bill provides that for purposes of this section, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

The bill prohibits charging a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in a written report or otherwise; a hurricane; or another sudden event outside of his or her control with a violation if:

- The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and
- The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:
 - For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within seven days after such accident or event; or
 - Within 45 days after the hurricane has passed over this state.

However, this provision does not apply to a vessel that was derelict upon the waters of this state before a stated accident or event.

The bill authorizes the FWC or law enforcement agencies or officers to store, destroy, or dispose of derelict vessels, in addition to relocating or removing them. The bill authorizes the recovery of relocation, removal, storage, destruction, and disposal costs incurred by the FWC or a law enforcement agency from the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The FWC or law enforcement agencies or officers are held harmless for damages to the derelict vessel resulting from these actions, unless the damage results from gross negligence or willful misconduct.

The bill requires a governmental subdivision that has received authorization from a law enforcement agency to perform vessel relocation or removal activities to be licensed, insured, and properly equipped to perform such activities.

The bill adds storage, destruction, and disposal to the list of authorized actions for which the FWC may provide grants from the Marine Resources Conservation Trust Fund or Florida Coastal Protection Trust Fund to local governments under an established program for derelict vessels.

Section 25 of the bill amends s. 705.103, F.S., relating to the procedures for abandoned or lost property. The bill creates specific procedures for derelict vessels or vessels that have been declared a public nuisance that are present on waters of this state. When a law enforcement officer ascertains that such a vessel exists, the officer must cause a notice to be placed on the vessel in substantially the following form:

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

The bill requires the law enforcement agency to mail a copy of the notice and inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, the bill requires a state agency to follow the statutory processes for proceedings in which the substantial interests of a party are determined by an agency, except that a local judge, magistrate, or code enforcement officer may be designated to conduct a hearing.

The bill authorizes the law enforcement agency, or its designee, if the owner or responsible party for a derelict vessel or vessel that has been declared a nuisance has not requested a hearing at the end of 21 days after the notice is published, or if, following a hearing, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict or at risk of becoming derelict and a final order has been entered or the case is otherwise closed, to:

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

- Authorize the vessel's use as an artificial reef in accordance with the FWC's artificial reef program if all necessary federal, state, and local authorizations are received.

The bill provides that the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition is liable to the law enforcement agency, governmental entity, or the agency's or entity's designee for removal, storage, and destruction costs.

The bill provides that neglecting or refusing to pay all costs of removal, storage, disposal, and destruction of a vessel or motor vehicle, after having been provided written notice via certified mail that such costs are owed, and after having applied for and been issued a registration for a vessel or motor vehicle before such costs have been paid in full, is a misdemeanor of the first degree.

Section 27 of the bill amends s. 823.11, F.S., relating to the relocation or removal of derelict vessels. The bill revises the definition of "derelict vessel" to delete that the vessel is left, stored, or abandoned. The portion of the definition of "derelict vessel" that describes the vessel as in a wrecked, junked, or substantially dismantled condition upon any public waters of this state is also revised to delete the word "public." The new definition provides that a vessel is:

- Wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire.
- Junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice of such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.
- Substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if the motor is not an effective means of propulsion.

The bill deletes the prohibition against storing or abandoning a derelict vessel in existing law and prohibits a person, firm, or corporation from leaving a derelict vessel upon the waters of this state. The bill provides that for purposes of the paragraph, the term "leave" means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

The bill prohibits charging a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in a written report or otherwise; a hurricane; or another sudden event outside of his or her control with a violation if:

- The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and

- The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:
 - For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or
 - Within 45 days after the hurricane has passed over this state.

However, this provision does not apply to a vessel that was derelict upon the waters of this state before a stated accident or event.

The bill authorizes the FWC or law enforcement agencies or officers to store, destroy, or dispose of derelict vessels, in addition to relocating or removing them, if the derelict vessel obstructs or threatens to obstruct navigation or constitutes a danger to the environment, property, or persons. The FWC or law enforcement agencies or officers are held harmless for damages to the derelict vessel resulting from these actions, unless the damage results from gross negligence or willful misconduct.

The bill allows for the FWC, law enforcement agencies, or governmental subdivisions that have received authorization from a law enforcement officer or agency to recover costs for relocation, removal, storage, destruction, and disposal of a derelict vessel from a vessel owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The bill provides that neglecting or refusing to pay all costs of removal, storage, destruction, or disposal of a derelict vessel, after having been provided written notice via certified mail that such costs are owed, and after having applied for and been issued a registration for a vessel or motor vehicle before such costs have been paid in full, is a misdemeanor of the first degree.

The bill requires a governmental subdivision that has received authorization from a law enforcement agency to perform vessel relocation or removal activities to be licensed, insured, and properly equipped to perform such activities.

Marine Sanitation Devices: Section 18

Section 18 of the bill amends s. 327.53, F.S., relating to marine sanitation. The bill requires the owner or operator of a live-aboard vessel or houseboat that is equipped with a marine sanitation device to maintain a record of the date of each pump-out of the device and the location of the pump-out station or waste reception facility. The bill requires each record to be maintained for one year after the pump-out date.

Penalties: Section 21

Section 21 of the bill amends s. 327.73, F.S., relating to civil penalties for violations of specified vessel laws.

The bill amends the noncriminal infraction for a violation of s. 327.395, F.S., relating to boater safety education to provide that a person cited for failing to have the required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification

card or temporary certificate for verification by the hearing officer or the court clerk and the identification card or temporary certificate was valid at the time the person was cited.

The bill increases civil penalties for a violation of s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of this state, from:

- \$50 to \$100 for a first offense;
- \$100 to \$250 for a second offense occurring 30 days or more after a previous offense; and
- \$250 to \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.

The bill declares that a vessel that is the subject of three or more violations issued within an 18-month period by a law enforcement officer for being at risk of becoming derelict, which result in a disposition other than acquittal or dismissal, is a public nuisance and is subject to relocation or removal. The bill authorizes the FWC or other law enforcement to relocate or remove the vessel or cause it to be relocated or removed. Law enforcement officers who relocate or remove such a vessel are held harmless for damages to the vessel unless the damage results from gross negligence¹³⁴ or willful misconduct.¹³⁵

The bill creates civil penalties for a violation of s. 327.463(4)(a) and (b), F.S., the new section relating to vessels creating special hazards, of:

- \$50 for a first offense;
- \$100 for a second offense occurring within 12 months after a prior offense; and
- \$250 for a third offense occurring within 36 months after a prior offense.

The bill adds to the list of violations resulting in a noncriminal offense:

- Failing to maintain the required pump-out records of a marine sanitation device for a live-aboard vessel or houseboat; and
- Operating a human-powered vessel within the boundaries of a marked channel of the Florida Intracoastal Waterway in violation of the new statutory restrictions.

Conforming Changes: Sections 9, 17, and 26

Section 9 of the bill amends s. 327.391, F.S., relating to the regulation of airboats, to make conforming and technical changes.

Section 17 of the bill amends s. 327.50, F.S., relating to vessel safety regulations, equipment, and lighting requirements. The bill corrects an incorrect reference to clarify that the FWC may exempt vessel owners and operators from current Coast Guard safety equipment requirements.

Section 26 of the bill amends s. 705.103, F.S., relating to the procedures for abandoned or lost property, to conform to revisions from ch. 2019-76, Laws of Florida, which take effect in 2023.

¹³⁴ “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct. Section 823.11, F.S.

¹³⁵ “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner. Section 823.11, F.S.

Effective Date

Section 28 of the bill provides that except as otherwise expressly provided, the effective date is July 1, 2021. (*Section 23 of the bill takes effect July 1, 2023.*)

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate. There may be a positive fiscal impact to the FWC due to the new and increased civil penalties provided under the bill. However, the FWC may also experience increased costs due to increased enforcement.

If the FWC establishes a derelict vessel prevention program, the agency is likely to incur costs from implementing the program. The bill provides that establishment of the program is subject to legislative appropriation, but it is unknown what amount the appropriation would be.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1932, 316.1939, 327.02, 327.04, 327.352, 327.359, 327.391, 327.395, 327.4107, 327.4108, 327.4109, 327.45, 327.46, 327.50, 327.53, 327.54, 327.60, 327.73, 328.09, 376.15, 705.103, and 823.11.

This bill creates the following sections of the Florida Statutes: 327.462, 327.371, and 327.463.

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

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on April 8, 2021:

The committee substitute:

- Provides that the head of a law enforcement agency or entity, or his or her designee may not restrict vessel movement within the Florida Intracoastal Waterway, when establishing a temporary protective zone, except as necessary during transport of spaceflight assets to or from port or during exigent circumstances
- Establishes an effective date of October 1, 2021, to revise conditions under which a person operating a motor vehicle or vessel commits a misdemeanor by failing to submit to breath or urine testing for alcohol, chemical substances, and controlled substances.
- Clarifies what documents or certifications are required for operation of a vessel.
- Provides that the designation of Monroe County as an anchoring limitation area is not effective until Monroe County approves, permits, and opens new moorings for public use, at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. Until such time the FWC shall designate the area within 1 mile of the Key West Bight City Dock as a priority for the expedited removal of derelict vessels.

CS by Environment and Natural Resources on March 15, 2021:

- Deletes the requirement from the underlying bill that persons have boating safety identification documents in his or her possession aboard a vessel beginning in 2023.
- Adds persons who possess an International Certificate of Competence in sailing to those exempt from the boating safety identification card requirement.

- Revises the conditions under which a vessel is determined to be at risk of becoming derelict to delete vessels that are left or stored aground unattended in such a state that would prevent the vessel from getting underway or are sunk or partially sunk.
- Deletes a provision authorizing the derelict vessel prevention program created under the bill to include other preventative efforts and methods as determined appropriate and necessary by the Fish and Wildlife Conservation Commission (FWC).
- Designates Monroe County as an anchoring limitation area within which a vessel may only be anchored in the same location for a maximum of 90 days, excluding approved and permitted mooring fields.
- Requires the FWC to adopt rules to implement the Monroe County anchoring limitation area.
- Authorizes the FWC to establish protection zones for first, second, and third magnitude springs and springs groups, including their associated spring runs, which prohibit the anchoring, mooring, beaching, or grounding of vessels.
- Provides that the springs, springs groups, and springs runs be determined by the FWC using the most recent Florida Geological Survey springs bulletin.
- Clarifies that vessels that are required to operate at slow speed, minimum wake are prohibited from proceeding at certain speeds.
- Deletes provisions from the underlying bill designating the waters of this state as a no-discharge zone and associated penalties for violation.
- Revises provisions relating to derelict vessels to prohibit persons, firms, or corporations from leaving, rather than storing or abandoning, a derelict vessel upon the waters of this state.
- Provides that, for derelict vessels provisions, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.
- Provides that persons who own or operate a vessel that becomes derelict as a result of a reported boating accident, hurricane, or other uncontrollable event may not be charged with having a derelict vessel if the person provides documentation of the events leading to the vessel being derelict or the vessel has been removed or repaired within a specific time frame.
- Authorizes the FWC and law enforcement officers to store, destroy, or dispose of derelict vessels, in addition to relocating and removing the vessels.
- Authorizes the recovery of relocation, removal, storage, destruction, and disposal costs incurred by the FWC or a law enforcement agency from the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 547 - 1205

and insert:

suspended for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section



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11 is admissible into evidence in any criminal proceeding.
12 2. A ~~Any~~ person who accepts the privilege extended by the
13 laws of this state of operating a vessel within this state is,
14 by ~~se~~ operating such vessel, deemed to have given his or her
15 consent to submit to a urine test for the purpose of detecting
16 the presence of chemical substances as set forth in s. 877.111
17 or controlled substances if the person is lawfully arrested for
18 any offense allegedly committed while the person was operating a
19 vessel while under the influence of chemical substances or
20 controlled substances. The urine test must be incidental to a
21 lawful arrest and administered at a detention facility or any
22 other facility, mobile or otherwise, which is equipped to
23 administer such tests at the request of a law enforcement
24 officer who has reasonable cause to believe such person was
25 operating a vessel within this state while under the influence
26 of chemical substances or controlled substances. The urine test
27 shall be administered at a detention facility or any other
28 facility, mobile or otherwise, which is equipped to administer
29 such test in a reasonable manner that will ensure the accuracy
30 of the specimen and maintain the privacy of the individual
31 involved. The administration of a urine test does not preclude
32 the administration of another type of test. The person shall be
33 told that his or her failure to submit to any lawful test of his
34 or her urine under this chapter will result in a civil penalty
35 of \$500, and shall also be told that if he or she refuses to
36 submit to a lawful test of his or her urine and he or she has
37 been previously fined under s. 327.35215 or has previously had
38 his or her driver license suspended for refusal to submit to any
39 lawful test of his or her breath, urine, or blood, he or she



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40 commits a misdemeanor of the first degree, punishable as
41 provided in s. 775.082 or s. 775.083, in addition to any other
42 penalties provided by law. The refusal to submit to a urine test
43 upon the request of a law enforcement officer as provided in
44 this section is admissible into evidence in any criminal
45 proceeding.

46 (c) A ~~Any~~ person who accepts the privilege extended by the
47 laws of this state of operating a vessel within this state is,
48 by operating such vessel, deemed to have given his or her
49 consent to submit to an approved blood test for the purpose of
50 determining the alcoholic content of the blood or a blood test
51 for the purpose of determining the presence of chemical
52 substances or controlled substances as provided in this section
53 if there is reasonable cause to believe the person was operating
54 a vessel while under the influence of alcoholic beverages or
55 chemical or controlled substances and the person appears for
56 treatment at a hospital, clinic, or other medical facility and
57 the administration of a breath or urine test is impractical or
58 impossible. As used in this paragraph, the term "other medical
59 facility" includes an ambulance or other medical emergency
60 vehicle. The blood test shall be performed in a reasonable
61 manner. A ~~Any~~ person who is incapable of refusal by reason of
62 unconsciousness or other mental or physical condition is deemed
63 not to have withdrawn his or her consent to such test. A ~~Any~~
64 person who is capable of refusal shall be told that his or her
65 failure to submit to such a blood test will result in a civil
66 penalty of \$500 ~~and that a refusal to submit to a lawful test of~~
67 ~~his or her blood, if he or she has previously been fined for~~
68 ~~refusal to submit to any lawful test of his or her breath,~~



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69 ~~urine, or blood, is a misdemeanor.~~ The refusal to submit to a
70 blood test upon the request of a law enforcement officer shall
71 be admissible in evidence in any criminal proceeding.

72 Section 7. Subsection (3) of section 327.35215, Florida
73 Statutes, is amended to read:

74 327.35215 Penalty for failure to submit to test.—

75 (3) A person who has been advised of the penalties pursuant
76 to subsection (2) may, within 30 days afterwards, request a
77 hearing before a county court judge. A request for a hearing
78 tolls the period for payment of the civil penalty, and, if
79 assessment of the civil penalty is sustained by the hearing and
80 any subsequent judicial review, the civil penalty must be paid
81 within 30 days after final disposition. The clerk of the court
82 shall notify the Department of Highway Safety and Motor Vehicles
83 of the final disposition of all actions filed under this section
84 by electronic transmission in a format prescribed by the
85 department. When the department receives the final disposition,
86 the department shall enter the disposition on the person's
87 driving record.

88 Section 8. Effective October 1, 2021, section 327.359,
89 Florida Statutes, is amended to read:

90 327.359 Refusal to submit to testing; penalties.—~~A~~ Any
91 person who has refused to submit to a chemical or physical test
92 of his or her breath, ~~blood,~~ or urine, as described in s.
93 327.352, and who has been previously fined under s. 327.35215 or
94 has previously had his or her driver license suspended for
95 refusal to submit to a lawful test of his or her breath, urine,
96 or blood, and:

97 (1) Who the arresting law enforcement officer had probable



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98 cause to believe was operating or in actual physical control of
99 a vessel in this state while under the influence of alcoholic
100 beverages, chemical substances, or controlled substances;

101 (2) Who was placed under lawful arrest for a violation of
102 s. 327.35 unless such test was requested pursuant to s.
103 327.352(1)(c);

104 (3) Who was informed that if he or she refused to submit to
105 such test, he or she is subject to a fine of \$500;

106 (4) Who was informed that a refusal to submit to a lawful
107 test of his or her breath or, ~~urine, or blood~~, if he or she has
108 been previously fined under s. 327.35215 or has previously had
109 his or her driver license suspended for refusal to submit to a
110 lawful test of his or her breath, urine, or blood, is a
111 misdemeanor of the first degree, punishable as provided in s.
112 775.082 or s. 775.083; and

113 (5) Who, after having been so informed, refused to submit
114 to any such test when requested to do so by a law enforcement
115 officer or correctional officer commits a misdemeanor of the
116 first degree, punishable and is subject to punishment as
117 provided in s. 775.082 or s. 775.083.

118 Section 9. Section 327.371, Florida Statutes, is created to
119 read:

120 327.371 Human-powered vessels regulated.-

121 (1) A person may operate a human-powered vessel within the
122 boundaries of the marked channel of the Florida Intracoastal
123 Waterway as defined in s. 327.02:

124 (a) When the marked channel is the only navigable portion
125 of the waterway available due to vessel congestion or
126 obstructions on the water. The operator of the human-powered



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127 vessel shall proceed with diligence to a location where he or
128 she may safely operate the vessel outside the marked channel of
129 the Florida Intracoastal Waterway.

130 (b) When crossing the marked channel, provided that the
131 crossing is done in the most direct, continuous, and expeditious
132 manner possible and does not interfere with other vessel traffic
133 in the channel.

134 (c) During an emergency endangering life or limb.

135 (2) A person may not operate a human-powered vessel in the
136 marked channel of the Florida Intracoastal Waterway except as
137 provided in subsection (1).

138 (3) A person who violates this section commits a
139 noncriminal infraction, punishable as provided in s. 327.73.

140 Section 10. Subsection (1) and paragraphs (a) and (b) of
141 subsection (5) of section 327.391, Florida Statutes, are amended
142 to read:

143 327.391 Airboats regulated.—

144 (1) The exhaust of every internal combustion engine used on
145 any airboat operated on the waters of this state shall be
146 provided with an automotive-style factory muffler, underwater
147 exhaust, or other manufactured device capable of adequately
148 muffling the sound of the exhaust of the engine as described in
149 s. 327.02(31) ~~s. 327.02(30)~~. The use of cutouts or flex pipe as
150 the sole source of muffling is prohibited, except as provided in
151 subsection (4). A ~~Any~~ person who violates this subsection
152 commits a noncriminal infraction, punishable as provided in s.
153 327.73(1).

154 (5) (a) ~~Beginning July 1, 2019,~~ A person may not operate an
155 airboat to carry one or more passengers for hire on waters of



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156 this ~~the~~ state unless he or she has all of the following onboard
157 the airboat:

158 1. A photographic identification card.

159 2. Proof of completion of a boater education course that
160 complies with s. 327.395(2)(a) ~~s. 327.395(1)(a)~~. Except as
161 provided in paragraph (b), no operator is exempt from this
162 requirement, regardless of age or the exemptions provided under
163 s. 327.395.

164 3. Proof of successful completion of a commission-approved
165 airboat operator course that meets the minimum standards
166 established by commission rule.

167 4. Proof of successful course completion in cardiopulmonary
168 resuscitation and first aid.

169 (b) A person issued a captain's license by the United
170 States Coast Guard is not required to complete a boating safety
171 education course that complies with s. 327.395(2)(a) ~~s.~~
172 ~~327.395(1)(a)~~. Proof of the captain's license must be onboard
173 the airboat when carrying one or more passengers for hire on
174 waters of this ~~the~~ state.

175 Section 11. Section 327.395, Florida Statutes, is amended
176 to read:

177 327.395 Boating safety education.—

178 (1) A person born on or after January 1, 1988, may not
179 operate a vessel powered by a motor of 10 horsepower or greater
180 unless such person has in his or her possession aboard the
181 vessel the documents required by subsection (2).

182 (2) While operating a vessel, a person identified under
183 subsection (1) must have in his or her possession aboard the
184 vessel photographic identification and a Florida boating safety



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185 identification card issued by the commission;~~;~~ a state-issued
186 identification card or driver license indicating possession of
187 the Florida boating safety identification card;~~;~~ or photographic
188 identification and a temporary certificate issued or approved by
189 the commission, an International Certificate of Competency, a
190 boating safety card or certificate from another state or United
191 States territory, or a Canadian Pleasure Craft Operator Card,
192 which shows that he or she has:

193 (a) Completed a commission-approved boating safety
194 education course that meets the minimum requirements established
195 by the National Association of State Boating Law Administrators;
196 ~~or~~

197 (b) Passed a temporary certificate examination developed or
198 approved by the commission;

199 (c) A valid International Certificate of Competency; or

200 (d) Completed a boating safety education course or
201 equivalency examination in another state, a United States
202 territory, or Canada which meets or exceeds the minimum
203 requirements established by the National Association of State
204 Boating Law Administrators.

205 (3) (a) ~~(2) (a)~~ A person may obtain a Florida boating safety
206 identification card by successfully completing a boating safety
207 education course that meets the requirements of this section and
208 rules adopted by the commission pursuant to this section.

209 (b) A person may obtain a temporary certificate by passing
210 a temporary certificate examination that meets the requirements
211 of this section and rules adopted by the commission pursuant to
212 this section.

213 (4) ~~(3)~~ A ~~Any~~ commission-approved boating safety education



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214 course or temporary certificate examination developed or
215 approved by the commission must include a component regarding
216 diving vessels, awareness of divers in the water, divers-down
217 warning devices, and the requirements of s. 327.331.

218 ~~(4) The commission may appoint liveries, marinas, or other~~
219 ~~persons as its agents to administer the course or temporary~~
220 ~~certificate examination and issue identification cards or~~
221 ~~temporary certificates in digital, electronic, or paper format~~
222 ~~under guidelines established by the commission. An agent must~~
223 ~~charge the \$2 examination fee, which must be forwarded to the~~
224 ~~commission with proof of passage of the examination and may~~
225 ~~charge and keep a \$1 service fee.~~

226 (5) A Florida boating safety identification card issued to
227 a person who has completed a boating safety education course is
228 valid for life. A temporary certificate issued to a person who
229 has passed a temporary certification examination is valid for 90
230 days after the date of issuance. The commission may issue either
231 the boating safety identification card or the temporary
232 certificate in a digital, electronic, or paper format.

233 (6) A person is exempt from subsection (1) if he or she:

234 (a) 1. Is licensed by the United States Coast Guard to serve
235 as master of a vessel; or

236 2. Has been previously licensed by the United States Coast
237 Guard to serve as master of a vessel, provides proof of such
238 licensure to the commission, and requests that a boating safety
239 identification card be issued in his or her name.

240 (b) Operates a vessel only on a private lake or pond.

241 (c) Is accompanied in the vessel by a person who is exempt
242 from this section or who holds a boating safety identification



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243 card in compliance with this section, who is 18 years of age or
244 older, and who is attendant to the operation of the vessel and
245 responsible for the safe operation of the vessel and for any
246 violation that occurs during the operation of the vessel.

247 (d) Is a nonresident who has in his or her possession
248 photographic identification and proof that he or she has
249 completed a boating safety education course or equivalency
250 examination in another state or a United States territory which
251 meets or exceeds the minimum requirements established by the
252 National Association of State Boating Law Administrators.

253 (e) Is operating a vessel within 90 days after the purchase
254 of that vessel and has available for inspection aboard that
255 vessel a bill of sale meeting the requirements of s. 328.46(1).

256 (f) Is operating a vessel within 90 days after completing a
257 boating safety education course in accordance with paragraph
258 (2) (a) the requirements of paragraph (1) (a) and has a
259 photographic identification card and a boating safety education
260 certificate available for inspection as proof of having
261 completed a boating safety education course. The boating safety
262 education certificate must provide, at a minimum, the student's
263 first and last name, the student's date of birth, and the date
264 that he or she passed the course examination.

265 (g) Is exempted by rule of the commission.

266 (7) A person who operates a vessel in violation of this
267 section subsection (1) commits a noncriminal infraction,
268 punishable as provided in s. 327.73.

269 (8) The commission shall institute and coordinate a
270 statewide program of boating safety instruction and
271 certification to ensure that boating safety courses and



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272 examinations are available in each county of this ~~the~~ state. The
273 commission may appoint agents to administer the boating safety
274 education course or temporary certificate examination and may
275 authorize the agents to issue temporary certificates in digital,
276 electronic, or paper format. An agent ~~The agents~~ shall charge
277 and collect the \$2 fee required in subsection (9) for each
278 temporary certificate requested of the commission by that agent,
279 which must be forwarded to the commission. The agent may charge
280 and keep a ~~\$1~~ service fee.

281 (9) The commission may ~~is authorized to~~ establish and ~~to~~
282 collect a \$2 fee for each card and temporary certificate issued
283 pursuant to this section.

284 (10) The commission shall design forms and adopt rules
285 pursuant to chapter 120 to implement ~~the provisions of~~ this
286 section.

287 (11) This section may be cited as the "Osmany 'Ozzie'
288 Castellanos Boating Safety Education Act."

289 Section 12. Present subsection (5) of section 327.4107,
290 Florida Statutes, is redesignated as subsection (6), a new
291 subsection (5) and subsection (7) are added to that section, and
292 paragraphs (d) and (e) of subsection (2) of that section are
293 amended, to read:

294 327.4107 Vessels at risk of becoming derelict on waters of
295 this state.—

296 (2) An officer of the commission or of a law enforcement
297 agency specified in s. 327.70 may determine that a vessel is at
298 risk of becoming derelict if any of the following conditions
299 exist:

300 (d) The vessel is ~~left or stored aground unattended in such~~



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301 ~~a state that would prevent the vessel from getting underway, is~~
302 ~~listing due to water intrusion, or is sunk or partially sunk.~~

303 (e) The vessel does not have an effective means of
304 propulsion for safe navigation within 72 hours after the vessel
305 owner or operator receives telephonic notice, in-person notice
306 recorded on an agency-approved body camera, or written notice,
307 which may be provided by facsimile, electronic mail, or other
308 electronic means, stating such from an officer, and the vessel
309 owner or operator is unable to provide a receipt, proof of
310 purchase, or other documentation of having ordered necessary
311 parts for vessel repair. The commission may adopt rules to
312 implement this paragraph.

313 (5) The commission, an officer of the commission, or a law
314 enforcement agency or officer specified in s. 327.70 may
315 relocate or cause to be relocated an at-risk vessel found to be
316 in violation of this section to a distance greater than 20 feet
317 from a mangrove or upland vegetation. The commission, an officer
318 of the commission, or a law enforcement agency or officer acting
319 pursuant to this subsection upon waters of this state shall be
320 held harmless for all damages to the at-risk vessel resulting
321 from such relocation unless the damage results from gross
322 negligence or willful misconduct as these terms are defined in
323 s. 823.11.

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

327 (a) Removal, relocation, and destruction of vessels
328 declared a public nuisance, derelict or at risk of becoming
329 derelict, or lost or abandoned in accordance with s. 327.53(7),



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330 s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).

331 (b) Creation of a vessel turn-in program allowing the owner
332 of a vessel determined by law enforcement to be at risk of
333 becoming derelict in accordance with this section to turn his or
334 her vessel and vessel title over to the commission to be
335 destroyed without penalty.

336 (c) Providing for removal and destruction of an abandoned
337 vessel for which an owner cannot be identified or the owner of
338 which is deceased and no heir is interested in acquiring the
339 vessel.

340 (d) Purchase of anchor line, anchors, and other equipment
341 necessary for securing vessels at risk of becoming derelict.

342 (e) Creating or acquiring moorings designated for securing
343 vessels at risk of becoming derelict.

344
345 The commission may adopt rules to implement this subsection.
346 Implementation of the derelict vessel prevention program shall
347 be subject to appropriation by the Legislature and shall be
348 funded by the Marine Resources Conservation Trust Fund or the
349 Florida Coastal Protection Trust Fund.

350 Section 13. Section 327.4108, Florida Statutes, is amended
351 to read:

352 327.4108 Anchoring of vessels in anchoring limitation
353 areas.-

354 (1) The following densely populated urban areas, which have
355 narrow state waterways, residential docking facilities, and
356 significant recreational boating traffic, are designated as
357 anchoring limitation areas, within which a person may not anchor
358 a vessel at any time during the period between one-half hour



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359 after sunset and one-half hour before sunrise, except as
360 provided in subsections (3) and (4):

361 (a) The section of Middle River lying between Northeast
362 21st Court and the Intracoastal Waterway in Broward County.

363 (b) Sunset Lake in Miami-Dade County.

364 (c) The sections of Biscayne Bay in Miami-Dade County lying
365 between:

366 1. Rivo Alto Island and Di Lido Island.

367 2. San Marino Island and San Marco Island.

368 3. San Marco Island and Biscayne Island.

369 (2) (a) Monroe County is designated as an anchoring
370 limitation area within which a vessel on waters of the state may
371 only be anchored in the same location for a maximum of 90 days.

372 The commission shall adopt rules to implement this subsection.

373 (b) The anchoring limitations in this subsection do not
374 apply to approved and permitted moorings or mooring fields.

375 (c) Notwithstanding the commission rules adopted pursuant
376 to this section, this section is not effective for Monroe County
377 until the county approves, permits, and opens new moorings for
378 public use, including at least 250 moorings within 1 mile of the
379 Key West Bight City Dock and at least 50 moorings within the Key
380 West Garrison Bight Mooring Field. Until such time, the
381 commission shall designate the area within 1 mile of the Key
382 West Bight City Dock as a priority for the investigation and
383 removal of derelict vessels.

384 ~~(2) To promote the public's use and enjoyment of the~~
385 ~~designated waterway, except as provided in subsections (3) and~~
386 ~~(4), a person may not anchor a vessel at any time during the~~
387 ~~period between one-half hour after sunset and one-half hour~~



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388 ~~before sunrise in an anchoring limitation area.~~

389 (3) Notwithstanding subsections (1) and subsection (2), a
390 person may anchor a vessel in an anchoring limitation area
391 during a time that would otherwise be unlawful:

392 (a) If the vessel suffers a mechanical failure that poses
393 an unreasonable risk of harm to the vessel or the persons
394 onboard unless the vessel anchors. The vessel may anchor for 3
395 business days or until the vessel is repaired, whichever occurs
396 first.

397 (b) If imminent or existing weather conditions in the
398 vicinity of the vessel pose an unreasonable risk of harm to the
399 vessel or the persons onboard unless the vessel anchors. The
400 vessel may anchor until weather conditions no longer pose such
401 risk. During a hurricane or tropical storm, weather conditions
402 are deemed to no longer pose an unreasonable risk of harm when
403 the hurricane or tropical storm warning affecting the area has
404 expired.

405 (c) During events described in s. 327.48 or other special
406 events, including, but not limited to, public music
407 performances, local government waterfront activities, or
408 fireworks displays. A vessel may anchor for the lesser of the
409 duration of the special event or 3 days.

410 (4) This section does not apply to:

411 (a) Vessels owned or operated by a governmental entity for
412 law enforcement, firefighting, military, or rescue purposes.

413 (b) Construction or dredging vessels on an active job site.

414 (c) Vessels actively engaged in commercial fishing.

415 (d) Vessels engaged in recreational fishing if the persons
416 onboard are actively tending hook and line fishing gear or nets.



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417 (5) (a) As used in this subsection, the term "law
418 enforcement officer or agency" means an officer or agency
419 authorized to enforce this section pursuant to s. 327.70.

420 (b) A law enforcement officer or agency may remove a vessel
421 from an anchoring limitation area and impound the vessel for up
422 to 48 hours, or cause such removal and impoundment, if the
423 vessel operator, after being issued a citation for a violation
424 of this section:

425 1. Anchors the vessel in violation of this section within
426 12 hours after being issued the citation; or

427 2. Refuses to leave the anchoring limitation area after
428 being directed to do so by a law enforcement officer or agency.

429 (c) A law enforcement officer or agency acting under this
430 subsection to remove or impound a vessel, or to cause such
431 removal or impoundment, shall be held harmless for any damage to
432 the vessel resulting from such removal or impoundment unless the
433 damage results from gross negligence or willful misconduct.

434 (d) A contractor performing removal or impoundment services
435 at the direction of a law enforcement officer or agency pursuant
436 to this subsection must:

437 1. Be licensed in accordance with United States Coast Guard
438 regulations, as applicable.

439 2. Obtain and carry a current policy issued by a licensed
440 insurance carrier in this state to insure against any accident,
441 loss, injury, property damage, or other casualty caused by or
442 resulting from the contractor's actions.

443 3. Be properly equipped to perform such services.

444 (e) In addition to the civil penalty imposed under s.
445 327.73(1)(z), the operator of a vessel that is removed and



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446 impounded pursuant to paragraph (b) must pay all removal and
447 storage fees before the vessel is released. A vessel removed
448 pursuant to paragraph (b) may not be impounded for longer than
449 48 hours.

450 (6) A violation of this section is punishable as provided
451 in s. 327.73(1)(z).

452 ~~(7) This section shall remain in effect notwithstanding the~~
453 ~~Legislature's adoption of the commission's recommendations for~~
454 ~~the regulation of mooring vessels outside of public mooring~~
455 ~~fields pursuant to s. 327.4105.~~

456 Section 14. Paragraph (a) of subsection (1) and subsection
457 (2) of section 327.4109, Florida Statutes, are amended to read:
458 327.4109 Anchoring or mooring prohibited; exceptions;
459 penalties.—

460 (1)(a) The owner or operator of a vessel or floating
461 structure may not anchor or moor such that the nearest approach
462 of the anchored or moored vessel or floating structure is:

463 1. Within 150 feet of any public or private marina, boat
464 ramp, boatyard, or other public vessel launching or loading
465 facility;

466 2. Within 500 ~~300~~ feet of a superyacht repair facility. For
467 purposes of this subparagraph, the term "superyacht repair
468 facility" means a facility that services or repairs a yacht with
469 a water line of 120 feet or more in length; or

470 3. Within 100 feet outward from the marked boundary of a
471 public mooring field or a lesser distance if approved by the
472 commission upon request of a local government within which the
473 mooring field is located. The commission may adopt rules to
474 implement this subparagraph.



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475 (2) Notwithstanding subsection (1), an owner or operator of
476 a vessel may anchor or moor within 150 feet of any public or
477 private marina, boat ramp, boatyard, or other public vessel
478 launching or loading facility; within 500 ~~300~~ feet of a
479 superyacht repair facility; or within 100 feet outward from the
480 marked boundary of a public mooring field if:

481 (a) The vessel suffers a mechanical failure that poses an
482 unreasonable risk of harm to the vessel or the persons onboard
483 such vessel. The owner or operator of the vessel may anchor or
484 moor for 5 business days or until the vessel is repaired,
485 whichever occurs first.

486 (b) Imminent or existing weather conditions in the vicinity
487 of the vessel pose an unreasonable risk of harm to the vessel or
488 the persons onboard such vessel. The owner or operator of the
489 vessel may anchor or moor until weather conditions no longer
490 pose such risk. During a hurricane or tropical storm, weather
491 conditions are deemed to no longer pose an unreasonable risk of
492 harm when the hurricane or tropical storm warning affecting the
493 area has expired.

494 Section 15. Subsection (2) of section 327.45, Florida
495 Statutes, is amended to read:

496 327.45 Protection zones for springs.—

497 (2) The commission may establish by rule protection zones
498 that restrict the speed and operation of vessels, or that
499 prohibit the anchoring, mooring, beaching, or grounding of
500 vessels, to protect and prevent harm to first, second, and third
501 magnitude springs and springs groups, including their associated
502 spring runs, as determined by the commission using the most
503 recent Florida Geological Survey springs bulletin. This harm



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504 includes negative impacts to water quality, water quantity,
505 hydrology, wetlands, and aquatic and wetland-dependent species.

506 Section 16. Paragraph (b) of subsection (1) of section
507 327.46, Florida Statutes, is amended to read:

508 327.46 Boating-restricted areas.—

509 (1) Boating-restricted areas, including, but not limited
510 to, restrictions of vessel speeds and vessel traffic, may be
511 established on the waters of this state for any purpose
512 necessary to protect the safety of the public if such
513 restrictions are necessary based on boating accidents,
514 visibility, hazardous currents or water levels, vessel traffic
515 congestion, or other navigational hazards or to protect
516 seagrasses on privately owned submerged lands.

517 (b) Municipalities and counties may have the authority to
518 establish the following boating-restricted areas by ordinance,
519 including, notwithstanding the prohibition in s. 327.60(2)(c),
520 within the portion of the Florida Intracoastal Waterway within
521 their jurisdiction:

522 1. An ordinance establishing an idle speed, no wake
523 boating-restricted area, if the area is:

524 a. Within 500 feet of any boat ramp, hoist, marine railway,
525 or other launching or landing facility available for use by the
526 general boating public on waterways more than 300 feet in width
527 or within 300 feet of any boat ramp, hoist, marine railway, or
528 other launching or landing facility available for use by the
529 general boating public on waterways not exceeding 300 feet in
530 width.

531 b. Within 500 feet of fuel pumps or dispensers at any
532 marine fueling facility that sells motor fuel to the general



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533 boating public on waterways more than 300 feet in width or
534 within 300 feet of the fuel pumps or dispensers at any licensed
535 terminal facility that sells motor fuel to the general boating
536 public on waterways not exceeding 300 feet in width.

537 c. Inside or within 300 feet of any lock structure.

538 2. An ordinance establishing a slow speed, minimum wake
539 boating-restricted area if the area is:

540 a. Within 300 feet of any bridge fender system.

541 b. Within 300 feet of any bridge span presenting a vertical
542 clearance of less than 25 feet or a horizontal clearance of less
543 than 100 feet.

544 c. On a creek, stream, canal, or similar linear waterway if
545 the waterway is less than 75 feet in width from shoreline to
546 shoreline.

547 d. On a lake or pond of less than 10 acres in total surface
548 area.

549 e. Within the boundaries of a permitted public mooring
550 field and a buffer around the mooring field of up to 100 feet.

551 3. An ordinance establishing a vessel-exclusion zone if the
552 area is:

553 a. Accessible by land, open to the general public, and
554 designated as a public bathing beach or swim area, except that
555 such areas may not be established within the Florida
556 Intracoastal Waterway.

557 b. Within 300 feet of a dam, spillway, or flood control
558 structure.

559 Section 17. Section 327.463, Florida Statutes, is created
560 to read:

561 327.463 Special hazards.-



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- 562 (1) For purposes of this section, a vessel:
563 (a) Is operating at slow speed, minimum wake only if it is:
564 1. Fully off plane and completely settled into the water;
565 and
566 2. Proceeding without wake or with minimum wake.

567
568 A vessel that is required to operate at slow speed, minimum wake
569 may not proceed at a speed greater than a speed that is
570 reasonable and prudent to avoid the creation of an excessive
571 wake or other hazardous condition under the existing
572 circumstances.

- 573 (b) Is not proceeding at slow speed, minimum wake if it is:
574 1. Operating on plane;
575 2. In the process of coming off plane and settling into the
576 water or getting on plane; or
577 3. Operating at a speed that creates a wake that
578 unreasonably or unnecessarily endangers other vessels.

579 (2) A person may not operate a vessel faster than slow
580 speed, minimum wake within 300 feet of any emergency vessel,
581 including, but not limited to, a law enforcement vessel, United
582 States Coast Guard vessel, or firefighting vessel, when such
583 emergency vessel's emergency lights are activated.

584 (3) (a) A person may not operate a vessel faster than slow
585 speed, minimum wake within 300 feet of any construction vessel
586 or barge when the vessel or barge is displaying an orange flag
587 from a pole extending:

- 588 1. At least 10 feet above the tallest portion of the vessel
589 or barge, indicating that the vessel or barge is actively
590 engaged in construction operations; or



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591 2. At least 5 feet above any superstructure permanently
592 installed upon the vessel or barge, indicating that the vessel
593 or barge is actively engaged in construction operations.

594 (b) A flag displayed on a construction vessel or barge
595 pursuant to this subsection must:

596 1. Be at least 2 feet by 3 feet in size.

597 2. Have a wire or other stiffener or be otherwise
598 constructed to ensure that the flag remains fully unfurled and
599 extended in the absence of a wind or breeze.

600 3. Be displayed so that the visibility of the flag is not
601 obscured in any direction.

602 (c) In periods of low visibility, including any time
603 between 30 minutes after sunset and 30 minutes before sunrise, a
604 person may not be cited for a violation of this subsection
605 unless the orange flag is illuminated and visible from a
606 distance of at least 2 nautical miles. Such illumination does
607 not relieve the construction vessel or barge from complying with
608 all navigation rules.

609 (4) (a) A person operating a vessel in violation of this
610 section commits a noncriminal infraction, punishable as provided
611 in s. 327.73.

612 (b) The owner of, or party who is responsible for, a
613 construction vessel or barge who displays an orange flag on the
614 vessel or barge when it is not actively engaged in construction
615 operations commits a noncriminal infraction, punishable as
616 provided in s. 327.73.

617 (5) The speed and penalty provisions of this section do not
618 apply to a law enforcement, firefighting, or rescue vessel that
619 is owned or operated by a governmental entity.



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620 Section 18. Paragraph (a) of subsection (1) of section
621 327.50, Florida Statutes, is amended to read:

622 327.50 Vessel safety regulations; equipment and lighting
623 requirements.—

624 (1) (a) The owner and operator of every vessel on the waters
625 of this state shall carry, store, maintain, and use safety
626 equipment in accordance with current United States Coast Guard
627 safety equipment requirements as specified in the Code of
628 Federal Regulations, unless expressly exempted by the commission
629 department.

630 Section 19. Paragraph (a) of subsection (6) and subsection
631 (7) of section 327.53, Florida Statutes, are amended, and
632 subsection (8) is added to that section, to read:

633 327.53 Marine sanitation.—

634 (6) (a) A violation of this section is a noncriminal
635 infraction, punishable as provided in s. 327.73. Each violation
636 shall be a separate offense. The owner and operator of any
637 vessel shall be jointly and severally liable for the civil
638 penalty imposed pursuant to this section.

639 (7) A ~~Any~~ vessel or floating structure operated or occupied
640 on the waters of this ~~the~~ state in violation of this section is
641 declared a nuisance and a hazard to public safety and health.
642 The owner or operator of a ~~any~~ vessel or floating structure
643 cited for violating this section shall, within 30 days following
644 the issuance of the citation, correct the violation for which
645 the citation was issued or remove the vessel or floating
646 structure from the waters of this ~~the~~ state. If the violation is
647 not corrected within the 30 days and the vessel or floating
648 structure remains on the waters of this ~~the~~ state in violation



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649 of this section, law enforcement officers charged with the
650 enforcement of this chapter under s. 327.70 shall apply to the
651 appropriate court in the county in which the vessel or floating
652 structure is located, to order or otherwise cause the removal of
653 such vessel or floating structure from the waters of this the
654 state at the owner's expense. If the owner cannot be found or
655 otherwise fails to pay the removal costs, the provisions of s.
656 328.17 shall apply. If the proceeds under s. 328.17 are not
657 sufficient to pay all removal costs, funds appropriated from the
658 Marine Resources Conservation Trust Fund pursuant to paragraph
659 (6) (b) or s. 328.72(15) (c) ~~s. 328.72(16)~~ may be used.

660 (8) The owner or operator of a live-aboard vessel as
661 defined in s. 327.02(23), or a houseboat as defined in s.
662 327.02(17), that is equipped with a marine sanitation device
663 must maintain a record of the date of each pumpout of the marine
664 sanitation device and the location of the pumpout station or
665 waste reception facility. Each record must be maintained for 1
666 year after the date of the pumpout. This subsection does not
667 apply to marine compost toilets that process and manage human
668 waste using marine compost toilet technologies that comply with
669 United States Coast Guard requirements.

670 Section 20. Subsection (2) of section 327.54, Florida
671 Statutes, is amended to read:

672 327.54 Liveries; safety regulations; penalty.—

673 (2) A livery may not knowingly lease, hire, or rent a any
674 vessel ~~powered by a motor of 10 horsepower or greater~~ to a any
675 person who is required to comply with s. 327.395, unless such
676 person presents to the livery the documentation required by s.
677 327.395(2) for the operation of a vessel ~~photographic~~



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678 ~~identification and a valid boater safety identification card as~~
679 ~~required under s. 327.395(1),~~ or meets the exemption provided
680 under

681
682 ===== T I T L E A M E N D M E N T =====

683 And the title is amended as follows:

684 Delete lines 26 - 92

685 and insert:

686 penalties; amending s. 327.352, F.S.; revising
687 conditions under which a person commits a misdemeanor
688 of the first degree for refusing to submit to certain
689 tests; amending s. 327.35215, F.S.; requiring the
690 clerk of the court to notify the Department of Highway
691 Safety and Motor Vehicles of certain final
692 dispositions by electronic transmission; requiring the
693 department to enter such disposition on a person's
694 driving record; amending s. 327.359, F.S.; revising
695 conditions under which a person commits a misdemeanor
696 of the first degree for refusing to submit to certain
697 tests; creating s. 327.371, F.S.; providing
698 circumstances under which a person may operate a
699 human-powered vessel within the boundaries of the
700 marked channel of the Florida Intracoastal Waterway;
701 providing a penalty; amending s. 327.391, F.S.;
702 conforming cross-references; amending s. 327.395,
703 F.S.; revising the types of documentation that a
704 person may use to comply with certain boating safety
705 requirements; removing the authority of the commission
706 to appoint certain entities to administer a boating



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707 safety education course or temporary certificate
708 examination and issue certain credentials; exempting
709 certain persons from the requirement to possess
710 certain documents aboard a vessel; removing the
711 specified service fee amount that certain entities
712 that issue boating safety identification cards and
713 temporary certificates may charge and keep; amending
714 s. 327.4107, F.S.; revising the conditions under which
715 officers may determine a vessel is at risk of becoming
716 derelict; authorizing certain officers to provide
717 notice that a vessel is at risk of becoming derelict
718 via body camera recordings; authorizing the commission
719 or certain officers to relocate at-risk vessels to a
720 certain distance from mangroves or vegetation;
721 providing that the commission or officers are not
722 liable for damages to such vessels; providing an
723 exception; authorizing the commission to establish a
724 derelict vessel prevention program consisting of
725 certain components; authorizing the commission to
726 adopt rules; providing that such program is subject to
727 appropriation by the Legislature; providing for
728 funding; amending s. 327.4108, F.S.; designating
729 Monroe County as an anchoring limitation area subject
730 to certain requirements; requiring the commission to
731 adopt rules; providing construction; requiring the
732 commission to designate a specified area as a priority
733 for the removal of derelict vessels until certain
734 conditions are met; deleting obsolete language;
735 amending s. 327.4109, F.S.; prohibiting the anchoring



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736 or mooring of a vessel or floating structure within a
737 certain distance of certain facilities; providing
738 exceptions; amending s. 327.45, F.S.; authorizing the
739 commission to establish protection zones where certain
740 activities are prohibited in or near springs; amending
741 s. 327.46, F.S.; authorizing a county or municipality
742 to establish a boating-restricted area within and
743 around a public mooring field and within certain
744 portions of the Florida Intracoastal Waterway;
745 creating s. 327.463, F.S.; specifying conditions under
746 which a vessel is and is not operating at slow speed,
747 minimum wake; prohibiting a person from operating a
748 vessel faster than slow speed, minimum wake within a
749 certain distance from other specified vessels;
750 providing requirements for construction vessel or
751 barge flags; exempting a person from being cited for a
752 violation under certain circumstances; providing
753 penalties; providing applicability; amending s.
754 327.50, F.S.; authorizing the commission to exempt
755 vessel owners and operators from certain safety
756 equipment requirements; amending s. 327.53, F.S.;
757 requiring the owner or operator of a live-aboard
758 vessel or houseboat equipped with a marine sanitation
759 device to maintain a record of the date and location
760 of each pumpout of the device for a certain period;
761 providing an exception;



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576-03924-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to operation and safety of motor
vehicles and vessels; amending ss. 316.1932 and
316.1939, F.S.; revising conditions under which a
person's driving privilege is suspended and under
which the person commits a misdemeanor relating to
tests for alcohol, chemical substances, or controlled
substances; specifying that such misdemeanor is a
misdemeanor of the first degree; amending s. 327.02,
F.S.; defining the term "human-powered vessel";
revising the definition of the term "navigation
rules"; amending s. 327.04, F.S.; providing additional
rulemaking authority to the Fish and Wildlife
Conservation Commission; creating s. 327.462, F.S.;
defining terms; authorizing heads of certain entities
to establish temporary protection zones in certain
water bodies for certain purposes; providing
protection zone requirements; prohibiting the
restriction of vessel movement within the Florida
Intracoastal Waterway except under certain
circumstances; requiring the heads of certain entities
to report the establishment of such protection zones
to the commission and to the appropriate United States
Coast Guard Sector Command; providing requirements for
the report; providing applicability; providing
penalties; amending ss. 327.352 and 327.359, F.S.;



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revising conditions under which a person commits a
misdemeanor of the first degree for refusing to submit
to certain tests; creating s. 327.371, F.S.; providing
circumstances under which a person may operate a
human-powered vessel within the boundaries of the
marked channel of the Florida Intracoastal Waterway;
providing a penalty; amending s. 327.391, F.S.;
conforming cross-references; amending s. 327.395,
F.S.; revising the types of documentation that a
person may use to comply with certain boating safety
requirements; removing the authority of the commission
to appoint certain entities to administer a boating
safety education course or temporary certificate
examination and issue certain credentials; exempting
certain persons from the requirement to possess
certain documents aboard a vessel; removing the
specified service fee amount that certain entities
that issue boating safety identification cards and
temporary certificates may charge and keep; amending
s. 327.4107, F.S.; revising the conditions under which
officers may determine a vessel is at risk of becoming
derelict; authorizing certain officers to provide
notice that a vessel is at risk of becoming derelict
via body camera recordings; authorizing the commission
or certain officers to relocate at-risk vessels to a
certain distance from mangroves or vegetation;
providing that the commission or officers are not
liable for damages to such vessels; providing an
exception; authorizing the commission to establish a



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56 derelict vessel prevention program consisting of
57 certain components; authorizing the commission to
58 adopt rules; providing that such program is subject to
59 appropriation by the Legislature; providing for
60 funding; amending s. 327.4108, F.S.; designating
61 Monroe County as an anchoring limitation area subject
62 to certain requirements; requiring the commission to
63 adopt rules; providing construction; requiring the
64 commission to designate a specified area as a priority
65 for the removal of derelict vessels until certain
66 conditions are met; deleting obsolete language;
67 amending s. 327.4109, F.S.; prohibiting the anchoring
68 or mooring of a vessel or floating structure within a
69 certain distance of certain facilities; providing
70 exceptions; amending s. 327.45, F.S.; authorizing the
71 commission to establish protection zones where certain
72 activities are prohibited in or near springs; amending
73 s. 327.46, F.S.; authorizing a county or municipality
74 to establish a boating-restricted area within and
75 around a public mooring field and within certain
76 portions of the Florida Intracoastal Waterway;
77 creating s. 327.463, F.S.; specifying conditions under
78 which a vessel is and is not operating at slow speed,
79 minimum wake; prohibiting a person from operating a
80 vessel faster than slow speed, minimum wake within a
81 certain distance from other specified vessels;
82 providing requirements for construction vessel or
83 barge flags; exempting a person from being cited for a
84 violation under certain circumstances; providing



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85 penalties; providing applicability; amending s.
86 327.50, F.S.; authorizing the commission to exempt
87 vessel owners and operators from certain safety
88 equipment requirements; amending s. 327.53, F.S.;
89 requiring the owner or operator of a live-aboard
90 vessel or houseboat equipped with a marine sanitation
91 device to maintain a record of the date and location
92 of each pumpout of the device for a certain period;
93 conforming a cross-reference; making technical
94 changes; amending s. 327.54, F.S.; prohibiting a
95 livery from leasing, hiring, or renting a vessel to a
96 person required to complete a commission-approved
97 boating safety education course unless such person
98 presents certain documentation indicating compliance;
99 amending s. 327.60, F.S.; authorizing a local
100 government to enact and enforce regulations allowing
101 the local law enforcement agency to remove an
102 abandoned or lost vessel affixed to a public mooring;
103 amending s. 327.73, F.S.; providing additional
104 violations that qualify as noncriminal infractions;
105 providing civil penalties; prohibiting conviction of a
106 person cited for a violation relating to possessing
107 proof of boating safety education under certain
108 circumstances; increasing certain civil penalties;
109 providing that certain vessels shall be declared a
110 public nuisance subject to certain statutory
111 provisions; authorizing the commission or certain
112 officers to relocate or remove public nuisance vessels
113 from the waters of this state; providing that the



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114 commission or officers are not liable for damages to
115 such vessels; providing an exception; amending s.
116 328.09, F.S.; prohibiting the Department of Highway
117 Safety and Motor Vehicles from issuing a certificate
118 of title to an applicant for a vessel that has been
119 deemed derelict pursuant to certain provisions;
120 authorizing the department, at a later date, to reject
121 an application for a certificate of title for such a
122 vessel; amending s. 376.15, F.S.; revising unlawful
123 acts relating to derelict vessels; defining the term
124 "leave"; prohibiting an owner or operator whose vessel
125 becomes derelict due to specified accidents or events
126 from being charged with a violation under certain
127 circumstances; providing applicability; conforming
128 provisions to changes made by the act; authorizing a
129 governmental subdivision that has received
130 authorization from a law enforcement officer or agency
131 to direct a contractor to perform vessel storage,
132 destruction, and disposal activities; authorizing the
133 commission to provide local government grants for the
134 storage, destruction, and disposal of derelict
135 vessels; providing for funding; amending s. 705.103,
136 F.S.; providing notice procedures for when a law
137 enforcement officer ascertains that a derelict or
138 public nuisance vessel is present on the waters of
139 this state; requiring a mailed notice to the owner or
140 party responsible for the vessel to inform him or her
141 of the right to a hearing; providing hearing
142 requirements; authorizing a law enforcement agency to



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143 take certain actions if a hearing is not requested or
144 a vessel is determined to be derelict or otherwise in
145 violation of law; revising provisions relating to
146 liability for vessel removal costs and notification of
147 the amount owed; providing penalties for a person who
148 is issued a registration for a vessel or motor vehicle
149 before such costs are paid; requiring persons whose
150 vessel registration and motor vehicle privileges have
151 been revoked for failure to pay certain costs to be
152 reported to the department; prohibiting issuance of a
153 certificate of registration to such persons until such
154 costs are paid; amending s. 823.11, F.S.; revising
155 application of definitions; revising the definition of
156 the term "derelict vessel"; specifying requirements
157 for a vessel to be considered wrecked, junked, or
158 substantially dismantled; providing construction;
159 revising unlawful acts relating to derelict vessels;
160 defining the term "leave"; prohibiting an owner or
161 operator whose vessel becomes derelict due to
162 specified accidents or events from being charged with
163 a violation under certain circumstances; providing
164 applicability; providing that relocation or removal
165 costs incurred by a governmental subdivision are
166 recoverable against the vessel owner or the party
167 determined to be legally responsible for the vessel
168 being derelict; providing penalties for a person who
169 is issued a registration for a vessel or motor vehicle
170 before such costs are paid; authorizing a governmental
171 subdivision that has received authorization from a law



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172 enforcement officer or agency to direct a contractor
173 to perform vessel relocation or removal activities;
174 providing effective dates.

175
176 Be It Enacted by the Legislature of the State of Florida:

177 Section 1. Effective October 1, 2021, paragraphs (a) and
178 (c) of subsection (1) of section 316.1932, Florida Statutes, are
179 amended to read:

180
181 316.1932 Tests for alcohol, chemical substances, or
182 controlled substances; implied consent; refusal.-

183 (1)(a)1.a. A ~~Any~~ person who accepts the privilege extended
184 by the laws of this state of operating a motor vehicle within
185 this state is, by ~~se~~ operating such vehicle, deemed to have
186 given his or her consent to submit to an approved chemical test
187 or physical test including, but not limited to, an infrared
188 light test of his or her breath for the purpose of determining
189 the alcoholic content of his or her blood or breath if the
190 person is lawfully arrested for any offense allegedly committed
191 while the person was driving or was in actual physical control
192 of a motor vehicle while under the influence of alcoholic
193 beverages. The chemical or physical breath test must be
194 incidental to a lawful arrest and administered at the request of
195 a law enforcement officer who has reasonable cause to believe
196 such person was driving or was in actual physical control of the
197 motor vehicle within this state while under the influence of
198 alcoholic beverages. The administration of a breath test does
199 not preclude the administration of another type of test. The
200 person shall be told that his or her failure to submit to any



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201 lawful test of his or her breath will result in the suspension
202 of the person's privilege to operate a motor vehicle for a
203 period of 1 year for a first refusal, or for a period of 18
204 months if the driving privilege of such person has been
205 previously suspended or if he or she has previously been fined
206 under s. 327.35215 as a result of a refusal to submit to ~~such~~ a
207 test or tests required under this chapter or chapter 327, and
208 shall also be told that if he or she refuses to submit to a
209 lawful test of his or her breath and his or her driving
210 privilege has been previously suspended or if he or she has
211 previously been fined under s. 327.35215 for a prior refusal to
212 submit to a lawful test of his or her breath, urine, or blood as
213 required under this chapter or chapter 327, he or she commits a
214 misdemeanor of the first degree, punishable as provided in s.
215 775.082 or s. 775.083, in addition to any other penalties
216 provided by law. The refusal to submit to a chemical or physical
217 breath test upon the request of a law enforcement officer as
218 provided in this section is admissible into evidence in any
219 criminal proceeding.

220 b. A ~~Any~~ person who accepts the privilege extended by the
221 laws of this state of operating a motor vehicle within this
222 state is, by ~~se~~ operating such vehicle, deemed to have given his
223 or her consent to submit to a urine test for the purpose of
224 detecting the presence of chemical substances as set forth in s.
225 877.111 or controlled substances if the person is lawfully
226 arrested for any offense allegedly committed while the person
227 was driving or was in actual physical control of a motor vehicle
228 while under the influence of chemical substances or controlled
229 substances. The urine test must be incidental to a lawful arrest



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230 and administered at a detention facility or any other facility,
231 mobile or otherwise, which is equipped to administer such tests
232 at the request of a law enforcement officer who has reasonable
233 cause to believe such person was driving or was in actual
234 physical control of a motor vehicle within this state while
235 under the influence of chemical substances or controlled
236 substances. The urine test shall be administered at a detention
237 facility or any other facility, mobile or otherwise, which is
238 equipped to administer such test in a reasonable manner that
239 will ensure the accuracy of the specimen and maintain the
240 privacy of the individual involved. The administration of a
241 urine test does not preclude the administration of another type
242 of test. The person shall be told that his or her failure to
243 submit to any lawful test of his or her urine will result in the
244 suspension of the person's privilege to operate a motor vehicle
245 for a period of 1 year for the first refusal, or for a period of
246 18 months if the driving privilege of such person has been
247 previously suspended or if he or she has previously been fined
248 under s. 327.35215 as a result of a refusal to submit to ~~such~~ a
249 test or tests required under this chapter or chapter 327, and
250 shall also be told that if he or she refuses to submit to a
251 lawful test of his or her urine and his or her driving privilege
252 has been previously suspended or if he or she has previously
253 been fined under s. 327.35215 for a prior refusal to submit to a
254 lawful test of his or her breath, urine, or blood as required
255 under this chapter or chapter 327, he or she commits a
256 misdemeanor of the first degree, punishable as provided in s.
257 775.082 or s. 775.083, in addition to any other penalties
258 provided by law. The refusal to submit to a urine test upon the



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259 request of a law enforcement officer as provided in this section
260 is admissible into evidence in any criminal proceeding.

261 2. The Alcohol Testing Program within the Department of Law
262 Enforcement is responsible for the regulation of the operation,
263 inspection, and registration of breath test instruments utilized
264 under the driving and boating under the influence provisions and
265 related provisions located in this chapter and chapters 322 and
266 327. The program is responsible for the regulation of the
267 individuals who operate, inspect, and instruct on the breath
268 test instruments utilized in the driving and boating under the
269 influence provisions and related provisions located in this
270 chapter and chapters 322 and 327. The program is further
271 responsible for the regulation of blood analysts who conduct
272 blood testing to be utilized under the driving and boating under
273 the influence provisions and related provisions located in this
274 chapter and chapters 322 and 327. The program shall:

- 275 a. Establish uniform criteria for the issuance of permits
276 to breath test operators, agency inspectors, instructors, blood
277 analysts, and instruments.
- 278 b. Have the authority to permit breath test operators,
279 agency inspectors, instructors, blood analysts, and instruments.
- 280 c. Have the authority to discipline and suspend, revoke, or
281 renew the permits of breath test operators, agency inspectors,
282 instructors, blood analysts, and instruments.
- 283 d. Establish uniform requirements for instruction and
284 curricula for the operation and inspection of approved
285 instruments.
- 286 e. Have the authority to specify one approved curriculum
287 for the operation and inspection of approved instruments.



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- 288 f. Establish a procedure for the approval of breath test
289 operator and agency inspector classes.
- 290 g. Have the authority to approve or disapprove breath test
291 instruments and accompanying paraphernalia for use pursuant to
292 the driving and boating under the influence provisions and
293 related provisions located in this chapter and chapters 322 and
294 327.
- 295 h. With the approval of the executive director of the
296 Department of Law Enforcement, make and enter into contracts and
297 agreements with other agencies, organizations, associations,
298 corporations, individuals, or federal agencies as are necessary,
299 expedient, or incidental to the performance of duties.
- 300 i. Issue final orders which include findings of fact and
301 conclusions of law and which constitute final agency action for
302 the purpose of chapter 120.
- 303 j. Enforce compliance with ~~the provisions of~~ this section
304 through civil or administrative proceedings.
- 305 k. Make recommendations concerning any matter within the
306 purview of this section, this chapter, chapter 322, or chapter
307 327.
- 308 l. Promulgate rules for the administration and
309 implementation of this section, including definitions of terms.
- 310 m. Consult and cooperate with other entities for the
311 purpose of implementing the mandates of this section.
- 312 n. Have the authority to approve the type of blood test
313 utilized under the driving and boating under the influence
314 provisions and related provisions located in this chapter and
315 chapters 322 and 327.
- 316 o. Have the authority to specify techniques and methods for



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- 317 breath alcohol testing and blood testing utilized under the
318 driving and boating under the influence provisions and related
319 provisions located in this chapter and chapters 322 and 327.
- 320 p. Have the authority to approve repair facilities for the
321 approved breath test instruments, including the authority to set
322 criteria for approval.
- 323
- 324 Nothing in this section shall be construed to supersede
325 provisions in this chapter and chapters 322 and 327. The
326 specifications in this section are derived from the power and
327 authority previously and currently possessed by the Department
328 of Law Enforcement and are enumerated to conform with the
329 mandates of chapter 99-379, Laws of Florida.
- 330 (c) ~~A~~ Any person who accepts the privilege extended by the
331 laws of this state of operating a motor vehicle within this
332 state is, by operating such vehicle, deemed to have given his or
333 her consent to submit to an approved blood test for the purpose
334 of determining the alcoholic content of the blood or a blood
335 test for the purpose of determining the presence of chemical
336 substances or controlled substances as provided in this section
337 if there is reasonable cause to believe the person was driving
338 or in actual physical control of a motor vehicle while under the
339 influence of alcoholic beverages or chemical or controlled
340 substances and the person appears for treatment at a hospital,
341 clinic, or other medical facility and the administration of a
342 breath or urine test is impractical or impossible. As used in
343 this paragraph, the term "other medical facility" includes an
344 ambulance or other medical emergency vehicle. The blood test
345 shall be performed in a reasonable manner. A ~~Any~~ person who is



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346 incapable of refusal by reason of unconsciousness or other
347 mental or physical condition is deemed not to have withdrawn his
348 or her consent to such test. A blood test may be administered
349 whether or not the person is told that his or her failure to
350 submit to such a blood test will result in the suspension of the
351 person's privilege to operate a motor vehicle upon the public
352 highways of this state and that a refusal to submit to a lawful
353 test of his or her blood, if his or her driving privilege has
354 been previously suspended for refusal to submit to a lawful test
355 of his or her breath, urine, or blood, is a misdemeanor. ~~A Any~~
356 person who is capable of refusal shall be told that his or her
357 failure to submit to such a blood test will result in the
358 suspension of the person's privilege to operate a motor vehicle
359 for a period of 1 year for a first refusal, or for a period of
360 18 months if the driving privilege of the person has been
361 suspended previously or if he or she has previously been fined
362 under s. 327.35215 as a result of a refusal to submit to ~~such a~~
363 ~~test or tests~~ required under this chapter or chapter 327, and
364 ~~that a refusal to submit to a lawful test of his or her blood,~~
365 ~~if his or her driving privilege has been previously suspended~~
366 ~~for a prior refusal to submit to a lawful test of his or her~~
367 ~~breath, urine, or blood, is a misdemeanor.~~ The refusal to submit
368 to a blood test upon the request of a law enforcement officer is
369 admissible in evidence in any criminal proceeding.

370 Section 2. Effective October 1, 2021, subsection (1) of
371 section 316.1939, Florida Statutes, is amended to read:

372 316.1939 Refusal to submit to testing; penalties.-

373 (1) ~~A Any~~ person who has refused to submit to a chemical or
374 physical test of his or her breath, ~~blood,~~ or urine, as



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375 described in s. 316.1932, and whose driving privilege was
376 previously suspended or who was previously fined under s.
377 327.35215 for a prior refusal to submit to a lawful test of his
378 or her breath, urine, or blood required under this chapter or
379 chapter 327, and:

380 (a) Who the arresting law enforcement officer had probable
381 cause to believe was driving or in actual physical control of a
382 motor vehicle in this state while under the influence of
383 alcoholic beverages, chemical substances, or controlled
384 substances;

385 (b) Who was placed under lawful arrest for a violation of
386 s. 316.193 unless such test was requested pursuant to s.
387 316.1932(1)(c);

388 (c) Who was informed that, if he or she refused to submit
389 to such test, his or her privilege to operate a motor vehicle
390 would be suspended for a period of 1 year or, in the case of a
391 second or subsequent refusal, for a period of 18 months;

392 (d) Who was informed that a refusal to submit to a lawful
393 test of his or her breath ~~or,~~ urine, ~~or blood,~~ if his or her
394 driving privilege has been previously suspended or if he or she
395 has previously been fined under s. 327.35215 for a prior refusal
396 to submit to a lawful test of his or her breath, urine, or blood
397 as required under this chapter or chapter 327, is a misdemeanor
398 of the first degree, punishable as provided in s. 775.082 or s.
399 775.083, in addition to any other penalties provided by law; and

400 (e) Who, after having been so informed, refused to submit
401 to any such test when requested to do so by a law enforcement
402 officer or correctional officer commits a misdemeanor of the
403 first degree and is subject to punishment as provided in s.



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404 775.082 or s. 775.083.

405 Section 3. Present subsections (18) through (47) of section
406 327.02, Florida Statutes, are redesignated as subsections (19)
407 through (48), respectively, a new subsection (18) is added to
408 that section, and present subsection (31) of that section is
409 amended, to read:

410 327.02 Definitions.—As used in this chapter and in chapter
411 328, unless the context clearly requires a different meaning,
412 the term:

413 (18) "Human-powered vessel" means a vessel powered only by
414 its occupant or occupants, including, but not limited to, a
415 vessel powered only by the occupants' hands or feet, oars, or
416 paddles.

417 (32)-(31) "Navigation rules" means, for vessels on:

418 (a) Waters outside established navigational lines of
419 demarcation as specified in 33 C.F.R. part 80, the International
420 Navigational Rules Act of 1977, 33 U.S.C. s. 1602, as amended,
421 including the appendix and annexes thereto, through December 31,
422 2020 ~~October 1, 2012~~.

423 (b) All waters not outside of such established lines of
424 demarcation, the Inland Navigational Rules Act of 1980, 33
425 C.F.R. parts 83-90, as amended, through December 31, 2020
426 ~~October 1, 2012~~.

427 Section 4. Section 327.04, Florida Statutes, is amended to
428 read:

429 327.04 Rules.—The commission ~~may have authority to~~ adopt
430 rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the~~
431 ~~provisions of~~ this chapter, the provisions of chapter 705
432 relating to vessels, and ss. 376.15 and 823.11 conferring powers



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433 or duties upon it.

434 Section 5. Section 327.462, Florida Statutes, is created to
435 read:

436 327.462 Temporary protection zones for spaceflight launches
437 and recovery of spaceflight assets.—

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

439 (a) "Launch services" means the conduct of a launch and
440 activities involved in the preparation of a launch vehicle,
441 payload, government astronaut, commercial astronaut, or
442 spaceflight participant for such launch.

443 (b) "Reentry services" means the conduct of a reentry and
444 activities involved in the preparation of a reentry vehicle,
445 payload, government astronaut, commercial astronaut, or
446 spaceflight participant for such reentry.

447 (c) "Spaceflight assets" means any item, or any part of an
448 item, owned by a spaceflight entity which is used in launch
449 services or reentry services, including crewed and uncrewed
450 spacecraft, launch vehicles, parachutes and other landing aids,
451 and any spacecraft or ancillary equipment that was attached to
452 the launch vehicle during launch, orbit, or reentry.

453 (d) "Spaceflight entity" has the same meaning as provided
454 in s. 331.501.

455 (2) The head of a law enforcement agency or entity
456 identified in s. 327.70(1), or his or her designee, may, upon
457 waters of this state within the law enforcement agency's or
458 entity's jurisdiction, when necessary for preparations in
459 advance of a launch service or reentry service or for the
460 recovery of spaceflight assets before or after a launch service
461 or reentry service, temporarily establish a protection zone



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462 requiring vessels to leave, or prohibiting vessels from
463 entering, water bodies within:

464 (a) Five hundred yards of where launch services, reentry
465 services, or spaceflight asset recovery operations are being
466 conducted; or

467 (b) A distance greater than provided in paragraph (a) if
468 the head of such law enforcement agency or entity, or his or her
469 designee, determines such greater distance is in the best
470 interest of public safety.

471 (3) A protection zone established under subsection (2) may
472 remain in effect only as long as necessary to ensure security
473 around the launch and recovery areas and to recover spaceflight
474 assets and any personnel being transported within a spacecraft
475 following the launch or reentry activity. Such protection zone
476 may not be in place more than 72 hours before or 72 hours after
477 the launch. The head of a law enforcement agency or entity
478 identified in s. 327.70, or his or her designee:

479 (a) May also restrict vessels from operating within up to
480 500 yards of any vessel transporting recovered spaceflight
481 assets following a spaceflight launch or reentry while such
482 vessel is continuously underway transporting such assets to a
483 location for removal from the waters of this state; and

484 (b) May not restrict vessel movement within the Florida
485 Intracoastal Waterway, except as necessary during the transport
486 of spaceflight assets to or from port or during exigent
487 circumstances.

488 (4) The head of a law enforcement agency or entity
489 establishing a protection zone under this section, or his or her
490 designee, must report the establishment of such protection zone



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491 via e-mail to the commission's Division of Law Enforcement,
492 Boating and Waterways Section, and to the appropriate United
493 States Coast Guard Sector Command having responsibility over the
494 water body, at least 72 hours before establishment of the
495 protection zone. Such report must include the reasons for the
496 protection zone, the portion of the water body or water bodies
497 which will be included in the protection zone, and the duration
498 of the protection zone. No later than 72 hours after the end of
499 the protection zone period, the head of the law enforcement
500 agency or entity, or his or her designee, must report via e-mail
501 to the commission's Division of Law Enforcement, Boating and
502 Waterways Section, the details of all citations issued for
503 violating the protection zone.

504 (5) This section applies only to launch services, reentry
505 services, or the recovery of spaceflight assets occurring or
506 originating within spaceport territory, as defined in s.
507 331.304, and to federally licensed or federally authorized
508 launches and reentries occurring or transiting to an end
509 destination upon waters of this state.

510 (6) A person who violates this section or any directive
511 given by a law enforcement officer relating to the establishment
512 of a protection zone under this section after being advised of
513 the establishment of the protection zone commits a misdemeanor
514 of the second degree, punishable as provided in s. 775.082 or s.
515 775.083.

516 Section 6. Effective October 1, 2021, paragraphs (a) and
517 (c) of subsection (1) of section 327.352, Florida Statutes, are
518 amended to read:

519 327.352 Tests for alcohol, chemical substances, or



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520 controlled substances; implied consent; refusal.-

521 (1)(a)1. The Legislature declares that the operation of a
522 vessel is a privilege that must be exercised in a reasonable
523 manner. In order to protect the public health and safety, it is
524 essential that a lawful and effective means of reducing the
525 incidence of boating while impaired or intoxicated be
526 established. Therefore, a any person who accepts the privilege
527 extended by the laws of this state of operating a vessel within
528 this state is, by ~~se~~ operating such vessel, deemed to have given
529 his or her consent to submit to an approved chemical test or
530 physical test including, but not limited to, an infrared light
531 test of his or her breath for the purpose of determining the
532 alcoholic content of his or her blood or breath if the person is
533 lawfully arrested for any offense allegedly committed while the
534 person was operating a vessel while under the influence of
535 alcoholic beverages. The chemical or physical breath test must
536 be incidental to a lawful arrest and administered at the request
537 of a law enforcement officer who has reasonable cause to believe
538 such person was operating the vessel within this state while
539 under the influence of alcoholic beverages. The administration
540 of a breath test does not preclude the administration of another
541 type of test. The person shall be told that his or her failure
542 to submit to any lawful test of his or her breath under this
543 chapter will result in a civil penalty of \$500, and shall also
544 be told that if he or she refuses to submit to a lawful test of
545 his or her breath and he or she has been previously fined under
546 s. 327.35215 or has previously had his or her driver license
547 suspended under s. 322.2615 for refusal to submit to any lawful
548 test of his or her breath, urine, or blood, he or she commits a



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549 misdemeanor of the first degree, punishable as provided in s.
550 775.082 or s. 775.083, in addition to any other penalties
551 provided by law. The refusal to submit to a chemical or physical
552 breath test upon the request of a law enforcement officer as
553 provided in this section is admissible into evidence in any
554 criminal proceeding.

555 2. A Any person who accepts the privilege extended by the
556 laws of this state of operating a vessel within this state is,
557 by ~~se~~ operating such vessel, deemed to have given his or her
558 consent to submit to a urine test for the purpose of detecting
559 the presence of chemical substances as set forth in s. 877.111
560 or controlled substances if the person is lawfully arrested for
561 any offense allegedly committed while the person was operating a
562 vessel while under the influence of chemical substances or
563 controlled substances. The urine test must be incidental to a
564 lawful arrest and administered at a detention facility or any
565 other facility, mobile or otherwise, which is equipped to
566 administer such tests at the request of a law enforcement
567 officer who has reasonable cause to believe such person was
568 operating a vessel within this state while under the influence
569 of chemical substances or controlled substances. The urine test
570 shall be administered at a detention facility or any other
571 facility, mobile or otherwise, which is equipped to administer
572 such test in a reasonable manner that will ensure the accuracy
573 of the specimen and maintain the privacy of the individual
574 involved. The administration of a urine test does not preclude
575 the administration of another type of test. The person shall be
576 told that his or her failure to submit to any lawful test of his
577 or her urine under this chapter will result in a civil penalty



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578 of \$500, and shall also be told that if he or she refuses to
579 submit to a lawful test of his or her urine and he or she has
580 been previously fined under s. 327.35215 or has previously had
581 his or her driver license suspended under s. 322.2615 for
582 refusal to submit to any lawful test of his or her breath,
583 urine, or blood, he or she commits a misdemeanor of the first
584 degree, punishable as provided in s. 775.082 or s. 775.083, in
585 addition to any other penalties provided by law. The refusal to
586 submit to a urine test upon the request of a law enforcement
587 officer as provided in this section is admissible into evidence
588 in any criminal proceeding.

589 (c) A Any person who accepts the privilege extended by the
590 laws of this state of operating a vessel within this state is,
591 by operating such vessel, deemed to have given his or her
592 consent to submit to an approved blood test for the purpose of
593 determining the alcoholic content of the blood or a blood test
594 for the purpose of determining the presence of chemical
595 substances or controlled substances as provided in this section
596 if there is reasonable cause to believe the person was operating
597 a vessel while under the influence of alcoholic beverages or
598 chemical or controlled substances and the person appears for
599 treatment at a hospital, clinic, or other medical facility and
600 the administration of a breath or urine test is impractical or
601 impossible. As used in this paragraph, the term "other medical
602 facility" includes an ambulance or other medical emergency
603 vehicle. The blood test shall be performed in a reasonable
604 manner. A Any person who is incapable of refusal by reason of
605 unconsciousness or other mental or physical condition is deemed
606 not to have withdrawn his or her consent to such test. A Any



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607 person who is capable of refusal shall be told that his or her
608 failure to submit to such a blood test will result in a civil
609 penalty of \$500 ~~and that a refusal to submit to a lawful test of~~
610 ~~his or her blood, if he or she has previously been fined for~~
611 ~~refusal to submit to any lawful test of his or her breath,~~
612 ~~urine, or blood, is a misdemeanor.~~ The refusal to submit to a
613 blood test upon the request of a law enforcement officer shall
614 be admissible in evidence in any criminal proceeding.

615 Section 7. Effective October 1, 2021, section 327.359,
616 Florida Statutes, is amended to read:

617 327.359 Refusal to submit to testing; penalties.—~~A Any~~
618 person who has refused to submit to a chemical or physical test
619 of his or her breath, ~~blood,~~ or urine, as described in s.
620 327.352, and who has been previously fined under s. 327.35215 or
621 has previously had his or her driver license suspended under s.
622 322.2615 for refusal to submit to a lawful test of his or her
623 breath, urine, or blood, and:

624 (1) Who the arresting law enforcement officer had probable
625 cause to believe was operating or in actual physical control of
626 a vessel in this state while under the influence of alcoholic
627 beverages, chemical substances, or controlled substances;

628 (2) Who was placed under lawful arrest for a violation of
629 s. 327.35 unless such test was requested pursuant to s.
630 327.352(1)(c);

631 (3) Who was informed that if he or she refused to submit to
632 such test, he or she is subject to a fine of \$500;

633 (4) Who was informed that a refusal to submit to a lawful
634 test of his or her breath or, urine, ~~or blood,~~ if he or she has
635 been previously fined under s. 327.35215 or has previously had



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636 his or her driver license suspended under s. 322.2615 for
637 refusal to submit to a lawful test of his or her breath, urine,
638 or blood, is a misdemeanor of the first degree, punishable as
639 provided in s. 775.082 or s. 775.083; and

640 (5) Who, after having been so informed, refused to submit
641 to any such test when requested to do so by a law enforcement
642 officer or correctional officer commits a misdemeanor of the
643 first degree, punishable and is subject to punishment as
644 provided in s. 775.082 or s. 775.083.

645 Section 8. Section 327.371, Florida Statutes, is created to
646 read:

647 327.371 Human-powered vessels regulated.-

648 (1) A person may operate a human-powered vessel within the
649 boundaries of the marked channel of the Florida Intracoastal
650 Waterway as defined in s. 327.02:

651 (a) When the marked channel is the only navigable portion
652 of the waterway available due to vessel congestion or
653 obstructions on the water. The operator of the human-powered
654 vessel shall proceed with diligence to a location where he or
655 she may safely operate the vessel outside the marked channel of
656 the Florida Intracoastal Waterway.

657 (b) When crossing the marked channel, provided that the
658 crossing is done in the most direct, continuous, and expeditious
659 manner possible and does not interfere with other vessel traffic
660 in the channel.

661 (c) During an emergency endangering life or limb.

662 (2) A person may not operate a human-powered vessel in the
663 marked channel of the Florida Intracoastal Waterway except as
664 provided in subsection (1).



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665 (3) A person who violates this section commits a
666 noncriminal infraction, punishable as provided in s. 327.73.

667 Section 9. Subsection (1) and paragraphs (a) and (b) of
668 subsection (5) of section 327.391, Florida Statutes, are amended
669 to read:

670 327.391 Airboats regulated.-

671 (1) The exhaust of every internal combustion engine used on
672 any airboat operated on the waters of this state shall be
673 provided with an automotive-style factory muffler, underwater
674 exhaust, or other manufactured device capable of adequately
675 muffling the sound of the exhaust of the engine as described in
676 s. 327.02(31) ~~s. 327.02(30)~~. The use of cutouts or flex pipe as
677 the sole source of muffling is prohibited, except as provided in
678 subsection (4). A Any person who violates this subsection
679 commits a noncriminal infraction, punishable as provided in s.
680 327.73(1).

681 (5) (a) ~~Beginning July 1, 2019,~~ A person may not operate an
682 airboat to carry one or more passengers for hire on waters of
683 ~~this the~~ state unless he or she has all of the following onboard
684 the airboat:

685 1. A photographic identification card.

686 2. Proof of completion of a boater education course that
687 complies with s. 327.395(2)(a) ~~s. 327.395(1)(a)~~. Except as
688 provided in paragraph (b), no operator is exempt from this
689 requirement, regardless of age or the exemptions provided under
690 s. 327.395.

691 3. Proof of successful completion of a commission-approved
692 airboat operator course that meets the minimum standards
693 established by commission rule.



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694 4. Proof of successful course completion in cardiopulmonary
695 resuscitation and first aid.

696 (b) A person issued a captain's license by the United
697 States Coast Guard is not required to complete a boating safety
698 education course that complies with s. 327.395(2)(a) ~~or~~
699 ~~327.395(1)(a)~~. Proof of the captain's license must be onboard
700 the airboat when carrying one or more passengers for hire on
701 waters of this ~~the~~ state.

702 Section 10. Section 327.395, Florida Statutes, is amended
703 to read:

704 327.395 Boating safety education.—

705 (1) A person born on or after January 1, 1988, may not
706 operate a vessel powered by a motor of 10 horsepower or greater
707 unless such person has in his or her possession aboard the
708 vessel the documents required by subsection (2).

709 (2) While operating a vessel, a person identified under
710 subsection (1) must have in his or her possession aboard the
711 vessel photographic identification and a Florida boating safety
712 identification card issued by the commission; ~~or~~ a state-issued
713 identification card or driver license indicating possession of
714 the Florida boating safety identification card; ~~or~~ photographic
715 identification and a temporary certificate issued or approved by
716 the commission, an International Certificate of Competency, a
717 boating safety card or certificate from another state or United
718 States territory, or a Canadian Pleasure Craft Operator Card,
719 which shows that he or she has:

720 (a) Completed a commission-approved boating safety
721 education course that meets the minimum requirements established
722 by the National Association of State Boating Law Administrators;



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723 ~~or~~

724 (b) Passed a temporary certificate examination developed or
725 approved by the commission;

726 (c) A valid International Certificate of Competency; or

727 (d) Completed a boating safety education course or
728 equivalency examination in another state, a United States
729 territory, or Canada which meets or exceeds the minimum
730 requirements established by the National Association of State
731 Boating Law Administrators.

732 (3) (a) ~~(2)(a)~~ A person may obtain a Florida boating safety
733 identification card by successfully completing a boating safety
734 education course that meets the requirements of this section and
735 rules adopted by the commission pursuant to this section.

736 (b) A person may obtain a temporary certificate by passing
737 a temporary certificate examination that meets the requirements
738 of this section and rules adopted by the commission pursuant to
739 this section.

740 (4) ~~(3)~~ ~~A~~ Any commission-approved boating safety education
741 course or temporary certificate examination developed or
742 approved by the commission must include a component regarding
743 diving vessels, awareness of divers in the water, divers-down
744 warning devices, and the requirements of s. 327.331.

745 ~~(4) The commission may appoint liveries, marinas, or other~~
746 ~~persons as its agents to administer the course or temporary~~
747 ~~certificate examination and issue identification cards or~~
748 ~~temporary certificates in digital, electronic, or paper format~~
749 ~~under guidelines established by the commission. An agent must~~
750 ~~charge the \$2 examination fee, which must be forwarded to the~~
751 ~~commission with proof of passage of the examination and may~~



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752 ~~charge and keep a \$1 service fee.~~

753 (5) A Florida boating safety identification card issued to
754 a person who has completed a boating safety education course is
755 valid for life. A temporary certificate issued to a person who
756 has passed a temporary certification examination is valid for 90
757 days after the date of issuance. The commission may issue either
758 the boating safety identification card or the temporary
759 certificate in a digital, electronic, or paper format.

760 (6) A person is exempt from subsection (1) if he or she:

761 (a) 1. Is licensed by the United States Coast Guard to serve
762 as master of a vessel; or

763 2. Has been previously licensed by the United States Coast
764 Guard to serve as master of a vessel, provides proof of such
765 licensure to the commission, and requests that a boating safety
766 identification card be issued in his or her name.

767 (b) Operates a vessel only on a private lake or pond.

768 (c) Is accompanied in the vessel by a person who is exempt
769 from this section or who holds a boating safety identification
770 card in compliance with this section, who is 18 years of age or
771 older, and who is attendant to the operation of the vessel and
772 responsible for the safe operation of the vessel and for any
773 violation that occurs during the operation of the vessel.

774 (d) Is a nonresident who has in his or her possession
775 photographic identification and proof that he or she has
776 completed a boating safety education course or equivalency
777 examination in another state or a United States territory which
778 meets or exceeds the minimum requirements established by the
779 National Association of State Boating Law Administrators.

780 (e) Is operating a vessel within 90 days after the purchase



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781 of that vessel and has available for inspection aboard that
782 vessel a bill of sale meeting the requirements of s. 328.46(1).

783 (f) Is operating a vessel within 90 days after completing a
784 boating safety education course in accordance with paragraph
785 (2) (a) the requirements of paragraph (1) (a) and has a
786 photographic identification card and a boating safety education
787 certificate available for inspection as proof of having
788 completed a boating safety education course. The boating safety
789 education certificate must provide, at a minimum, the student's
790 first and last name, the student's date of birth, and the date
791 that he or she passed the course examination.

792 (g) Is exempted by rule of the commission.

793 (7) A person who operates a vessel in violation of this
794 section subsection (1) commits a noncriminal infraction,
795 punishable as provided in s. 327.73.

796 (8) The commission shall institute and coordinate a
797 statewide program of boating safety instruction and
798 certification to ensure that boating safety courses and
799 examinations are available in each county of this the state. The
800 commission may appoint agents to administer the boating safety
801 education course or temporary certificate examination and may
802 authorize the agents to issue temporary certificates in digital,
803 electronic, or paper format. An agent ~~The agents~~ shall charge
804 and collect the \$2 fee required in subsection (9) for each
805 temporary certificate requested of the commission by that agent,
806 which must be forwarded to the commission. The agent may charge
807 and keep a ~~\$1~~ service fee.

808 (9) The commission may ~~is authorized to~~ establish and ~~to~~
809 collect a \$2 fee for each card and temporary certificate issued



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810 pursuant to this section.

811 (10) The commission shall design forms and adopt rules
812 pursuant to chapter 120 to implement ~~the provisions of~~ this
813 section.

814 (11) This section may be cited as the "Osmany 'Ozzie'
815 Castellanos Boating Safety Education Act."

816 Section 11. Present subsection (5) of section 327.4107,
817 Florida Statutes, is redesignated as subsection (6), a new
818 subsection (5) and subsection (7) are added to that section, and
819 paragraphs (d) and (e) of subsection (2) of that section are
820 amended, to read:

821 327.4107 Vessels at risk of becoming derelict on waters of
822 this state.—

823 (2) An officer of the commission or of a law enforcement
824 agency specified in s. 327.70 may determine that a vessel is at
825 risk of becoming derelict if any of the following conditions
826 exist:

827 (d) The vessel is ~~left or stored aground unattended in such~~
828 ~~a state that would prevent the vessel from getting underway, is~~
829 ~~listing due to water intrusion, or is sunk or partially sunk.~~

830 (e) The vessel does not have an effective means of
831 propulsion for safe navigation within 72 hours after the vessel
832 owner or operator receives telephonic notice, in-person notice
833 recorded on an agency-approved body camera, or written notice,
834 which may be provided by facsimile, electronic mail, or other
835 electronic means, stating such from an officer, and the vessel
836 owner or operator is unable to provide a receipt, proof of
837 purchase, or other documentation of having ordered necessary
838 parts for vessel repair. The commission may adopt rules to



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839 implement this paragraph.

840 (5) The commission, an officer of the commission, or a law
841 enforcement agency or officer specified in s. 327.70 may
842 relocate or cause to be relocated an at-risk vessel found to be
843 in violation of this section to a distance greater than 20 feet
844 from a mangrove or upland vegetation. The commission, an officer
845 of the commission, or a law enforcement agency or officer acting
846 pursuant to this subsection upon waters of this state shall be
847 held harmless for all damages to the at-risk vessel resulting
848 from such relocation unless the damage results from gross
849 negligence or willful misconduct as these terms are defined in
850 s. 823.11.

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

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

858 (b) Creation of a vessel turn-in program allowing the owner
859 of a vessel determined by law enforcement to be at risk of
860 becoming derelict in accordance with this section to turn his or
861 her vessel and vessel title over to the commission to be
862 destroyed without penalty.

863 (c) Providing for removal and destruction of an abandoned
864 vessel for which an owner cannot be identified or the owner of
865 which is deceased and no heir is interested in acquiring the
866 vessel.

867 (d) Purchase of anchor line, anchors, and other equipment



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868 necessary for securing vessels at risk of becoming derelict.
869 (e) Creating or acquiring moorings designated for securing
870 vessels at risk of becoming derelict.

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

876 Section 12. Section 327.4108, Florida Statutes, is amended
877 to read:

878 327.4108 Anchoring of vessels in anchoring limitation
879 areas.-

880 (1) The following densely populated urban areas, which have
881 narrow state waterways, residential docking facilities, and
882 significant recreational boating traffic, are designated as
883 anchoring limitation areas, within which a person may not anchor
884 a vessel at any time during the period between one-half hour
885 after sunset and one-half hour before sunrise, except as
886 provided in subsections (3) and (4):

887 (a) The section of Middle River lying between Northeast
888 21st Court and the Intracoastal Waterway in Broward County.

889 (b) Sunset Lake in Miami-Dade County.

890 (c) The sections of Biscayne Bay in Miami-Dade County lying
891 between:

892 1. Rivo Alto Island and Di Lido Island.

893 2. San Marino Island and San Marco Island.

894 3. San Marco Island and Biscayne Island.

895 (2) (a) Monroe County is designated as an anchoring
896



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897 limitation area within which a vessel may only be anchored in
898 the same location for a maximum of 90 days. The commission shall
899 adopt rules to implement this subsection.

900 (b) This subsection does not apply to an approved and
901 permitted mooring field or to privately owned submerged land.

902 (c) Notwithstanding the commission rules adopted pursuant
903 to this section, this section is not effective for Monroe County
904 until the county approves, permits, and opens new moorings for
905 public use, including at least 250 moorings within 1 mile of the
906 Key West Bight City Dock and at least 50 moorings within the Key
907 West Garrison Bight Mooring Field. Until such time, the
908 commission shall designate the area within 1 mile of the Key
909 West Bight City Dock as a priority for the expedited removal of
910 derelict vessels.

911 ~~(2) To promote the public's use and enjoyment of the~~
912 ~~designated waterway, except as provided in subsections (3) and~~
913 ~~(4), a person may not anchor a vessel at any time during the~~
914 ~~period between one half hour after sunset and one half hour~~
915 ~~before sunrise in an anchoring limitation area.~~

916 (3) Notwithstanding subsections (1) and subsection (2), a
917 person may anchor a vessel in an anchoring limitation area
918 during a time that would otherwise be unlawful:

919 (a) If the vessel suffers a mechanical failure that poses
920 an unreasonable risk of harm to the vessel or the persons
921 onboard unless the vessel anchors. The vessel may anchor for 3
922 business days or until the vessel is repaired, whichever occurs
923 first.

924 (b) If imminent or existing weather conditions in the
925 vicinity of the vessel pose an unreasonable risk of harm to the



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926 vessel or the persons onboard unless the vessel anchors. The
927 vessel may anchor until weather conditions no longer pose such
928 risk. During a hurricane or tropical storm, weather conditions
929 are deemed to no longer pose an unreasonable risk of harm when
930 the hurricane or tropical storm warning affecting the area has
931 expired.

932 (c) During events described in s. 327.48 or other special
933 events, including, but not limited to, public music
934 performances, local government waterfront activities, or
935 fireworks displays. A vessel may anchor for the lesser of the
936 duration of the special event or 3 days.

937 (4) This section does not apply to:

938 (a) Vessels owned or operated by a governmental entity for
939 law enforcement, firefighting, military, or rescue purposes.

940 (b) Construction or dredging vessels on an active job site.

941 (c) Vessels actively engaged in commercial fishing.

942 (d) Vessels engaged in recreational fishing if the persons
943 onboard are actively tending hook and line fishing gear or nets.

944 (5) (a) As used in this subsection, the term "law
945 enforcement officer or agency" means an officer or agency
946 authorized to enforce this section pursuant to s. 327.70.

947 (b) A law enforcement officer or agency may remove a vessel
948 from an anchoring limitation area and impound the vessel for up
949 to 48 hours, or cause such removal and impoundment, if the
950 vessel operator, after being issued a citation for a violation
951 of this section:

952 1. Anchors the vessel in violation of this section within
953 12 hours after being issued the citation; or

954 2. Refuses to leave the anchoring limitation area after



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955 being directed to do so by a law enforcement officer or agency.

956 (c) A law enforcement officer or agency acting under this
957 subsection to remove or impound a vessel, or to cause such
958 removal or impoundment, shall be held harmless for any damage to
959 the vessel resulting from such removal or impoundment unless the
960 damage results from gross negligence or willful misconduct.

961 (d) A contractor performing removal or impoundment services
962 at the direction of a law enforcement officer or agency pursuant
963 to this subsection must:

964 1. Be licensed in accordance with United States Coast Guard
965 regulations, as applicable.

966 2. Obtain and carry a current policy issued by a licensed
967 insurance carrier in this state to insure against any accident,
968 loss, injury, property damage, or other casualty caused by or
969 resulting from the contractor's actions.

970 3. Be properly equipped to perform such services.

971 (e) In addition to the civil penalty imposed under s.
972 327.73(1)(z), the operator of a vessel that is removed and
973 impounded pursuant to paragraph (b) must pay all removal and
974 storage fees before the vessel is released. A vessel removed
975 pursuant to paragraph (b) may not be impounded for longer than
976 48 hours.

977 (6) A violation of this section is punishable as provided
978 in s. 327.73(1)(z).

979 ~~(7) This section shall remain in effect notwithstanding the~~
980 ~~Legislature's adoption of the commission's recommendations for~~
981 ~~the regulation of mooring vessels outside of public mooring~~
982 ~~fields pursuant to s. 327.4105.~~

983 Section 13. Paragraph (a) of subsection (1) and subsection



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984 (2) of section 327.4109, Florida Statutes, are amended to read:
985 327.4109 Anchoring or mooring prohibited; exceptions;
986 penalties.-

987 (1) (a) The owner or operator of a vessel or floating
988 structure may not anchor or moor such that the nearest approach
989 of the anchored or moored vessel or floating structure is:

990 1. Within 150 feet of any public or private marina, boat
991 ramp, boatyard, or other public vessel launching or loading
992 facility;

993 2. Within 500 ~~300~~ feet of a superyacht repair facility. For
994 purposes of this subparagraph, the term "superyacht repair
995 facility" means a facility that services or repairs a yacht with
996 a water line of 120 feet or more in length; or

997 3. Within 100 feet outward from the marked boundary of a
998 public mooring field or a lesser distance if approved by the
999 commission upon request of a local government within which the
1000 mooring field is located. The commission may adopt rules to
1001 implement this subparagraph.

1002 (2) Notwithstanding subsection (1), an owner or operator of
1003 a vessel may anchor or moor within 150 feet of any public or
1004 private marina, boat ramp, boatyard, or other public vessel
1005 launching or loading facility; within 500 ~~300~~ feet of a
1006 superyacht repair facility; or within 100 feet outward from the
1007 marked boundary of a public mooring field if:

1008 (a) The vessel suffers a mechanical failure that poses an
1009 unreasonable risk of harm to the vessel or the persons onboard
1010 such vessel. The owner or operator of the vessel may anchor or
1011 moor for 5 business days or until the vessel is repaired,
1012 whichever occurs first.



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1013 (b) Imminent or existing weather conditions in the vicinity
1014 of the vessel pose an unreasonable risk of harm to the vessel or
1015 the persons onboard such vessel. The owner or operator of the
1016 vessel may anchor or moor until weather conditions no longer
1017 pose such risk. During a hurricane or tropical storm, weather
1018 conditions are deemed to no longer pose an unreasonable risk of
1019 harm when the hurricane or tropical storm warning affecting the
1020 area has expired.

1021 Section 14. Subsection (2) of section 327.45, Florida
1022 Statutes, is amended to read:

1023 327.45 Protection zones for springs.-

1024 (2) The commission may establish by rule protection zones
1025 that restrict the speed and operation of vessels, or that
1026 prohibit the anchoring, mooring, beaching, or grounding of
1027 vessels, to protect and prevent harm to first, second, and third
1028 magnitude springs and springs groups, including their associated
1029 spring runs, as determined by the commission using the most
1030 recent Florida Geological Survey springs bulletin. This harm
1031 includes negative impacts to water quality, water quantity,
1032 hydrology, wetlands, and aquatic and wetland-dependent species.

1033 Section 15. Paragraph (b) of subsection (1) of section
1034 327.46, Florida Statutes, is amended to read:

1035 327.46 Boating-restricted areas.-

1036 (1) Boating-restricted areas, including, but not limited
1037 to, restrictions of vessel speeds and vessel traffic, may be
1038 established on the waters of this state for any purpose
1039 necessary to protect the safety of the public if such
1040 restrictions are necessary based on boating accidents,
1041 visibility, hazardous currents or water levels, vessel traffic



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1042 congestion, or other navigational hazards or to protect
1043 seagrasses on privately owned submerged lands.

1044 (b) Municipalities and counties ~~may have the authority to~~
1045 establish the following boating-restricted areas by ordinance,
1046 including, notwithstanding the prohibition in s. 327.60(2)(c),
1047 within the portion of the Florida Intracoastal Waterway within
1048 their jurisdiction:

1049 1. An ordinance establishing an idle speed, no wake
1050 boating-restricted area, if the area is:

1051 a. Within 500 feet of any boat ramp, hoist, marine railway,
1052 or other launching or landing facility available for use by the
1053 general boating public on waterways more than 300 feet in width
1054 or within 300 feet of any boat ramp, hoist, marine railway, or
1055 other launching or landing facility available for use by the
1056 general boating public on waterways not exceeding 300 feet in
1057 width.

1058 b. Within 500 feet of fuel pumps or dispensers at any
1059 marine fueling facility that sells motor fuel to the general
1060 boating public on waterways more than 300 feet in width or
1061 within 300 feet of the fuel pumps or dispensers at any licensed
1062 terminal facility that sells motor fuel to the general boating
1063 public on waterways not exceeding 300 feet in width.

1064 c. Inside or within 300 feet of any lock structure.

1065 2. An ordinance establishing a slow speed, minimum wake
1066 boating-restricted area if the area is:

1067 a. Within 300 feet of any bridge fender system.

1068 b. Within 300 feet of any bridge span presenting a vertical
1069 clearance of less than 25 feet or a horizontal clearance of less
1070 than 100 feet.



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1071 c. On a creek, stream, canal, or similar linear waterway if
1072 the waterway is less than 75 feet in width from shoreline to
1073 shoreline.

1074 d. On a lake or pond of less than 10 acres in total surface
1075 area.

1076 e. Within the boundaries of a permitted public mooring
1077 field and a buffer around the mooring field of up to 100 feet.

1078 3. An ordinance establishing a vessel-exclusion zone if the
1079 area is:

1080 a. Designated as a public bathing beach or swim area,
1081 except that such areas may not be established within the Florida
1082 Intracoastal Waterway.

1083 b. Within 300 feet of a dam, spillway, or flood control
1084 structure.

1085 Section 16. Section 327.463, Florida Statutes, is created
1086 to read:

1087 327.463 Special hazards.-

1088 (1) For purposes of this section, a vessel:

1089 (a) Is operating at slow speed, minimum wake only if it is:

1090 1. Fully off plane and completely settled into the water;

1091 and

1092 2. Proceeding without wake or with minimum wake.

1093

1094 A vessel that is required to operate at slow speed, minimum wake
1095 may not proceed at a speed greater than a speed that is
1096 reasonable and prudent to avoid the creation of an excessive
1097 wake or other hazardous condition under the existing
1098 circumstances.

1099 (b) Is not proceeding at slow speed, minimum wake if it is:



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- 1100 1. Operating on plane;
1101 2. In the process of coming off plane and settling into the
1102 water or getting on plane; or
1103 3. Operating at a speed that creates a wake that
1104 unreasonably or unnecessarily endangers other vessels.
1105 (2) A person may not operate a vessel faster than slow
1106 speed, minimum wake within 300 feet of any emergency vessel,
1107 including, but not limited to, a law enforcement vessel, United
1108 States Coast Guard vessel, or firefighting vessel, when such
1109 emergency vessel's emergency lights are activated.
1110 (3) (a) A person may not operate a vessel faster than slow
1111 speed, minimum wake within 300 feet of any construction vessel
1112 or barge when the vessel or barge is displaying an orange flag
1113 from a pole extending:
1114 1. At least 10 feet above the tallest portion of the vessel
1115 or barge, indicating that the vessel or barge is actively
1116 engaged in construction operations; or
1117 2. At least 5 feet above any superstructure permanently
1118 installed upon the vessel or barge, indicating that the vessel
1119 or barge is actively engaged in construction operations.
1120 (b) A flag displayed on a construction vessel or barge
1121 pursuant to this subsection must:
1122 1. Be at least 2 feet by 3 feet in size.
1123 2. Have a wire or other stiffener or be otherwise
1124 constructed to ensure that the flag remains fully unfurled and
1125 extended in the absence of a wind or breeze.
1126 3. Be displayed so that the visibility of the flag is not
1127 obscured in any direction.
1128 (c) In periods of low visibility, including any time



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- 1129 between 30 minutes after sunset and 30 minutes before sunrise, a
1130 person may not be cited for a violation of this subsection
1131 unless the orange flag is illuminated and visible from a
1132 distance of at least 2 nautical miles. Such illumination does
1133 not relieve the construction vessel or barge from complying with
1134 all navigation rules.
1135 (4) (a) A person operating a vessel in violation of this
1136 section commits a noncriminal infraction, punishable as provided
1137 in s. 327.73.
1138 (b) The owner of, or party who is responsible for, a
1139 construction vessel or barge who displays an orange flag on the
1140 vessel or barge when it is not actively engaged in construction
1141 operations commits a noncriminal infraction, punishable as
1142 provided in s. 327.73.
1143 (5) The speed and penalty provisions of this section do not
1144 apply to a law enforcement, firefighting, or rescue vessel that
1145 is owned or operated by a governmental entity.
1146 Section 17. Paragraph (a) of subsection (1) of section
1147 327.50, Florida Statutes, is amended to read:
1148 327.50 Vessel safety regulations; equipment and lighting
1149 requirements.—
1150 (1) (a) The owner and operator of every vessel on the waters
1151 of this state shall carry, store, maintain, and use safety
1152 equipment in accordance with current United States Coast Guard
1153 safety equipment requirements as specified in the Code of
1154 Federal Regulations, unless expressly exempted by the commission
1155 department.
1156 Section 18. Paragraph (a) of subsection (6) and subsection
1157 (7) of section 327.53, Florida Statutes, are amended, and



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1158 subsection (8) is added to that section, to read:

1159 327.53 Marine sanitation.-

1160 (6) (a) A violation of this section is a noncriminal
1161 infraction, punishable as provided in s. 327.73. Each violation
1162 shall be a separate offense. The owner and operator of any
1163 vessel shall be jointly and severally liable for the civil
1164 penalty imposed pursuant to this section.

1165 (7) A ~~Any~~ vessel or floating structure operated or occupied
1166 on the waters of this ~~the~~ state in violation of this section is
1167 declared a nuisance and a hazard to public safety and health.
1168 The owner or operator of a any vessel or floating structure
1169 cited for violating this section shall, within 30 days following
1170 the issuance of the citation, correct the violation for which
1171 the citation was issued or remove the vessel or floating
1172 structure from the waters of this ~~the~~ state. If the violation is
1173 not corrected within the 30 days and the vessel or floating
1174 structure remains on the waters of this ~~the~~ state in violation
1175 of this section, law enforcement officers charged with the
1176 enforcement of this chapter under s. 327.70 shall apply to the
1177 appropriate court in the county in which the vessel or floating
1178 structure is located, to order or otherwise cause the removal of
1179 such vessel or floating structure from the waters of this ~~the~~
1180 state at the owner's expense. If the owner cannot be found or
1181 otherwise fails to pay the removal costs, the provisions of s.
1182 328.17 shall apply. If the proceeds under s. 328.17 are not
1183 sufficient to pay all removal costs, funds appropriated from the
1184 Marine Resources Conservation Trust Fund pursuant to paragraph
1185 (6) (b) or s. 328.72(15)(c) ~~s. 328.72(16)~~ may be used.

1186 (8) The owner or operator of a live-aboard vessel as



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1187 defined in s. 327.02(23), or a houseboat as defined in s.
1188 327.02(17), that is equipped with a marine sanitation device
1189 must maintain a record of the date of each pumpout of the marine
1190 sanitation device and the location of the pumpout station or
1191 waste reception facility. Each record must be maintained for 1
1192 year after the date of the pumpout.

1193 Section 19. Subsection (2) of section 327.54, Florida
1194 Statutes, is amended to read:

1195 327.54 Liveries; safety regulations; penalty.-

1196 (2) A livery may not knowingly lease, hire, or rent a any
1197 vessel ~~powered by a motor of 10 horsepower or greater to a~~ any
1198 person who is required to comply with s. 327.395, unless such
1199 person presents to the livery photographic identification and a
1200 valid boater safety identification card issued by the
1201 commission, a state-issued identification card or driver license
1202 indicating possession of the boating safety identification card,
1203 or photographic identification and a valid temporary certificate
1204 issued or approved by the commission as required under s.
1205 327.395(2) ~~s. 327.395(1)~~, or meets the exemption provided under
1206 s. 327.395(6) (f).

1207 Section 20. Subsection (5) of section 327.60, Florida
1208 Statutes, is amended to read:

1209 327.60 Local regulations; limitations.-

1210 (5) A local government may enact and enforce regulations to
1211 implement the procedures for abandoned or lost property that
1212 allow the local law enforcement agency to remove a vessel
1213 affixed to a public dock or mooring within its jurisdiction that
1214 is abandoned or lost property pursuant to s. 705.103(1). Such
1215 regulation must require the local law enforcement agency to post



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1216 a written notice at least 24 hours before removing the vessel.
1217 Section 21. Paragraphs (q), (s), and (aa) of subsection (1)
1218 of section 327.73, Florida Statutes, are amended, and paragraphs
1219 (cc) and (dd) are added to that subsection, to read:

1220 327.73 Noncriminal infractions.—

1221 (1) Violations of the following provisions of the vessel
1222 laws of this state are noncriminal infractions:

1223 (q) Section 327.53(1), (2), ~~and~~ (3), and (8), relating to
1224 marine sanitation.

1225 (s) Section 327.395, relating to boater safety education.
1226 However, a person cited for violating the requirements of s.
1227 327.395 relating to failure to have required proof of boating
1228 safety education in his or her possession may not be convicted
1229 if, before or at the time of a county court hearing, the person
1230 produces proof of the boating safety education identification
1231 card or temporary certificate for verification by the hearing
1232 officer or the court clerk and the identification card or
1233 temporary certificate was valid at the time the person was
1234 cited.

1235 (aa) Section 327.4107, relating to vessels at risk of
1236 becoming derelict on waters of this state, for which the civil
1237 penalty is:

- 1238 1. For a first offense, \$100 ~~\$50~~.
- 1239 2. For a second offense occurring 30 days or more after a
1240 first offense, \$250 ~~\$100~~.
- 1241 3. For a third or subsequent offense occurring 30 days or
1242 more after a previous offense, \$500 ~~\$250~~.

1243 A vessel that is the subject of three or more violations issued
1244



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1245 pursuant to the same paragraph of s. 327.4107(2) within an 18-
1246 month period which result in dispositions other than acquittal
1247 or dismissal shall be declared to be a public nuisance and
1248 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,
1249 an officer of the commission, or a law enforcement agency or
1250 officer specified in s. 327.70 may relocate, remove, or cause to
1251 be relocated or removed such public nuisance vessels from waters
1252 of this state. The commission, an officer of the commission, or
1253 a law enforcement agency or officer acting pursuant to this
1254 paragraph upon waters of this state shall be held harmless for
1255 all damages to the vessel resulting from such relocation or
1256 removal unless the damage results from gross negligence or
1257 willful misconduct as these terms are defined in s. 823.11.

1258 (cc) Section 327.463(4) (a) and (b), relating to vessels
1259 creating special hazards, for which the penalty is:

- 1260 1. For a first offense, \$50.
- 1261 2. For a second offense occurring within 12 months after a
1262 prior offense, \$100.
- 1263 3. For a third offense occurring within 36 months after a
1264 prior offense, \$250.

1265 (dd) Section 327.371, relating to the regulation of human-
1266 powered vessels.

1267
1268 Any person cited for a violation of any provision of this
1269 subsection shall be deemed to be charged with a noncriminal
1270 infraction, shall be cited for such an infraction, and shall be
1271 cited to appear before the county court. The civil penalty for
1272 any such infraction is \$50, except as otherwise provided in this
1273 section. Any person who fails to appear or otherwise properly



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1274 respond to a uniform boating citation shall, in addition to the
1275 charge relating to the violation of the boating laws of this
1276 state, be charged with the offense of failing to respond to such
1277 citation and, upon conviction, be guilty of a misdemeanor of the
1278 second degree, punishable as provided in s. 775.082 or s.
1279 775.083. A written warning to this effect shall be provided at
1280 the time such uniform boating citation is issued.

1281 Section 22. Subsection (4) of section 328.09, Florida
1282 Statutes, is amended to read:

1283 328.09 Refusal to issue and authority to cancel a
1284 certificate of title or registration.-

1285 (4) The department may not issue a certificate of title to
1286 an any applicant for a any vessel that has been deemed derelict
1287 by a law enforcement officer under s. 376.15 or s. 823.11. A law
1288 enforcement officer must inform the department in writing, which
1289 may be provided by facsimile, electronic mail, or other
1290 electronic means, of the vessel's derelict status and supply the
1291 department with the vessel title number or vessel identification
1292 number. The department may issue a certificate of title once a
1293 law enforcement officer has verified in writing, which may be
1294 provided by facsimile, electronic mail, or other electronic
1295 means, that the vessel is no longer a derelict vessel.

1296 Section 23. Effective July 1, 2023, paragraph (e) of
1297 subsection (3) of section 328.09, Florida Statutes, as amended
1298 by section 12 of chapter 2019-76, Laws of Florida, is amended to
1299 read:

1300 328.09 Refusal to issue and authority to cancel a
1301 certificate of title or registration.-

1302 (3) Except as otherwise provided in subsection (4), the



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1303 department may reject an application for a certificate of title
1304 only if:

1305 (e) The application is for a vessel that has been deemed
1306 derelict by a law enforcement officer under s. 376.15 or s.
1307 823.11. In such case, a law enforcement officer must inform the
1308 department in writing, which may be provided by facsimile, e-
1309 mail, or other electronic means, of the vessel's derelict status
1310 and supply the department with the vessel title number or vessel
1311 identification number. The department may issue a certificate of
1312 title once a law enforcement officer has verified in writing,
1313 which may be provided by facsimile, e-mail, or other electronic
1314 means, that the vessel is no longer a derelict vessel.

1315 Section 24. Section 376.15, Florida Statutes, is amended to
1316 read:

1317 376.15 Derelict vessels; relocation or removal from ~~public~~
1318 waters of this state.-

1319 (1) As used in this section, the term:

1320 (a) "Commission" means the Fish and Wildlife Conservation
1321 Commission.

1322 (b) "Gross negligence" means conduct so reckless or wanting
1323 in care that it constitutes a conscious disregard or
1324 indifference to the safety of the property exposed to such
1325 conduct.

1326 (c) "Willful misconduct" means conduct evidencing
1327 carelessness or negligence of such a degree or recurrence as to
1328 manifest culpability, wrongful intent, or evil design or to show
1329 an intentional and substantial disregard of the interests of the
1330 vessel owner.

1331 (2) (a) It is unlawful for any person, firm, or corporation



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1332 to ~~store, leave, or abandon~~ any derelict vessel as defined in s.
1333 823.11 upon the waters of ~~in~~ this state. For purposes of this
1334 paragraph, the term "leave" means to allow a vessel to remain
1335 occupied or unoccupied on the waters of this state for more than
1336 24 hours.

1337 (b) Notwithstanding paragraph (a), a person who owns or
1338 operates a vessel that becomes derelict upon the waters of this
1339 state solely as a result of a boating accident that is reported
1340 to law enforcement in accordance with s. 327.301 or otherwise
1341 reported to law enforcement; a hurricane; or another sudden
1342 event outside of his or her control may not be charged with a
1343 violation if:

1344 1. The individual documents for law enforcement the
1345 specific event that led to the vessel being derelict upon the
1346 waters of this state; and

1347 2. The vessel has been removed from the waters of this
1348 state or has been repaired or addressed such that it is no
1349 longer derelict upon the waters of this state:

1350 a. For a vessel that has become derelict as a result of a
1351 boating accident or other sudden event outside of his or her
1352 control, within 7 days after such accident or event; or

1353 b. Within 45 days after the hurricane has passed over this
1354 state.

1355 (c) This subsection does not apply to a vessel that was
1356 derelict upon the waters of this state before the stated
1357 accident or event.

1358 (3) (a) The commission, an officer ~~officers~~ of the
1359 commission, or a ~~and any~~ law enforcement agency or officer
1360 specified in s. 327.70 may ~~are authorized and empowered to~~



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1361 relocate, remove, store, destroy, or dispose of or cause to be
1362 relocated, ~~or removed, stored, destroyed, or disposed of a~~ ~~any~~
1363 derelict vessel as defined in s. 823.11 from ~~public~~ waters of
1364 this state as defined in s. 327.02. All costs, including costs
1365 owed to a third party, incurred by the commission or other law
1366 enforcement agency in the relocation, ~~or removal, storage,~~
1367 destruction, or disposal of any abandoned or derelict vessel are
1368 recoverable against the owner of the vessel or the party
1369 determined to be legally responsible for the vessel being upon
1370 the waters of this state in a derelict condition. The Department
1371 of Legal Affairs shall represent the commission in actions to
1372 recover such costs.

1373 (b) The commission, an officer ~~officers~~ of the commission,
1374 or a ~~and any other~~ law enforcement agency or officer specified
1375 in s. 327.70 acting pursuant to ~~under~~ this section to relocate,
1376 remove, store, destroy, or dispose of or cause to be relocated,
1377 ~~or removed, stored, destroyed, or disposed of a~~ derelict vessel
1378 from ~~public~~ waters of this state as defined in s. 327.02 shall
1379 be held harmless for all damages to the derelict vessel
1380 resulting from such action ~~relocation or removal~~ unless the
1381 damage results from gross negligence or willful misconduct as
1382 these terms are defined in s. 823.11.

1383 (c) A contractor performing relocation or removal
1384 activities at the direction of the commission, an officer
1385 ~~officers~~ of the commission, ~~or~~ a law enforcement agency or
1386 officer, or a governmental subdivision, when the governmental
1387 subdivision has received authorization for the relocation or
1388 removal from a law enforcement officer or agency pursuant to
1389 this section, must be licensed in accordance with applicable



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1390 United States Coast Guard regulations where required; obtain and
1391 carry in full force and effect a policy from a licensed
1392 insurance carrier in this state to insure against any accident,
1393 loss, injury, property damage, or other casualty caused by or
1394 resulting from the contractor's actions; and be properly
1395 equipped to perform the services to be provided.

1396 (d) The commission may establish a program to provide
1397 grants to local governments for the removal, storage,
1398 destruction, and disposal of derelict vessels from the ~~public~~
1399 waters of ~~this the~~ state as defined in s. 327.02. The program
1400 shall be funded from the Marine Resources Conservation Trust
1401 Fund or the Florida Coastal Protection Trust Fund.
1402 Notwithstanding ~~the provisions in~~ s. 216.181(11), funds
1403 available for grants may only be authorized by appropriations
1404 acts of the Legislature. In a given fiscal year, if all funds
1405 appropriated pursuant to this paragraph are not requested by and
1406 granted to local governments for the removal, storage,
1407 destruction, and disposal of derelict vessels by the end of the
1408 third quarter, the Fish and Wildlife Conservation Commission may
1409 use the remainder of the funds to remove, store, destroy, and
1410 dispose of, or to pay private contractors to remove, store,
1411 destroy, and dispose of, derelict vessels.

1412 (e) The commission shall adopt by rule procedures for
1413 submitting a grant application and criteria for allocating
1414 available funds. Such criteria shall include, but not be limited
1415 to, the following:

- 1416 1. The number of derelict vessels within the jurisdiction
- 1417 of the applicant.
- 1418 2. The threat posed by such vessels to public health or



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1419 safety, the environment, navigation, or the aesthetic condition
1420 of the general vicinity.

1421 3. The degree of commitment of the local government to
1422 maintain waters free of abandoned and derelict vessels and to
1423 seek legal action against those who abandon vessels in the
1424 waters of this the state as defined in s. 327.02.

1425 (f) This section constitutes the authority for such removal
1426 but is not intended to be in contravention of any applicable
1427 federal act.

1428 Section 25. Subsections (2) and (4) of section 705.103,
1429 Florida Statutes, are amended to read:

1430 705.103 Procedure for abandoned or lost property.—

1431 (2) (a) 1. Whenever a law enforcement officer ascertains
1432 that:

1433 a. An article of lost or abandoned property other than a
1434 derelict vessel or a vessel declared a public nuisance pursuant
1435 to s. 327.73(1) (aa) is present on public property and is of such
1436 nature that it cannot be easily removed, the officer shall cause
1437 a notice to be placed upon such article in substantially the
1438 following form:

1439
1440 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1441 PROPERTY. This property, to wit: ...(setting forth brief
1442 description)... is unlawfully upon public property known as
1443 ...(setting forth brief description of location)... and must be
1444 removed within 5 days; otherwise, it will be removed and
1445 disposed of pursuant to chapter 705, Florida Statutes. The owner
1446 will be liable for the costs of removal, storage, and
1447 publication of notice. Dated this: ...(setting forth the date of



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1448 posting of notice)..., signed: ...(setting forth name, title,
1449 address, and telephone number of law enforcement officer)....

1450

1451 b. A derelict vessel or a vessel declared a public nuisance
1452 pursuant to s. 327.73(1)(aa) is present on the waters of this
1453 state, the officer shall cause a notice to be placed upon such
1454 vessel in substantially the following form:

1455

1456 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1457 VESSEL. This vessel, to wit: ...(setting forth brief
1458 description)... has been determined to be (derelict or a public
1459 nuisance) and is unlawfully upon waters of this state
1460 ...(setting forth brief description of location)... and must be
1461 removed within 21 days; otherwise, it will be removed and
1462 disposed of pursuant to chapter 705, Florida Statutes. The owner
1463 and other interested parties have the right to a hearing to
1464 challenge the determination that this vessel is derelict or
1465 otherwise in violation of the law. Please contact ...(contact
1466 information for person who can arrange for a hearing in
1467 accordance with this section).... The owner or the party
1468 determined to be legally responsible for the vessel being upon
1469 the waters of this state in a derelict condition will be liable
1470 for the costs of removal, destruction, and disposal if this
1471 vessel is not removed by the owner. Dated this: ...(setting
1472 forth the date of posting of notice)..., signed: ...(setting
1473 forth name, title, address, and telephone number of law
1474 enforcement officer)....

1475 2. The notices required under subparagraph 1. may ~~such~~
1476 notice shall be not be less than 8 inches by 10 inches and shall



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1477 be sufficiently weatherproof to withstand normal exposure to the
1478 elements. In addition to posting, the law enforcement officer
1479 shall make a reasonable effort to ascertain the name and address
1480 of the owner. If such is reasonably available to the officer,
1481 she or he shall mail a copy of such notice to the owner on or
1482 before the date of posting. If the property is a motor vehicle
1483 as defined in s. 320.01(1) or a vessel as defined in s. 327.02,
1484 the law enforcement agency shall contact the Department of
1485 Highway Safety and Motor Vehicles in order to determine the name
1486 and address of the owner and any person who has filed a lien on
1487 the vehicle or vessel as provided in s. 319.27(2) or (3) or s.
1488 328.15(1). On receipt of this information, the law enforcement
1489 agency shall mail a copy of the notice by certified mail, return
1490 receipt requested, to the owner and to the lienholder, if any,
1491 except that a law enforcement officer who has issued a citation
1492 for a violation of s. 376.15 or s. 823.11 to the owner of a
1493 derelict vessel is not required to mail a copy of the notice by
1494 certified mail, return receipt requested, to the owner. For a
1495 derelict vessel or a vessel declared a public nuisance pursuant
1496 to s. 327.73(1)(aa), the mailed notice must inform the owner or
1497 responsible party that he or she has a right to a hearing to
1498 dispute the determination that the vessel is derelict or
1499 otherwise in violation of the law. If a request for a hearing is
1500 made, a state agency shall follow the processes set forth in s.
1501 120.569. Local governmental entities shall follow the processes
1502 set forth in s. 120.569, except that a local judge, magistrate,
1503 or code enforcement officer may be designated to conduct such a
1504 hearing. If, at the end of 5 days after posting the notice in
1505 sub-subparagraph 1.a., or at the end of 21 days after posting



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1506 the notice in sub-subparagraph 1.b., and mailing such notice, if
1507 required, the owner or any person interested in the lost or
1508 abandoned article or articles described has not removed the
1509 article or articles from public property or shown reasonable
1510 cause for failure to do so, and, in the case of a derelict
1511 vessel or a vessel declared a public nuisance pursuant to s.
1512 327.73(1)(aa), has not requested a hearing in accordance with
1513 this section, the following shall apply:

1514 a. ~~(a)~~ For abandoned property other than a derelict vessel
1515 or a vessel declared a public nuisance pursuant to s.
1516 327.73(1)(aa), the law enforcement agency may retain any or all
1517 of the property for its own use or for use by the state or unit
1518 of local government, trade such property to another unit of
1519 local government or state agency, donate the property to a
1520 charitable organization, sell the property, or notify the
1521 appropriate refuse removal service.

1522 b. For a derelict vessel or a vessel declared a public
1523 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
1524 agency or its designee may:

1525 (I) Remove the vessel from the waters of this state and
1526 destroy and dispose of the vessel or authorize another
1527 governmental entity or its designee to do so; or

1528 (II) Authorize the vessel's use as an artificial reef in
1529 accordance with s. 379.249 if all necessary federal, state, and
1530 local authorizations are received.

1531
1532 A law enforcement agency or its designee may also take action as
1533 described in this sub-subparagraph if, following a hearing
1534 pursuant to this section, the judge, magistrate, administrative



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1535 law judge, or hearing officer has determined the vessel to be
1536 derelict as provided in s. 823.11 or otherwise in violation of
1537 the law in accordance with s. 327.73(1)(aa) and a final order
1538 has been entered or the case is otherwise closed.

1539 (b) For lost property, the officer shall take custody and
1540 the agency shall retain custody of the property for 90 days. The
1541 agency shall publish notice of the intended disposition of the
1542 property, as provided in this section, during the first 45 days
1543 of this time period.

1544 1. If the agency elects to retain the property for use by
1545 the unit of government, donate the property to a charitable
1546 organization, surrender such property to the finder, sell the
1547 property, or trade the property to another unit of local
1548 government or state agency, notice of such election shall be
1549 given by an advertisement published once a week for 2
1550 consecutive weeks in a newspaper of general circulation in the
1551 county where the property was found if the value of the property
1552 is more than \$100. If the value of the property is \$100 or less,
1553 notice shall be given by posting a description of the property
1554 at the law enforcement agency where the property was turned in.
1555 The notice must be posted for not less than 2 consecutive weeks
1556 in a public place designated by the law enforcement agency. The
1557 notice must describe the property in a manner reasonably
1558 adequate to permit the rightful owner of the property to claim
1559 it.

1560 2. If the agency elects to sell the property, it must do so
1561 at public sale by competitive bidding. Notice of the time and
1562 place of the sale shall be given by an advertisement of the sale
1563 published once a week for 2 consecutive weeks in a newspaper of



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1564 general circulation in the county where the sale is to be held.
1565 The notice shall include a statement that the sale shall be
1566 subject to any and all liens. The sale must be held at the
1567 nearest suitable place to that where the lost or abandoned
1568 property is held or stored. The advertisement must include a
1569 description of the goods and the time and place of the sale. The
1570 sale may take place no earlier than 10 days after the final
1571 publication. If there is no newspaper of general circulation in
1572 the county where the sale is to be held, the advertisement shall
1573 be posted at the door of the courthouse and at three other
1574 public places in the county at least 10 days prior to sale.
1575 Notice of the agency's intended disposition shall describe the
1576 property in a manner reasonably adequate to permit the rightful
1577 owner of the property to identify it.

1578 (4) The owner of any abandoned or lost property, or in the
1579 case of a derelict vessel, the owner or other party determined
1580 to be legally responsible for the vessel being upon the waters
1581 of this state in a derelict condition, who, after notice as
1582 provided in this section, does not remove such property within
1583 the specified period shall be liable to the law enforcement
1584 agency, other governmental entity, or the agency's or entity's
1585 designee for all costs of removal, storage, and destruction of
1586 such property, less any salvage value obtained by disposal of
1587 the property. Upon final disposition of the property, the law
1588 enforcement officer or representative of the law enforcement
1589 agency or other governmental entity shall notify the owner, if
1590 known, of the amount owed. In the case of an abandoned vessel or
1591 motor vehicle, any person who neglects or refuses to pay such
1592 amount is not entitled to be issued a certificate of



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1593 registration for such vessel or motor vehicle, or any other
1594 vessel or motor vehicle, until such costs have been paid. A
1595 person who has neglected or refused to pay all costs of removal,
1596 storage, disposal, and destruction of a vessel or motor vehicle
1597 as provided in this section, after having been provided written
1598 notice via certified mail that such costs are owed, and who
1599 applies for and is issued a registration for a vessel or motor
1600 vehicle before such costs have been paid in full commits a
1601 misdeemeanor of the first degree, punishable as provided in s.
1602 775.082 or s. 775.083. The law enforcement officer or
1603 representative of the law enforcement agency or other
1604 governmental entity shall supply the Department of Highway
1605 Safety and Motor Vehicles with a list of persons whose vessel
1606 registration privileges and ~~or whose~~ motor vehicle privileges
1607 have been revoked under this subsection. ~~Neither~~ The department
1608 or a ~~nor any other~~ person acting as an agent of the department
1609 may not ~~thereof shall~~ issue a certificate of registration to a
1610 person whose vessel and ~~or~~ motor vehicle registration privileges
1611 have been revoked, as provided by this subsection, until such
1612 costs have been paid.

1613 Section 26. Effective July 1, 2023, subsection (2) of
1614 section 705.103, Florida Statutes, as amended by section 29 of
1615 chapter 2019-76, Laws of Florida, is amended to read:

1616 705.103 Procedure for abandoned or lost property.—

1617 (2) (a)1. Whenever a law enforcement officer ascertains
1618 that:

1619 a. An article of lost or abandoned property other than a
1620 derelict vessel or a vessel declared a public nuisance pursuant
1621 to s. 327.73(1)(aa) is present on public property and is of such



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1622 nature that it cannot be easily removed, the officer shall cause
1623 a notice to be placed upon such article in substantially the
1624 following form:

1625
1626 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1627 PROPERTY. This property, to wit: ...(setting forth brief
1628 description)... is unlawfully upon public property known as
1629 ...(setting forth brief description of location)... and must be
1630 removed within 5 days; otherwise, it will be removed and
1631 disposed of pursuant to chapter 705, Florida Statutes. The owner
1632 will be liable for the costs of removal, storage, and
1633 publication of notice. Dated this: ...(setting forth the date of
1634 posting of notice)..., signed: ...(setting forth name, title,
1635 address, and telephone number of law enforcement officer)....
1636

1637 b. A derelict vessel or a vessel declared a public nuisance
1638 pursuant to s. 327.73(1)(aa) is present on the waters of this
1639 state, the officer shall cause a notice to be placed upon such
1640 vessel in substantially the following form:

1641
1642 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1643 VESSEL. This vessel, to wit: ...(setting forth brief description
1644 of location)... has been determined to be (derelict or a public
1645 nuisance) and is unlawfully upon the waters of this state
1646 ...(setting forth brief description of location)... and must be
1647 removed within 21 days; otherwise, it will be removed and
1648 disposed of pursuant to chapter 705, Florida Statutes. The owner
1649 and other interested parties have the right to a hearing to
1650 challenge the determination that this vessel is derelict or



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1651 otherwise in violation of the law. Please contact ...(contact
1652 information for person who can arrange for a hearing in
1653 accordance with this section)... The owner or the party
1654 determined to be legally responsible for the vessel being upon
1655 the waters of this state in a derelict condition will be liable
1656 for the costs of removal, destruction, and disposal if this
1657 vessel is not removed by the owner. Dated this: ...(setting
1658 forth the date of posting of notice)..., signed: ...(setting
1659 forth name, title, address, and telephone number of law
1660 enforcement officer)....

1661
1662 2. The notices required under subparagraph 1. may ~~Such~~
1663 notice shall be not be less than 8 inches by 10 inches and shall
1664 be sufficiently weatherproof to withstand normal exposure to the
1665 elements. In addition to posting, the law enforcement officer
1666 shall make a reasonable effort to ascertain the name and address
1667 of the owner. If such is reasonably available to the officer,
1668 she or he shall mail a copy of such notice to the owner on or
1669 before the date of posting. If the property is a motor vehicle
1670 as defined in s. 320.01(1) or a vessel as defined in s. 327.02,
1671 the law enforcement agency shall contact the Department of
1672 Highway Safety and Motor Vehicles in order to determine the name
1673 and address of the owner and any person who has filed a lien on
1674 the vehicle or vessel as provided in s. 319.27(2) or (3) or s.
1675 328.15. On receipt of this information, the law enforcement
1676 agency shall mail a copy of the notice by certified mail, return
1677 receipt requested, to the owner and to the lienholder, if any,
1678 except that a law enforcement officer who has issued a citation
1679 for a violation of s. 376.15 or s. 823.11 to the owner of a



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1680 derelict vessel is not required to mail a copy of the notice by
1681 certified mail, return receipt requested, to the owner. For a
1682 derelict vessel or a vessel declared a public nuisance pursuant
1683 to s. 327.73(1)(aa), the mailed notice must inform the owner or
1684 responsible party that he or she has a right to a hearing to
1685 dispute the determination that the vessel is derelict or
1686 otherwise in violation of the law. If a request for a hearing is
1687 made, a state agency shall follow the processes as set forth in
1688 s. 120.569. Local governmental entities shall follow the
1689 processes set forth in s. 120.569, except that a local judge,
1690 magistrate, or code enforcement officer may be designated to
1691 conduct such a hearing. If, at the end of 5 days after posting
1692 the notice in sub-subparagraph 1.a., or at the end of 21 days
1693 after posting the notice in sub-subparagraph 1.b., and mailing
1694 such notice, if required, the owner or any person interested in
1695 the lost or abandoned article or articles described has not
1696 removed the article or articles from public property or shown
1697 reasonable cause for failure to do so, and, in the case of a
1698 derelict vessel or a vessel declared a public nuisance pursuant
1699 to s. 327.73(1)(aa), has not requested a hearing in accordance
1700 with this section, the following shall apply:
1701 a. ~~(a)~~ For abandoned property other than a derelict vessel
1702 or a vessel declared a public nuisance pursuant to s.
1703 327.73(1)(aa), the law enforcement agency may retain any or all
1704 of the property for its own use or for use by the state or unit
1705 of local government, trade such property to another unit of
1706 local government or state agency, donate the property to a
1707 charitable organization, sell the property, or notify the
1708 appropriate refuse removal service.



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1709 b. For a derelict vessel or a vessel declared a public
1710 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
1711 agency or its designee may:
1712 (I) Remove the vessel from the waters of this state and
1713 destroy and dispose of the vessel or authorize another
1714 governmental entity or its designee to do so; or
1715 (II) Authorize the vessel's use as an artificial reef in
1716 accordance with s. 379.249 if all necessary federal, state, and
1717 local authorizations are received.
1718
1719 A law enforcement agency or its designee may also take action as
1720 described in this sub-subparagraph if, following a hearing
1721 pursuant to this section, the judge, magistrate, administrative
1722 law judge, or hearing officer has determined the vessel to be
1723 derelict as provided in s. 823.11 or otherwise in violation of
1724 the law in accordance with s. 327.73(1)(aa) and a final order
1725 has been entered or the case is otherwise closed.
1726 (b) For lost property, the officer shall take custody and
1727 the agency shall retain custody of the property for 90 days. The
1728 agency shall publish notice of the intended disposition of the
1729 property, as provided in this section, during the first 45 days
1730 of this time period.
1731 1. If the agency elects to retain the property for use by
1732 the unit of government, donate the property to a charitable
1733 organization, surrender such property to the finder, sell the
1734 property, or trade the property to another unit of local
1735 government or state agency, notice of such election shall be
1736 given by an advertisement published once a week for 2
1737 consecutive weeks in a newspaper of general circulation in the



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1738 county where the property was found if the value of the property
1739 is more than \$100. If the value of the property is \$100 or less,
1740 notice shall be given by posting a description of the property
1741 at the law enforcement agency where the property was turned in.
1742 The notice must be posted for not less than 2 consecutive weeks
1743 in a public place designated by the law enforcement agency. The
1744 notice must describe the property in a manner reasonably
1745 adequate to permit the rightful owner of the property to claim
1746 it.

1747 2. If the agency elects to sell the property, it must do so
1748 at public sale by competitive bidding. Notice of the time and
1749 place of the sale shall be given by an advertisement of the sale
1750 published once a week for 2 consecutive weeks in a newspaper of
1751 general circulation in the county where the sale is to be held.
1752 The notice shall include a statement that the sale shall be
1753 subject to any and all liens. The sale must be held at the
1754 nearest suitable place to that where the lost or abandoned
1755 property is held or stored. The advertisement must include a
1756 description of the goods and the time and place of the sale. The
1757 sale may take place no earlier than 10 days after the final
1758 publication. If there is no newspaper of general circulation in
1759 the county where the sale is to be held, the advertisement shall
1760 be posted at the door of the courthouse and at three other
1761 public places in the county at least 10 days prior to sale.
1762 Notice of the agency's intended disposition shall describe the
1763 property in a manner reasonably adequate to permit the rightful
1764 owner of the property to identify it.

1765 Section 27. Subsections (1), (2), and (3) of section
1766 823.11, Florida Statutes, are amended to read:



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1767 823.11 Derelict vessels; relocation or removal; penalty.-

1768 (1) As used in this section and s. 376.15, the term:

1769 (a) "Commission" means the Fish and Wildlife Conservation
1770 Commission.

1771 (b) "Derelict vessel" means a vessel, as defined in s.
1772 327.02, that is ~~left, stored, or abandoned~~:

1773 1. In a wrecked, junked, or substantially dismantled
1774 condition upon any ~~public~~ waters of this state.

1775 a. A vessel is wrecked if it is sunken or sinking; aground
1776 without the ability to extricate itself absent mechanical
1777 assistance; or remaining after a marine casualty, including, but
1778 not limited to, a boating accident, extreme weather, or a fire.

1779 b. A vessel is junked if it has been substantially stripped
1780 of vessel components, if vessel components have substantially
1781 degraded or been destroyed, or if the vessel has been discarded
1782 by the owner or operator. Attaching an outboard motor to a
1783 vessel that is otherwise junked will not cause the vessel to no
1784 longer be junked if such motor is not an effective means of
1785 propulsion as required by s. 327.4107(2)(e) and associated
1786 rules.

1787 c. A vessel is substantially dismantled if at least two of
1788 the three following vessel systems or components are missing,
1789 compromised, incomplete, inoperable, or broken:

1790 (I) The steering system;

1791 (II) The propulsion system; or

1792 (III) The exterior hull integrity.

1793
1794 Attaching an outboard motor to a vessel that is otherwise
1795 substantially dismantled will not cause the vessel to no longer



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1796 be substantially dismantled if such motor is not an effective
1797 means of propulsion as required by s. 327.4107(2) (e) and
1798 associated rules.

1799 2. At a port in this state without the consent of the
1800 agency having jurisdiction thereof.

1801 3. Docked, grounded, or beached upon the property of
1802 another without the consent of the owner of the property.

1803 (c) "Gross negligence" means conduct so reckless or wanting
1804 in care that it constitutes a conscious disregard or
1805 indifference to the safety of the property exposed to such
1806 conduct.

1807 (d) "Willful misconduct" means conduct evidencing
1808 carelessness or negligence of such a degree or recurrence as to
1809 manifest culpability, wrongful intent, or evil design or to show
1810 an intentional and substantial disregard of the interests of the
1811 vessel owner.

1812 (2) (a) ~~It is unlawful for~~ A person, firm, or corporation
1813 may not to store, leave, or abandon any derelict vessel upon
1814 waters of in this state. For purposes of this paragraph, the
1815 term "leave" means to allow a vessel to remain occupied or
1816 unoccupied on the waters of this state for more than 24 hours.

1817 (b) Notwithstanding paragraph (a), a person who owns or
1818 operates a vessel that becomes derelict upon the waters of this
1819 state solely as a result of a boating accident that is reported
1820 to law enforcement in accordance with s. 327.301 or otherwise
1821 reported to law enforcement; a hurricane; or another sudden
1822 event outside of his or her control may not be charged with a
1823 violation if:

1824 1. The individual documents for law enforcement the



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1825 specific event that led to the vessel being derelict upon the
1826 waters of this state; and

1827 2. The vessel has been removed from the waters of this
1828 state or has been repaired or addressed such that it is no
1829 longer derelict upon the waters of this state:

1830 a. For a vessel that has become derelict as a result of a
1831 boating accident or other sudden event outside of his or her
1832 control, within 7 days after such accident or event; or

1833 b. Within 45 days after the hurricane has passed over the
1834 state.

1835 (c) This subsection does not apply to a vessel that was
1836 derelict upon the waters of this state before the stated
1837 accident or event.

1838 (3) The commission, an officer ~~officers~~ of the commission,
1839 or a ~~and any~~ law enforcement agency or officer specified in s.
1840 327.70 ~~may are authorized and empowered to~~ relocate, remove,
1841 store, destroy, or dispose of or cause to be relocated, ~~or~~
1842 removed, stored, destroyed, or disposed of a derelict vessel
1843 from ~~public~~ waters of this state as defined in s. 327.02 if the
1844 derelict vessel obstructs or threatens to obstruct navigation or
1845 in any way constitutes a danger to the environment, property, or
1846 persons. The commission, an officer ~~officers~~ of the commission,
1847 or any other law enforcement agency or officer acting pursuant
1848 to ~~under~~ this subsection to relocate, remove, store, destroy,
1849 dispose of or cause to be relocated, ~~or~~ removed, stored,
1850 destroyed, or disposed of a derelict vessel from ~~public~~ waters
1851 of this state shall be held harmless for all damages to the
1852 derelict vessel resulting from such ~~action relocation or removal~~
1853 unless the damage results from gross negligence or willful



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1854 misconduct.

1855 (a) Removal of derelict vessels under this subsection may
1856 be funded by grants provided in ss. 206.606 and 376.15. The
1857 commission shall implement a plan for the procurement of any
1858 available federal disaster funds and use such funds for the
1859 removal of derelict vessels.

1860 (b) All costs, including costs owed to a third party,
1861 incurred by the commission, another ~~or other~~ law enforcement
1862 agency, or a governmental subdivision, when the governmental
1863 subdivision has received authorization from a law enforcement
1864 officer or agency, in the relocation, ~~or~~ removal, storage,
1865 destruction, or disposal of a derelict vessel are recoverable
1866 against the vessel owner or the party determined to be legally
1867 responsible for the vessel being upon the waters of this state
1868 in a derelict condition. The Department of Legal Affairs shall
1869 represent the commission in actions to recover such costs. As
1870 provided in s. 705.103(4), a person who neglects or refuses to
1871 pay such costs may not be issued a certificate of registration
1872 for such vessel or for any other vessel or motor vehicle until
1873 such costs have been paid. A person who has neglected or refused
1874 to pay all costs of removal, storage, destruction, or disposal
1875 of a derelict vessel as provided in this section, after having
1876 been provided written notice via certified mail that such costs
1877 are owed, and who applies for and is issued a registration for a
1878 vessel or motor vehicle before such costs have been paid in full
1879 commits a misdemeanor of the first degree, punishable as
1880 provided in s. 775.082 or s. 775.083.

1881 (c) A contractor performing such ~~relocation or removal~~
1882 activities at the direction of the commission, an officer



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1883 ~~officers~~ of the commission, ~~or~~ a law enforcement agency or
1884 officer, or a governmental subdivision, when the governmental
1885 subdivision has received authorization for the relocation or
1886 removal from a law enforcement officer or agency, pursuant to
1887 this section must be licensed in accordance with applicable
1888 United States Coast Guard regulations where required; obtain and
1889 carry in full force and effect a policy from a licensed
1890 insurance carrier in this state to insure against any accident,
1891 loss, injury, property damage, or other casualty caused by or
1892 resulting from the contractor's actions; and be properly
1893 equipped to perform the services to be provided.

1894 Section 28. Except as otherwise expressly provided in this
1895 act, 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 Appropriations

BILL: CS/CS/SB 1086

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Operation and Safety of Motor Vehicles and Vessels

DATE: April 18, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Anderson	Rogers	EN	Fav/CS
2. Reagan	Betta	AEG	Recommend: Fav/CS
3. Reagan	Sadberry	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1086 contains numerous changes to existing laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities.

Relating to rulemaking, the bill provides additional rulemaking authority to the FWC to implement provisions relating to derelict vessels.

Relating to boater safety, the bill:

- Effective October 1, 2021, revises conditions under which a person operating a motor vehicle or vessel commits a misdemeanor by failing to submit to breath or urine testing for alcohol, chemical substances, and controlled substances.
- Deletes the provisions establishing a misdemeanor for the refusal to submit to blood testing for alcohol, chemical substances, and controlled substances.
- Defines the term “human-powered vessel” and restricts the operation of such vessels within the boundaries of the Florida Intracoastal Waterway.
- Prohibits a livery from leasing, hiring, or renting a vessel to a person required to complete a FWC-approved boating safety education course, unless the person presents certain documentation indicating compliance.
- Revises boating-restricted areas to include certain areas around public or private marinas, permitted public mooring fields, and the Florida Intracoastal Waterway.

- Designates Monroe County as an anchoring limitation area under certain conditions.
- Authorizes the FWC to establish anchoring/mooring/beaching/grounding protection zones for springs.
- Prohibits the operation of vessels faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.

Relating to derelict vessels, the bill:

- Authorizes officers to provide in-person notice that a vessel is at risk of becoming derelict if there is a body camera recording.
- Authorizes law enforcement officers to relocate at-risk vessels to a certain distance from mangroves or vegetation.
- Authorizes the FWC to establish a derelict vessel prevention program.
- Authorizes local governments to enact and enforce regulations to remove an abandoned or lost vessel affixed to a public mooring.
- Authorizes law enforcement officers to relocate or remove public nuisance vessels from the waters of this state.
- Prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict, and beginning in 2023, authorizes the DHSMV to reject an application for a certificate of title for a vessel that has been deemed derelict.
- Authorizes the FWC to provide local government grants for the destruction and disposal of derelict vessels.
- Creates specific procedures for derelict vessels or vessels that have been declared a public nuisance that are present on waters of this state, including notice and hearing requirements and liability for removal costs.
- Revises the definition of the term “derelict vessel” to specify requirements for a vessel to be considered “wrecked,” “junked,” or “substantially dismantled.”
- Authorizes certain governmental subdivisions to perform relocation or removal activities and specifies requirements for licensure, insurance, and equipment.

Relating to marine sanitation devices, the bill requires the owner/operator of a live-aboard vessel or houseboat equipped with a marine sanitation device to maintain records of each pump out.

Relating to penalties, the bill:

- Increases the civil penalties for a vessel deemed at risk of becoming derelict.
- Creates civil penalties for vessels creating special hazards as specified in the bill.
- Adds operating a human-powered vessel in the Intracoastal Waterway to the list of violations resulting in a noncriminal infraction.
- Requires the Department of Highway Safety and Motor Vehicles to enter final disposition of failure to submit to a sobriety test into a person’s driving record.

Relating to spaceflight, the bill authorizes the FWC to establish temporary protective zones in certain water bodies in preparation for a launch service or reentry service, or for the recovery of spaceflight assets before or after a launch service or reentry service.

There may be a positive fiscal impact to the FWC due to the new and increased civil penalties provided under the bill. However, the FWC may also experience increased costs due to increased enforcement.

The bill provides that except as otherwise expressly provided, the effective date is July 1, 2021.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.² Under Article IV, Section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. The Legislature may enact laws that aid the FWC in its exercise of regulatory functions and executive powers in the areas of planning, budgeting, personnel management, and purchasing.³

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁴ The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.⁵ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁶

Boater Safety Education

A person born on or after January 1, 1988, who will be operating a boat in Florida waters with an engine of 10 horsepower or more, must obtain a Florida boating safety identification card.⁷ To obtain a card, a person must complete an approved boating safety course.⁸ There are several

¹ FLA. CONST. art. IV, s. 9.

² *Id.*; see also s. 379.102(1), F.S.

³ FLA. CONST. art. IV, s. 9.

⁴ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁵ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Feb. 13, 2021).

⁶ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Feb. 15, 2021). See s. 327.70(1) and (4), F.S.

⁷ Section 327.395(1), F.S.

⁸ FWC, *Boater Education Identification Card*, <https://myfwc.com/boating/safety-education/id/> (last visited Feb. 23, 2021).

This card is not a boating license; it is a certification that the person named on the card has successfully completed the required boating safety course.

courses available at various price points ranging from free up to \$50.⁹ The course must meet the eight-hour instruction requirement established by the National Association of State Boating Law Administrators and must include a component regarding diving vessels.¹⁰ The card is valid for life, unless it was obtained by passing a temporary certificate examination, in which case it is valid for 90 days after the date of issuance.¹¹

Certain persons are exempt from the requirement to obtain a boating safety identification card. A person is exempt if he or she:

- Is licensed by the United States Coast Guard (Coast Guard) to serve as master of a vessel.
- Operates a vessel only on a private lake or pond.
- Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.
- Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalent examination in another state that meets or exceeds the requirements in Florida.
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale.
- Is operating a vessel within 90 days after completing the boater education course and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.
- Is exempted by FWC rule.¹²

A person who operates a vessel without the required boating safety identification card can be charged with a noncriminal infraction and is subject to a uniform boating citation and a \$50 civil penalty.¹³

A livery may not knowingly lease, hire, or rent vessels under certain conditions meant to ensure boater safety.¹⁴ A livery may also not knowingly lease, hire, or rent any vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless the person presents photographic identification and a valid boater safety identification card to the livery or meets one of the listed exemptions.¹⁵

⁹ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited Feb. 23, 2021).

¹⁰ Section 327.395(1), F.S.

¹¹ Section 327.395(5), F.S.

¹² Section 327.395(6), F.S.

¹³ Section 327.73(1)(s), F.S.

¹⁴ Section 327.54(1), F.S. For example, vessels must have proper safety equipment and be seaworthy and the number of vessel occupants may not exceed the maximum safety load of the vessel.

¹⁵ Section 327.54(2), F.S.

Boating Safety Regulations

An operator of a vessel in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.¹⁶ Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.¹⁷

Vessel owners and operators must carry, store, maintain, and use safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.¹⁸ Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.¹⁹

Anchoring or Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.²⁰ Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²¹

State law prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.²² Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.²³

The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility (a facility that services or repairs a yacht with a water line of 120 feet or more in length); or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.²⁴

However, there are exceptions if:

¹⁶ Section 327.33, F.S.

¹⁷ Section 327.73(h), F.S.

¹⁸ Section 327.50, F.S.

¹⁹ *Id.*

²⁰ Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

²¹ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf (last visited Mar. 10, 2021).

²² Section 327.44, F.S.

²³ Section 327.73, F.S.

²⁴ Section 327.4109(1)(a), F.S.

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first; or
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.²⁵

Additionally, the owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.²⁶

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.²⁷ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.²⁸

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²⁹ or live-aboard vessels³⁰ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.³¹ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.³²

Anchoring Limitation Areas

State law designates certain densely populated urban areas as anchoring limitation areas.³³ To promote the public's use and enjoyment of these waterways, anchoring a vessel is prohibited at any time between 30 minutes after sunset and 30 minutes before sunrise in an anchoring

²⁵ Section 327.4109(2), F.S.

²⁶ Section 327.4109(3), F.S.

²⁷ See s. 373.118, F.S. and Fla. Admin. Code R. 62-330.420(1).

²⁸ See Fla. Admin. Code R. 62-330.420.

²⁹ Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

³⁰ Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats."

³¹ Section 327.60(3), F.S.

³² Section 327.60(2)(f), F.S.

³³ Section 327.4108(1), F.S.

limitation area.³⁴ However, there are some exceptions where anchoring is permitted in an anchoring limitation area:

- When a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors; or
- During certain special events.³⁵

Certain types of vessels are exempt from anchoring limitation areas, including certain government, construction, and fishing vessels.³⁶ Law enforcement officers or agencies may remove and impound vessels from anchoring limitation areas when a vessel operator who was previously issued a citation continues to anchor the vessel in or refuses to leave the anchoring limitation area.³⁷

Boating-Restricted Areas

The FWC may establish boating-restricted areas on the waters of this state for any purpose deemed necessary to ensure the safety of the public if the restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.³⁸ The FWC adopts boating-restricted areas by rule.³⁹

Each boating-restricted area must be developed in consultation and coordination with the governing body of the county or municipality in which the boating-restricted area is located. When the boating-restricted area is to be on the navigable waters of the United States, the FWC must consult and coordinate with the Coast Guard and the United States Army Corps of Engineers.⁴⁰

Local governments also have authority to establish boating-restricted areas by ordinance.⁴¹ These areas include, but are not limited to:

- Idle-speed, no wake areas;
- Slow speed, minimum wake areas; and
- Vessel-exclusion zones.

Local ordinances establishing boating-restricted areas are subject to FWC review and approval. The FWC must make its determination based on substantial competent evidence that the ordinance is necessary to protect public safety.⁴² However, navigational hazards are presumed to

³⁴ Section 327.4108(2), F.S.

³⁵ Section 327.4108(3), F.S.

³⁶ Section 327.4108(4), F.S.

³⁷ Section 327.4108(5), F.S.

³⁸ Section 327.46, F.S. Boating-restricted areas can include, but are not limited to, restrictions of vessel speeds and vessel traffic.

³⁹ See Fla. Admin. Code R. 68D-24, for established boating restricted areas by county.

⁴⁰ Section 327.46(3), F.S.

⁴¹ Section 327.46(1), F.S.

⁴² *Id.*

exist in several areas noted under FWC rule and statute.⁴³ In these cases, a showing of substantial competent evidence is not required.

Additionally, the Coast Guard can establish safety zones,⁴⁴ security zones,⁴⁵ regulated navigation areas,⁴⁶ or naval vessel protection zones⁴⁷ where persons may not knowingly operate a vessel or authorize the operation of a vessel in violation of the restrictions under the zone.⁴⁸ The restricted vessel access protects against destruction, loss, or injury from various causes.⁴⁹ Generally, the Coast Guard establishes security zones around vessels, harbors, ports, and waterfront facilities. The Coast Guard has established several safety zones, security zones, and regulated navigation areas in Florida,⁵⁰ including a security zone around the Kennedy Space Center.⁵¹

A person who knowingly operates a vessel or authorizes the operation of a vessel in violation of an established zone or area, and without authorization by the Coast Guard Captain of the Port, commits a misdemeanor of the first degree.⁵² A person who continues to do so after receiving a warning, or refusing to leave, commits a felony of the third degree.⁵³ State and local law enforcement may enforce these zones at the request of a federal authority if necessary to augment federal law enforcement efforts and if there is a compelling need to protect the residents and infrastructure of the state.⁵⁴

Protection Zones for Springs

The FWC is authorized to establish protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs, including negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.⁵⁵ To develop a springs protection zone, the FWC consults and coordinates with the appropriate water management district, the Department of Environmental Protection, and the county and municipality, if applicable, where the zone is located.⁵⁶

⁴³ *Id.*; Fla. Admin. Code R. 68D-21.004. Navigational hazards are presumed to exist in areas including: within certain distances of launching and landing facilities, fuel pumps, lock structures, bridge fenders; in certain small waterways or areas designated as a public bathing or swimming area; near certain bends in the waterway; areas subject to unsafe levels of vessel traffic congestion, hazardous water levels or currents; and canoe trails.

⁴⁴ 33 C.F.R. pt. 165 subpart C.

⁴⁵ 33 C.F.R. pt. 165 subpart D.

⁴⁶ 33 C.F.R. pt. 165 subpart B.

⁴⁷ 33 C.F.R. pt. 165 subpart G.

⁴⁸ Section 327.461(1)(a), F.S.

⁴⁹ 33 C.F.R. pt. 165; *see* United States Coast Guard, *Regulated Navigation Areas*, <https://www.dco.uscg.mil/RNA/> (last visited Feb. 17, 2021).

⁵⁰ 33 C.F.R. s. 165.T07-0794 - 165.786, providing safety and security zones and regulated navigation areas in the Seventh Coast Guard District.

⁵¹ 33 C.F.R. s. 165.701.

⁵² Section 327.461(2), (7), F.S.

⁵³ Section 327.461(3), F.S.

⁵⁴ Section 327.461(1)(a), F.S.

⁵⁵ Section 327.45(2), F.S.

⁵⁶ Section 327.45(3), F.S. If the zone includes navigable waters of the United States, FWC is required to coordinate with the United States Coast Guard and the United States Army Corps of Engineers.

The restrictions in a springs protection zone do not apply to certain law enforcement, firefighting, or rescue personnel operating a vessel in the course of performing their official duties, or in emergency situations.⁵⁷

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.⁵⁸ It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in this state.⁵⁹

At-Risk Vessels

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of this state.⁶⁰ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.⁶¹

Abandoned Vessels

“Abandoned property”⁶² means all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in s. 823.11, F.S.

When an article of lost or abandoned property is present on public property and is not easily removable, the law enforcement officer must place a notice of removal on the property. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.⁶³

⁵⁷ Section 327.45(5), F.S.

⁵⁸ Section 823.11(1)(b), F.S.

⁵⁹ Section 376.15, F.S.; s. 823.11(2), F.S.

⁶⁰ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

⁶¹ Section 327.4107, F.S.

⁶² Section 705.101(3), F.S.

⁶³ Section 705.103(2), F.S.

If, after five days of posting the notice and mailing such notice, the owner has not removed the items from public property or shown reasonable cause for failure to do so, the law enforcement agency may retain the property for its own use, trade the property, donate the property, sell the property, or remove the property.⁶⁴

The owner of abandoned or lost property who does not remove the property after being noticed, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the property, less any salvage value obtained by the disposal of the property.⁶⁵ Upon the final disposition of the property, the law enforcement officer is required to notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.⁶⁶

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.⁶⁷

Removal of Derelict Vessels

The FWC's Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.⁶⁸

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.⁶⁹ FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁷⁰

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁷¹ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁷²

⁶⁴ *Id.*

⁶⁵ Section 705.103(4), F.S.

⁶⁶ *Id.*

⁶⁷ Section 327.60(5), F.S.

⁶⁸ Section 327.70, F.S.

⁶⁹ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

⁷⁰ Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁷¹ Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁷² Section 705.103(4), F.S.

The FWC may provide grants, funded from the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁷³ Grants are awarded based on a set of criteria outlined in FWC rules.⁷⁴ Removal or relocation of a vessel on private property is not eligible for grant funding.⁷⁵ However, each fiscal year, if all program funds are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or to pay private contractors to remove, derelict vessels.⁷⁶

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁷⁷ Violations are punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.⁷⁸ Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.⁷⁹ Each day during any portion of which the violation occurs constitutes a separate offense.⁸⁰

Section 327.73(1)(aa), F.S., provides that an owner or operator of a vessel at risk of becoming derelict on waters of this state or who allows such vessel to occupy such waters, is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$50 for a first offense;
- \$100 for a second offense occurring 30 days or more after a first offense; and
- \$250 for a third offense occurring 30 days or more after a previous offense.⁸¹

Section 327.73(1)(bb), F.S., provides that an owner or operator of a vessel or floating structure who anchors or moors in a prohibited area is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.⁸²

Finally, s. 327.73(1), F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.⁸³

⁷³ Section 376.15, F.S.

⁷⁴ Fla. Admin. Code R. 68-1.003.

⁷⁵ National Oceanic and Atmospheric Association, Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Feb. 22, 2021).

⁷⁶ Section 376.15, F.S.

⁷⁷ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁷⁸ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁷⁹ Sections 376.15(2) and 376.16(1), F.S.

⁸⁰ Section 376.16(1), F.S.

⁸¹ Section 327.73(1)(aa), F.S.

⁸² Section 327.73(1)(bb), F.S.

⁸³ Sections 775.082 and 775.083, F.S.

Artificial Reef Program

Artificial reefs are reef habitats using one or more objects of natural or human origin intentionally placed on the seafloor to enhance marine life for human use. Artificial reefs provide benefits including:

- Enhancing recreational and diving opportunities;
- Providing socio-economic benefits to local coastal communities;
- Increasing reef fish habitat;
- Mitigation reefs to replace hard bottom habitat lost through activities such as beach re-nourishment and damage caused by vessel groundings;
- Oyster reef regeneration; and
- Shoreline protection.⁸⁴

Florida has one of the most active artificial reef programs in the nation. Since the 1940s, more than 3,750 planned public artificial reefs have been placed in state and federal waters off of Florida's coast.⁸⁵ The FWC is authorized to accept title, on behalf of the state, of vessels to use as offshore reefs in the artificial reef program.⁸⁶ Under the program, the FWC provides grants and financial and technical assistance to coastal local governments, state universities, and qualified nonprofit organizations for the siting and development of artificial reefs, and for monitoring and evaluating such reefs and their recreational, economic, and biological effectiveness.⁸⁷

Marine Sanitation Devices

Certain vessels, including those that are 26 feet or longer with an enclosed cabin and berthing facilities, houseboats,⁸⁸ and floating structures with an enclosed living space with berthing facilities or work space with public access, are required to have a working toilet on board.⁸⁹ Permanently installed toilets must be properly attached to a Coast Guard certified or labeled marine sanitation device.⁹⁰ A marine sanitation device is equipment that is designed to receive, retain, treat, or discharge sewage and the process to treat such sewage.⁹¹

Florida prohibits the discharge of untreated sewage from any vessel, including houseboats, or any floating structure into state waters.⁹² This prohibition also applies to live-aboard vessels, which are defined as: a vessel used solely as a residence and not for navigation; a vessel for which a declaration of domicile has been filed; or a vessel used as a residence that does not have an effective means of propulsion for safe navigation; and specifically excludes commercial

⁸⁴ FWC, *Artificial Reefs*, <https://myfwc.com/fishing/saltwater/artificial-reefs/> (last visited Feb. 22, 2021).

⁸⁵ *Id.*

⁸⁶ Section 379.249(1), F.S.

⁸⁷ *Id.*

⁸⁸ Section 327.02(17), F.S. defines a "houseboat" as a vessel used primarily as a residence and not moved for 21 out of 30 days in a county of this state if the residential use of the vessel is to the preclusion of its use as a means of transportation. Section 327.02(17).

⁸⁹ Section 327.53(1)-(3), F.S.

⁹⁰ *Id.*

⁹¹ DEP, *Clean Boater FAQ*, <https://floridadep.gov/rcp/cva/content/clean-boater-faq> (last visited Feb. 22, 2021).

⁹² Section 327.53(4)(a), F.S.

fishing vessels.⁹³ Vessel owners with Type III⁹⁴ marine sanitation devices must dispose of sewage in an approved pump-out facility.⁹⁵ Violators are subject to a noncriminal infraction, for which the penalty is \$50.⁹⁶

Nuisance Vessels

Florida law declares that vessels or floating structures that are operated or occupied on the waters of this state and violate marine sanitation device requirements are a nuisance and hazard to public safety and health.⁹⁷ If an owner or operator does not correct a violation within 30 days after a citation is issued, and their vessel or floating structure remains on the waters of this state, law enforcement officers are required to apply to the appropriate court in the county where the vessel or floating structure is located, to order or cause the removal of the vessel or floating structure from the waters of this state at the owner's expense.⁹⁸ If the owner cannot be found or fails to pay the removal costs, the vessel or floating structure will be sold at a nonjudicial sale and the proceeds will be used to pay the removal costs.⁹⁹

Testing for Alcohol, Chemical Substances, and Controlled Substances

Anyone who operates a motor vehicle or vessel in the state is, by operating such a vehicle or vessel, deemed to have given his or her consent to submit to an approved chemical or physical test of his or her breath to determine the alcoholic content of his or her blood or breath, or a urine test to detect the presence of chemical substances or controlled substances.¹⁰⁰ These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances.¹⁰¹

Additionally, anyone who operates a motor vehicle or vessel in the state is deemed to have given his or her consent to submit to an approved blood test to determine the alcoholic content of his or her blood or to detect the presence of chemical substances or controlled substances.¹⁰² These tests may be performed if there is reasonable cause to believe that the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or emergency vehicle, and the administration of a breath or urine test is impractical or impossible.¹⁰³

⁹³ Section 327.02(22), F.S.

⁹⁴ Type III marine sanitation devices hold sewage, preventing the direct overboard discharge of sewage. Type I marine sanitation devices treat sewage by chemical or thermal means before discharge. Type II marine sanitation devices treat sewage by biological means, using bacteria, before discharge.

⁹⁵ Section 327.53(4)(b), F.S.

⁹⁶ Section 327.53(6)(a), F.S.

⁹⁷ Section 327.53(7), F.S.

⁹⁸ *Id.*

⁹⁹ Section 328.17, F.S.

¹⁰⁰ Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

¹⁰¹ *Id.*

¹⁰² Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

¹⁰³ *Id.*

A person who operates a motor vehicle and fails to submit to a breath, urine, or blood test will have his or her driver's license suspended for a period of one year for a first refusal, or 18 months for a repeat refusal.¹⁰⁴ A person who operates a motor vehicle who fails to submit to such test who has previously had his or her license suspended for a prior refusal commits a misdemeanor of the first degree and is subject to additional penalties.¹⁰⁵

A person who operates a vessel and fails to submit to a breath, urine, or blood test is subject to a civil penalty of \$500 for a first refusal.¹⁰⁶ A person who operates a vessel and fails to submit to such test who has been previously fined commits a misdemeanor and is subject to additional penalties.¹⁰⁷

However, in 2016, the United States Supreme Court issued a ruling in *Birchfield v. North Dakota* that prohibits warrantless blood tests incident to arrests for driving under the influence.¹⁰⁸ The Court held that the Fourth Amendment prohibits unreasonable searches, and the taking of a blood sample or administration of a blood test is a search.¹⁰⁹ Under the Court's ruling, refusing a blood test may not subject a person to criminal penalties.¹¹⁰ Thus, Florida's current laws relating to the penalties for refusal to submit to a blood test are unenforceable.

Mangroves

Mangroves are tropical plants that are adapted to loose, wet soils, salt water, and periodic submersion by tides.¹¹¹ They provide protected nursery areas for fishes, crustaceans, and shellfish; food, shelter, and nesting areas for a multitude of species;¹¹² protection of the shoreline from storm surge and erosion;¹¹³ and water quality protection.¹¹⁴

Currently, there are not any state regulations for anchoring or mooring near mangroves, although the trimming of mangroves is regulated under the Mangrove Trimming and Preservation Act.¹¹⁵ Through the Mangrove Trimming and Preservation Act, the Legislature intends to protect and preserve mangrove resources valuable to our environment and economy from unregulated removal, defoliation, and destruction.¹¹⁶ The FWC notes that removing derelict and at-risk vessels from areas in close proximity to mangroves and other upland vegetation can be considerably more expensive than from other areas due to conservation and depth concerns.¹¹⁷

¹⁰⁴ Section 316.1932(1)(a) and (1)(c), F.S.

¹⁰⁵ *Id.*; s. 316.1939, F.S.

¹⁰⁶ Section 327.352(1)(a) and (1)(c), F.S.

¹⁰⁷ *Id.*; s. 327.259, F.S.

¹⁰⁸ *Birchfield v. North Dakota*, 136 U.S. 2160 (2016).

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ DEP, *What is a Mangrove?*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/what-mangrove> (last visited Feb. 23, 2021).

¹¹² DEP, *Florida's Mangroves*, <https://floridadep.gov/rcp/rcp/content/floridas-mangroves> (last visited Feb. 23, 2021).

¹¹³ FWC, *Mangrove Forests*, <https://myfwc.com/research/habitat/coastal-wetlands/information/mangroves/> (last visited Feb. 23, 2021).

¹¹⁴ *Id.*

¹¹⁵ Sections 403.9321-403.9333, F.S.

¹¹⁶ Section 403.9323, F.S.

¹¹⁷ FWC, *Senate Bill 1086 Agency Bill Analysis* (February 10, 2021)(on file with the Senate Committee on Environment and Natural Resources).

Florida Intracoastal Waterway

The Florida Intracoastal Waterway is defined as the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.¹¹⁸ The Florida Intracoastal Waterway is shown in the map below.¹¹⁹



Spaceflight

With the recent resurgence of space activity, Florida is emerging as a national leader in spaceflight activities. In 2020, the space industry in Florida completed 31 launches from Cape

¹¹⁸ Section 327.02(15), F.S.

¹¹⁹ Florida Department of Transportation, *Florida Waterways System Plan*, Figure 1-2 on p. 1-12 (2015), available at https://www.fdot.gov/docs/default-source/seaport/pdfs/2015-Florida-Waterways-System-Plan_Final.pdf (last visited Mar. 1, 2021).

Canaveral Spaceport,¹²⁰ including the SpaceX Demo-2 mission in May 2020¹²¹ and the SpaceX Crew-1 mission in November 2020.¹²² According to Space Florida, over 50 launches are expected in 2021, and up to 100 launches are expected annually going forward.¹²³ Upon re-entry, the space capsules splashed down in waters off of Florida's coasts for the first time in 45 years.¹²⁴ The National Aeronautics and Space Administration (NASA) and SpaceX teams coordinated with the Coast Guard to ensure crew safety upon splashdown, including providing extra ships and air assets to patrol the splashdown zone to mitigate safety concerns for boaters approaching the landing area.¹²⁵

When the capsule landed in waters near Pensacola in August 2020, private boats approached the landing area too closely, according to NASA.¹²⁶ This led to confusion as recovery crews tried to reach the spacecraft. There were concerns that private boats could have interfered with the emergency recovery operation and that the spacecraft's thrusters could have released toxic propellant fumes.¹²⁷ Although the Coast Guard had patrol boats in the area ahead of the splashdown, it stated that "numerous boaters ignored the Coast Guard crews' requests and decided to encroach the area, putting themselves and those involved in the operation in potential danger."¹²⁸

There are no existing state statutes in place to protect spaceflight operations and astronauts. The FWC stated in its agency bill analysis that "spectator separation is necessary to prevent interference with sensitive operations, as well as for public safety reasons."¹²⁹

III. Effect of Proposed Changes:

Testing for Alcohol, Chemical Substances, or Controlled Substances: Sections 1, 2, 6, and 7

Section 1 of the bill, effective October 1, 2021, amends s. 316.1932, F.S., relating to tests for alcohol, chemical substances, or controlled substances while driving a motor vehicle.

¹²⁰ Space Florida, *Space Florida and the Future of Aerospace* (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

¹²¹ National Aeronautics and Space Administration (NASA), *NASA, SpaceX Successfully Launch Demo-2 Mission*, <https://blogs.nasa.gov/kennedy/2020/05/30/nasa-spacex-successfully-launch-demo-2-mission/> (last visited Feb. 22, 2021).

¹²² NASA, *NASA, SpaceX Officials Thrilled with Crew-1 Launch Success*, <https://blogs.nasa.gov/kennedy/2020/11/15/nasa-spacex-officials-thrilled-with-crew-1-launch-success/> (last visited Feb. 22, 2021).

¹²³ Space Florida, *Space Florida and the Future of Aerospace* (undated memo) (on file with the Senate Committee on Environment and Natural Resources).

¹²⁴ AP News, *SpaceX Capsule and NASA Crew Make 1st Splashdown in 45 Years*, <https://apnews.com/article/virus-outbreak-ap-top-news-ca-state-wire-gulf-of-mexico-pensacola-bf77af89c527340793d15a9957d30c84> (last visited Feb. 22, 2021).

¹²⁵ NASA, *NASA and SpaceX Teams Prepare for Crew-1 Mission*, <https://blogs.nasa.gov/kennedy/2020/09/30/nasa-and-spacex-teams-prepare-for-crew-1-mission/> (last visited Feb. 22, 2021).

¹²⁶ AP News, *SpaceX Capsule and NASA Crew Make 1st Splashdown in 45 Years*, <https://apnews.com/article/virus-outbreak-ap-top-news-ca-state-wire-gulf-of-mexico-pensacola-bf77af89c527340793d15a9957d30c84> (last visited Feb. 22, 2021).

¹²⁷ The Verge, *SpaceX capsule Swarmed by Boaters After Successful Splashdown*, <https://www.theverge.com/2020/8/2/21351811/spacex-capsule-boaters-splashdown-boats> (last visited Feb. 22, 2021).

¹²⁸ *Id.*

¹²⁹ FWC, *Senate Bill 1086 Agency Bill Analysis* (February 10, 2021) (on file with the Senate Committee on Environment and Natural Resources).

Section 2 of the bill, effective October 1, 2021, amends s. 316.1939, F.S., relating to refusal to submit to testing for alcohol, chemical substances, or controlled substances.

The bill revises the conditions under which a person's driving privilege is suspended and under which a person commits a misdemeanor relating to tests for alcohol, chemical substances, or controlled substances. The bill provides that failure to submit to a lawful breath test for alcohol, chemical substances, or controlled substances if a person has previously been fined for failure to submit to such test is a misdemeanor of the first degree.

Section 6 of the bill, effective October 1, 2021, amends s. 327.352, F.S., relating to tests for alcohol, chemical substances, or controlled substances while operating a vessel. The bill revises the conditions under which a person commits a misdemeanor relating to boating while impaired or intoxicated. The bill provides that failure to submit to a lawful breath or urine test for alcohol, chemical substances, or controlled substances if a person has previously been fined for failure to submit to such test, or had his or her driver's license suspended for an unlawful blood-alcohol or breath-alcohol level, is a misdemeanor of the first degree.

Section 8 of the bill, effective October 1, 2021, amends s. 327.359, F.S., relating to refusal to submit to testing for alcohol, chemical substances, or controlled substances. The bill revises the conditions under which a person commits a misdemeanor of the first degree for failure to submit to a chemical or physical breath or urine test for alcohol, chemical substances, or controlled substances to include refusal to submit to such a test, and either a previous fine for failure to submit to a chemical or physical breath test, or a driver's license suspension for an unlawful blood-alcohol or breath-alcohol level. The bill deletes from the list of misdemeanors the refusal to submit to a lawful blood test for alcohol, chemical substances, or controlled substances.

In **Sections 1, 2, 6, and 8**, the bill deletes the provisions establishing that a person commits a misdemeanor for refusing to submit to a lawful blood test for alcohol, chemical substances, or controlled substances if the person has been previously fined for refusal to submit to a lawful breath, urine, or blood test.

Section 7 of the bill amends s. 327.35215, F.S., to require the Department of Highway Safety and Motor Vehicles to enter final disposition of failure to submit to a blood, breath, or urine test into a person's driving record.

Human-Powered Vessels: Sections 3 and 8

Section 3 of the bill amends s. 327.02, F.S., relating to definitions. The bill defines the term "human-powered vessel" to mean a vessel powered only by its occupant or occupants, including, but not limited to, a vessel powered only by the occupants' hands or feet, oars, or paddles.

The bill revises references to the International Navigational Rules Act of 1977 and Inland Navigational Rules Act of 1980 to the most recent versions of the Acts, as amended.

Section 9 of the bill creates a new section of law, s. 327.371, F.S., regulating human-powered vessels. The bill authorizes persons to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway only under the following conditions:

- When the marked channel is the only navigable portion of the waterway available due to vessel congestion or obstructions on the water and the operator proceeds with diligence to a location where he or she may safely operate the vessel outside the marked channel;
- While crossing the marked channel in the most direct, continuous, and expeditious manner possible and not interfering with other vessel traffic in the channel; or
- During an emergency endangering life or limb.

The bill provides that a person who operates a human-powered vessel within the marked channel outside of these conditions commits a noncriminal infraction.

Rulemaking Authority: Section 4

Section 4 of the bill amends s. 327.04, F.S., related to the Fish and Wildlife Conservation Commission (FWC) rules. The bill provides additional rulemaking authority to the FWC to implement the provisions of:

- Chapter 705, F.S., relating to lost or abandoned vessels;
- Section 376.15, F.S., relating to relocation or removal of derelict vessels from public waters; and
- Section 823.11, F.S., relating to criminal penalties for relocation or removal of derelict vessels.

Spaceflight: Section 5

Section 5 of the bill creates a new section of law, s. 327.462, F.S., regulating the temporary establishment of protection zones in water bodies to ensure security around the launch and recovery of spaceflight assets.

The bill defines the following terms for the new section of law:

- “Launch services” means the conduct of a launch and activities involved in the preparation of a launch vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such launch.
- “Reentry services” means the conduct of a reentry and activities involved in the preparation of a reentry vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such reentry.
- “Spaceflight assets” means any item, or any part of an item, owned by a spaceflight entity which is used in launch services or reentry services, including crewed and uncrewed spacecraft, launch vehicles, parachutes and other landing aids, and any spacecraft or ancillary equipment that was attached to the launch vehicle during launch, orbit, or reentry.
- “Spaceflight entity” means any public or private entity holding a United States Federal Aviation Administration (FAA) launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the FAA as part of issuing such a license, permit, or authorization.¹³⁰

The bill authorizes the head of a law enforcement agency or entity, or his or her designee (law enforcement), to, within the agency or entity’s jurisdiction, temporarily establish a protection

¹³⁰ The bill defines “spaceflight entity” to have the same definition as in s. 331.501, F.S.

zone requiring vessels to leave, or prohibiting vessels from entering, water bodies when necessary for preparations in advance of or for recovery of spaceflight assets before or after a launch service or reentry service.

A temporary protection zone must be established under the following conditions:

- The zone must be located within five hundred yards of where launch services, reentry services, or spaceflight asset recovery operations are being conducted. However, the protection zone may be located at a distance greater than five hundred yards if law enforcement determines that such greater distance is in the best interest of public safety.
- The zone may remain in effect only as long as necessary to ensure security around the launch and recovery areas and to recover spaceflight assets and any personnel being transported within a spacecraft following the launch or reentry activity. Such protection zone may not be in place more than 72 hours before or 72 hours after the launch.
- Law enforcement may also restrict vessels from operating within up to 500 yards of any vessel transporting recovered spaceflight assets following a launch or reentry while the transport vessel is continuously underway transporting such assets to a location for removal.
- Law enforcement may not restrict vessel movement within the Florida Intracoastal Waterway, except as necessary during the transport of spaceflight assets to or from port or during exigent circumstances.
- Law enforcement must report the establishment of the temporary protection zone via email to The FWC's Division of Law Enforcement, Boating and Waterways Section, and to the appropriate Coast Guard Sector Command having responsibility over the water body, at least 72 hours before establishment of the protection zone. The report must include:
 - Reasons for the protection zone;
 - The portion of the water body or water bodies that will be included in the protection zone; and
 - The duration of the protection zone.
- Law enforcement must report via email to the FWC's Division of Law Enforcement, Boating and Waterways Section, the details of all citations issued for violation of the protection zone no later than 72 hours after the end of the protection zone period.

The section of law applies only to launch services, reentry services, or the recovery of spaceflight assets occurring or originating within spaceport territory,¹³¹ and to federally licensed or federally authorized launches and reentries occurring or transiting to an end destination upon waters of this state.

The bill provides that a person who violates this section or any directive given by law enforcement relating to an established temporary protection zone after being advised of the establishment of the protection zone commits a misdemeanor of the second degree.

Boating Safety: Sections 11, 17, and 20

Section 11 of the bill amends s. 327.395, F.S., relating to boater safety identification.

¹³¹ Section 331.304, F.S. establishes as spaceport territory specified real property in Brevard, Santa Rosa, Okaloosa, Gulf, Walton, and Duval Counties, and real property which is a spaceport licensed by the FAA, as designated by the board of directors of Space Florida.

The bill clarifies what documentation and certifications persons operating a vessel must have in their possession aboard the vessel.

The bill exempts, from the boater safety identification card requirement, persons who have been previously licensed by the Coast Guard to serve as master of a vessel, provided proof of such licensure to the FWC, and requested that a boating safety identification card be issued in his or her name.

The bill deletes a provision authorizing the FWC to appoint liveries, marinas, or other persons as its agents to administer a boating safety education course or temporary certificate examination and issue identification cards or temporary certificates, and requiring the agent to charge a \$2 examination fee. However, the provision is retained in another subsection within the same section of law.

Section 17 of the bill creates s. 327.463, F.S., relating to special hazards requiring slow speeds by vessel operators. The bill specifies conditions under which a vessel is and is not considered to be operating at slow speed, minimum wake.

A vessel is considered to be operating at slow speed, minimum wake only if it is:

- Fully off plane and completely settled into the water; and
- Proceeding without wake or with minimum wake.

A vessel is not considered to be operating at slow speed, minimum wake if it is:

- Operating on plane;
- In the process of coming off plane and settling into the water or getting on plane; or
- Operating at a speed that creates a wake which unreasonably or unnecessarily endangers other vessels.

The bill prohibits a vessel that is required to operate at slow speed, minimum wake from proceeding at a speed greater than is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

The bill prohibits vessel operators from operating a vessel faster than slow speed, minimum wake upon approaching certain hazardous conditions and provides that a vessel operator found in violation of this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a Coast Guard vessel, or a firefighting vessel, when such emergency vessel has its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge displaying an orange flag indicating that the vessel or barge is actively engaged in construction operations.
 - The flag must be displayed from a pole that extends at least 10 feet above the tallest portion of the vessel or barge, or at least five feet above any superstructure permanently installed upon the vessel or barge.
 - The flag must meet certain requirements, including:
 - Be a size of at least two feet by three feet;

- Include a wire or other stiffener or be otherwise constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze; and
- Be displayed so the visibility of the flag is not obscured in any direction.

The bill specifies that a person may not be cited for a violation during periods of low visibility, including any time between the hours from 30 minutes after sunset to 30 minutes before sunrise, unless the orange flag is illuminated and visible from a distance of at least two nautical miles. Such illumination does not relieve the construction vessel or barge from complying with all navigation rules.

The bill also provides that a person operating a vessel who violates this section, or the owner of or responsible party for a construction vessel or barge that displays an orange flag when it is not actively engaged in construction operations, is guilty of a noncriminal infraction.

The bill specifies that the speed and penalty provisions of this section do not apply to law enforcement, firefighting, or rescue vessels that are owned or operated by a governmental entity.

Section 20 of the bill amends s. 327.54, F.S., relating to safety regulations of liveries. The bill prohibits liveries from knowingly leasing, hiring, or renting a vessel unless the person renting presents:

- Photographic identification and a valid boater safety identification card issued by the FWC;
- A state-issued identification card or driver license indicating possession of the boating safety identification card; or
- Photographic identification and a valid temporary certificate issued or approved by the FWC.
- These provisions do not apply to those individuals that are exempt from boating safety education requirements (Individuals born before January 1, 1988).

Boating-Restricted Areas: Sections 13, 14, 15, and 16

Section 13 of the bill amends s. 327.4108, F.S., relating to anchoring of vessels in anchoring limitation areas. The bill designates Monroe County as an anchoring limitation area within which a vessel on the waters of this state may only be anchored in the same location for a maximum of 90 days. The bill requires the FWC to adopt rules to implement the anchoring limitation area. The bill provides that this anchoring limitation area does not apply to an approved and permitted mooring field. The bill provides that this section is not effective until Monroe County approves, permits, and opens new moorings for public use, at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. Until such time the FWC shall designate the area within one mile of the Key West Bight City Dock as a priority for the investigation and removal of derelict vessels, notwithstanding the FWC rules adopted pursuant to this section.

The bill deletes a provision that references an obsolete section of law.

Section 14 of the bill amends s. 327.4109, F.S., relating to prohibited anchoring and mooring. The bill revises existing anchoring and mooring restrictions to prohibit anchoring and mooring within 150 feet of a *public or private* marina or other *public* vessel launching or loading facility. However, vessels may anchor and moor within these areas under the exemptions in existing law.

Section 15 of the bill amends s. 327.45, F.S., relating to protection zones for springs. The bill authorizes the FWC to establish protection zones for springs which prohibit the anchoring, mooring, beaching, or grounding of vessels, to protect and prevent harm to first, second, and third magnitude springs and springs groups, including their associated spring runs, as determined by the FWC using the most recent Florida Geological Survey springs bulletin.

Section 16 of the bill amends s. 327.46, F.S., relating to boating-restricted areas. The bill authorizes municipalities and counties to establish slow speed, minimum wake boating-restricted areas by ordinance if the area is within the boundaries of a permitted public mooring field and up to a 100 foot buffer around the mooring field. The bill provides that boating restricted areas designated by a local ordinance as a public bathing beach or swim area must be accessible by land and open to the general public.

Derelict/At-Risk Vessels: Sections 12, 21, 23, 24, 25, 26, and 28

Section 12 of the bill amends s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of this state. The bill revises the conditions under which a vessel is determined to be at risk of becoming derelict to delete vessels that are left or stored aground unattended in such a state that would prevent the vessel from getting underway or are sunk or partially sunk.

The bill authorizes the FWC and other law enforcement officers to provide notice to a vessel owner or operator that a vessel is at risk of becoming derelict via in-person notice recorded on an agency-approved body camera.

The bill authorizes the FWC and other law enforcement officers to relocate or cause to be relocated a vessel at risk of becoming derelict to a distance greater than 20 feet from a mangrove or upland vegetation. Law enforcement agencies and officers must be held harmless for damages to an at-risk vessel that result from relocation unless the damage results from gross negligence¹³² or willful misconduct.¹³³

The bill authorizes the FWC to establish a derelict vessel prevention program to address vessels at risk of becoming derelict. The program may, but is not required to, include:

- Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with state law;
- Creation of a vessel turn-in program allowing the owner of a vessel determined by law enforcement to be at risk of becoming derelict to turn his or her vessel and vessel title over to the FWC to be destroyed without penalty;
- Removal and destruction of an abandoned vessel for which an owner cannot be identified or the owner of which is deceased and no heir is interested in acquiring the vessel;
- Purchase of anchor line, anchors, and other equipment necessary for securing vessels at risk of becoming derelict; and

¹³² “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct. Section 823.11, F.S.

¹³³ “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner. Section 823.11, F.S.

- Creation or acquisition of moorings designated for securing vessels at risk of becoming derelict.

The bill authorizes the FWC to adopt rules to implement the program. Implementation of the program is subject to appropriation by the Legislature and is funded by the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

Section 21 of the bill amends s. 327.60, F.S., relating to local regulations. The bill authorizes local governments to enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove an abandoned or lost vessel within its jurisdiction that is affixed to a public mooring.

Section 23 and Section 24 of the bill amend s. 328.09, F.S., relating to the refusal to issue and authority to cancel a certificate of title or registration. The bill prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict.

Section 23 of the bill takes effect on July 1, 2023. At that time, the bill authorizes the DHSMV to reject an application for a certificate of title for a vessel that has been deemed derelict.

Section 25 of the bill amends s. 376.15, F.S., relating to the relocation or removal of derelict vessels from public waters. The bill deletes the prohibition in existing law against storing or abandoning a derelict vessel and provides that it is unlawful for any person, firm, or corporation to leave a derelict vessel upon the waters of this state. The bill provides that for purposes of this section, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

The bill prohibits charging a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in a written report or otherwise; a hurricane; or another sudden event outside of his or her control with a violation if:

- The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and
- The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:
 - For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within seven days after such accident or event; or
 - Within 45 days after the hurricane has passed over this state.

However, this provision does not apply to a vessel that was derelict upon the waters of this state before a stated accident or event.

The bill authorizes the FWC or law enforcement agencies or officers to store, destroy, or dispose of derelict vessels, in addition to relocating or removing them. The bill authorizes the recovery of relocation, removal, storage, destruction, and disposal costs incurred by the FWC or a law enforcement agency from the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The FWC or law enforcement agencies or

officers are held harmless for damages to the derelict vessel resulting from these actions, unless the damage results from gross negligence or willful misconduct.

The bill requires a governmental subdivision that has received authorization from a law enforcement agency to perform vessel relocation or removal activities to be licensed, insured, and properly equipped to perform such activities.

The bill adds storage, destruction, and disposal to the list of authorized actions for which the FWC may provide grants from the Marine Resources Conservation Trust Fund or Florida Coastal Protection Trust Fund to local governments under an established program for derelict vessels.

Section 26 of the bill amends s. 705.103, F.S., relating to the procedures for abandoned or lost property. The bill creates specific procedures for derelict vessels or vessels that have been declared a public nuisance that are present on waters of this state. When a law enforcement officer ascertains that such a vessel exists, the officer must cause a notice to be placed on the vessel in substantially the following form:

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

The bill requires the law enforcement agency to mail a copy of the notice and inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, the bill requires a state agency to follow the statutory processes for proceedings in which the substantial interests of a party are determined by an agency, except that a local judge, magistrate, or code enforcement officer may be designated to conduct a hearing.

The bill authorizes the law enforcement agency, or its designee, if the owner or responsible party for a derelict vessel or vessel that has been declared a nuisance has not requested a hearing at the end of 21 days after the notice is published, or if, following a hearing, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict or at risk of becoming derelict and a final order has been entered or the case is otherwise closed, to:

- Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or
- Authorize the vessel's use as an artificial reef in accordance with the FWC's artificial reef program if all necessary federal, state, and local authorizations are received.

The bill provides that the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition is liable to the law enforcement agency, governmental entity, or the agency's or entity's designee for removal, storage, and destruction costs.

The bill provides that neglecting or refusing to pay all costs of removal, storage, disposal, and destruction of a vessel or motor vehicle, after having been provided written notice via certified mail that such costs are owed, and after having applied for and been issued a registration for a vessel or motor vehicle before such costs have been paid in full, is a misdemeanor of the first degree.

Section 28 of the bill amends s. 823.11, F.S., relating to the relocation or removal of derelict vessels. The bill revises the definition of "derelict vessel" to delete that the vessel is left, stored, or abandoned. The portion of the definition of "derelict vessel" that describes the vessel as in a wrecked, junked, or substantially dismantled condition upon any public waters of this state is also revised to delete the word "public." The new definition provides that a vessel is:

- Wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire.
- Junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice of such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.
- Substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if the motor is not an effective means of propulsion.

The bill deletes the prohibition against storing or abandoning a derelict vessel in existing law and prohibits a person, firm, or corporation from leaving a derelict vessel upon the waters of this state. The bill provides that for purposes of the paragraph, the term "leave" means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

The bill prohibits charging a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in a written report or otherwise; a hurricane; or another sudden event outside of his or her control with a violation if:

- The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and
- The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:
 - For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or
 - Within 45 days after the hurricane has passed over this state.

However, this provision does not apply to a vessel that was derelict upon the waters of this state before a stated accident or event.

The bill authorizes the FWC or law enforcement agencies or officers to store, destroy, or dispose of derelict vessels, in addition to relocating or removing them, if the derelict vessel obstructs or threatens to obstruct navigation or constitutes a danger to the environment, property, or persons. The FWC or law enforcement agencies or officers are held harmless for damages to the derelict vessel resulting from these actions, unless the damage results from gross negligence or willful misconduct.

The bill allows for the FWC, law enforcement agencies, or governmental subdivisions that have received authorization from a law enforcement officer or agency to recover costs for relocation, removal, storage, destruction, and disposal of a derelict vessel from a vessel owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The bill provides that neglecting or refusing to pay all costs of removal, storage, destruction, or disposal of a derelict vessel, after having been provided written notice via certified mail that such costs are owed, and after having applied for and been issued a registration for a vessel or motor vehicle before such costs have been paid in full, is a misdemeanor of the first degree.

The bill requires a governmental subdivision that has received authorization from a law enforcement agency to perform vessel relocation or removal activities to be licensed, insured, and properly equipped to perform such activities.

Marine Sanitation Devices: Section 19

Section 19 of the bill amends s. 327.53, F.S., relating to marine sanitation. The bill requires the owner or operator of a live-aboard vessel or houseboat that is equipped with a marine sanitation device to maintain a record of the date of each pump-out of the device and the location of the pump-out station or waste reception facility. The bill requires each record to be maintained for one year after the pump-out date. This subsection does not apply to vessels equipped with marine compost toilets that process and manage human waste using marine compost toilet technologies that comply with U.S. Coast Guard requirements.

Penalties: Section 21

Section 22 of the bill amends s. 327.73, F.S., relating to civil penalties for violations of specified vessel laws.

The bill amends the noncriminal infraction for a violation of s. 327.395, F.S., relating to boater safety education to provide that a person cited for failing to have the required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification card or temporary certificate for verification by the hearing officer or the court clerk and the identification card or temporary certificate was valid at the time the person was cited.

The bill increases civil penalties for a violation of s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of this state, from:

- \$50 to \$100 for a first offense;
- \$100 to \$250 for a second offense occurring 30 days or more after a previous offense; and
- \$250 to \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.

The bill declares that a vessel that is the subject of three or more violations issued within an 18-month period by a law enforcement officer for being at risk of becoming derelict, which result in a disposition other than acquittal or dismissal, is a public nuisance and is subject to relocation or removal. The bill authorizes the FWC or other law enforcement to relocate or remove the vessel or cause it to be relocated or removed. Law enforcement officers who relocate or remove such a vessel are held harmless for damages to the vessel unless the damage results from gross negligence¹³⁴ or willful misconduct.¹³⁵

The bill creates civil penalties for a violation of s. 327.463(4)(a) and (b), F.S., the new section relating to vessels creating special hazards, of:

- \$50 for a first offense;
- \$100 for a second offense occurring within 12 months after a prior offense; and
- \$250 for a third offense occurring within 36 months after a prior offense.

The bill adds to the list of violations resulting in a noncriminal offense:

- Failing to maintain the required pump-out records of a marine sanitation device for a live-aboard vessel or houseboat; and
- Operating a human-powered vessel within the boundaries of a marked channel of the Florida Intracoastal Waterway in violation of the new statutory restrictions.

Conforming Changes: Sections 10, 18, and 27

Section 10 of the bill amends s. 327.391, F.S., relating to the regulation of airboats, to make conforming and technical changes.

¹³⁴ “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct. Section 823.11, F.S.

¹³⁵ “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner. Section 823.11, F.S.

Section 18 of the bill amends s. 327.50, F.S., relating to vessel safety regulations, equipment, and lighting requirements. The bill corrects an incorrect reference to clarify that the FWC may exempt vessel owners and operators from current Coast Guard safety equipment requirements.

Section 27 of the bill amends s. 705.103, F.S., relating to the procedures for abandoned or lost property, to conform to revisions from ch. 2019-76, Laws of Florida, which take effect in 2023.

Effective Date

Section 29 of the bill provides that except as otherwise expressly provided, the effective date is July 1, 2021. (Sections 1, 2, 6, and 8 of the bill take effect October 1, 2021; Section 23 of the bill takes effect July 1, 2023.)

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate. There may be a positive fiscal impact to the FWC due to the new and increased civil penalties provided under the bill. However, the FWC may also experience increased costs due to increased enforcement.

If the FWC establishes a derelict vessel prevention program, the agency is likely to incur costs from implementing the program. The bill provides that establishment of the program is subject to legislative appropriation, but it is unknown what amount the appropriation would be.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1932, 316.1939, 327.02, 327.04, 327.352, 327.359, 327.391, 327.395, 327.4107, 327.4108, 327.4109, 327.45, 327.46, 327.50, 327.53, 327.54, 327.60, 327.73, 328.09, 376.15, 705.103, and 823.11.

This bill creates the following sections of the Florida Statutes: 327.462, 327.371, and 327.463.

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 April 15, 2021:**

The committee substitute:

- Requires the Department of Highway Safety and Motor Vehicles to enter final disposition of failure to submit to a blood, breath, or urine test into a person's driving record.
- Provides that the head of a law enforcement agency or entity, or his or her designee may not restrict vessel movement within the Florida Intracoastal Waterway, when establishing a temporary protective zone, except as necessary during transport of spaceflight assets to or from port or during exigent circumstances
- Establishes an effective date of October 1, 2021, to revise conditions under which a person operating a motor vehicle or vessel commits a misdemeanor by failing to submit to breath or urine testing for alcohol, chemical substances, and controlled substances.
- Clarifies what documents or certifications are required for operation of a vessel.
- Provides that the designation of Monroe County as an anchoring limitation area is not effective until Monroe County approves, permits, and opens new moorings for public

use, at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. Until such time the FWC shall designate the area within 1 mile of the Key West Bight City Dock as a priority for the expedited removal of derelict vessels.

- Clarifies that the area within one mile of the Key West Bight City Dock is prioritized for investigation of derelict vessels as well as vessel removal.
- Provides that boating-restricted areas designated by a local ordinance as a public bathing beach or swim area must be accessible by land and open to the general public.
- Provides that the marine sanitation device pumpout requirements in the underlying bill do not apply to certain marine compost toilets that are United States Coast Guard compliant.
- Clarifies that the documentation required to lease, hire, or rent a vessel from a livery is the same as is required under the boater safety identification requirements revised in the underlying bill.

CS by Environment and Natural Resources on March 15, 2021:

- Deletes the requirement from the underlying bill that persons have boating safety identification documents in his or her possession aboard a vessel beginning in 2023.
- Adds persons who possess an International Certificate of Competence in sailing to those exempt from the boating safety identification card requirement.
- Revises the conditions under which a vessel is determined to be at risk of becoming derelict to delete vessels that are left or stored aground unattended in such a state that would prevent the vessel from getting underway or are sunk or partially sunk.
- Deletes a provision authorizing the derelict vessel prevention program created under the bill to include other preventative efforts and methods as determined appropriate and necessary by the Fish and Wildlife Conservation Commission (FWC).
- Designates Monroe County as an anchoring limitation area within which a vessel may only be anchored in the same location for a maximum of 90 days, excluding approved and permitted mooring fields.
- Requires the FWC to adopt rules to implement the Monroe County anchoring limitation area.
- Authorizes the FWC to establish protection zones for first, second, and third magnitude springs and springs groups, including their associated spring runs, which prohibit the anchoring, mooring, beaching, or grounding of vessels.
- Provides that the springs, springs groups, and springs runs be determined by the FWC using the most recent Florida Geological Survey springs bulletin.
- Clarifies that vessels that are required to operate at slow speed, minimum wake are prohibited from proceeding at certain speeds.
- Deletes provisions from the underlying bill designating the waters of this state as a no-discharge zone and associated penalties for violation.
- Revises provisions relating to derelict vessels to prohibit persons, firms, or corporations from leaving, rather than storing or abandoning, a derelict vessel upon the waters of this state.
- Provides that, for derelict vessels provisions, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

- Provides that persons who own or operate a vessel that becomes derelict as a result of a reported boating accident, hurricane, or other uncontrollable event may not be charged with having a derelict vessel if the person provides documentation of the events leading to the vessel being derelict or the vessel has been removed or repaired within a specific time frame.
- Authorizes the FWC and law enforcement officers to store, destroy, or dispose of derelict vessels, in addition to relocating and removing the vessels.
- Authorizes the recovery of relocation, removal, storage, destruction, and disposal costs incurred by the FWC or a law enforcement agency from the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition.

B. Amendments:

None.

By the Committee on Environment and Natural Resources; and
Senator Hutson

592-02886-21

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1 A bill to be entitled
2 An act relating to operation and safety of motor
3 vehicles and vessels; amending ss. 316.1932 and
4 316.1939, F.S.; revising conditions under which a
5 person's driving privilege is suspended and under
6 which the person commits a misdemeanor relating to
7 tests for alcohol, chemical substances, or controlled
8 substances; specifying such misdemeanor as a
9 misdemeanor of the first degree; amending s. 327.02,
10 F.S.; defining the term "human-powered vessel";
11 revising the definition of the term "navigation
12 rules"; amending s. 327.04, F.S.; providing additional
13 rulemaking authority to the Fish and Wildlife
14 Conservation Commission; creating s. 327.462, F.S.;
15 defining terms; authorizing heads of certain entities
16 to establish temporary protection zones in certain
17 water bodies for certain purposes; providing
18 protection zone requirements; requiring reports of
19 establishment of such protection zones to the
20 commission and to the appropriate United States Coast
21 Guard Sector Command; providing report requirements;
22 providing applicability; providing penalties; amending
23 ss. 327.352 and 327.359, F.S.; revising conditions
24 under which a person commits a misdemeanor the first
25 degree for refusing to submit to certain tests;
26 creating s. 327.371, F.S.; providing circumstances
27 under which a person may operate a human-powered
28 vessel within the boundaries of the marked channel of
29 the Florida Intracoastal Waterway; providing a

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30 penalty; amending s. 327.391, F.S.; conforming cross-
31 references; amending s. 327.395, F.S.; removing
32 authority of the commission to appoint certain
33 entities to administer a boating safety education
34 course or temporary certificate examination and issue
35 certain credentials; exempting certain persons from
36 the requirement to possess certain documents aboard a
37 vessel; amending s. 327.4107, F.S.; revising the
38 conditions under which officers may determine a vessel
39 is at risk of becoming derelict; authorizing certain
40 officers to provide notice that a vessel is at risk of
41 becoming derelict via body camera recordings;
42 authorizing the commission or certain officers to
43 relocate at-risk vessels to a certain distance from
44 mangroves or vegetation; providing that the commission
45 or officers are not liable for damages to such
46 vessels; providing an exception; authorizing the
47 commission to establish a derelict vessel prevention
48 program consisting of certain components; authorizing
49 the commission to adopt rules; providing that such
50 program is subject to appropriation by the
51 Legislature; providing for funding; amending s.
52 327.4108, F.S.; designating Monroe County as an
53 anchoring limitation area subject to certain
54 requirements; requiring the commission to adopt rules;
55 providing applicability; deleting obsolete language;
56 amending s. 327.4109, F.S.; prohibiting the anchoring
57 or mooring of a vessel or floating structure within a
58 certain distance of certain facilities; providing

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59 exceptions; amending s. 327.45, F.S.; authorizing the
 60 commission to establish protection zones where certain
 61 activities are prohibited in or near springs; amending
 62 s. 327.46, F.S.; authorizing a county or municipality
 63 to establish a boating-restricted area within and
 64 around a public mooring field and within certain
 65 portions of the Florida Intracoastal Waterway;
 66 providing an exception with respect to a certain
 67 vessel-exclusion zone; creating s. 327.463, F.S.;
 68 specifying conditions under which a vessel is and is
 69 not operating at slow speed, minimum wake; prohibiting
 70 a person from operating a vessel faster than slow
 71 speed, minimum wake within a certain distance from
 72 other specified vessels; exempting a person from being
 73 cited for a violation under certain circumstances;
 74 providing penalties; providing applicability; amending
 75 s. 327.50, F.S.; authorizing the commission to exempt
 76 vessel owners and operators from certain safety
 77 equipment requirements; amending s. 327.53, F.S.;
 78 requiring the owner or operator of a live-aboard
 79 vessel or houseboat equipped with a marine sanitation
 80 device to maintain a record of the date and location
 81 of each pumpout of the device for a certain period;
 82 conforming a cross-reference; making technical
 83 changes; amending s. 327.54, F.S.; prohibiting a
 84 livery from leasing, hiring, or renting a vessel to a
 85 person required to complete a commission-approved
 86 boating safety education course unless such person
 87 presents certain documentation indicating compliance;

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88 amending s. 327.60, F.S.; authorizing a local
 89 government to enact and enforce regulations allowing
 90 the local law enforcement agency to remove an
 91 abandoned or lost vessel affixed to a public mooring;
 92 amending s. 327.73, F.S.; providing additional
 93 violations that qualify as noncriminal infractions;
 94 providing civil penalties; prohibiting conviction of a
 95 person cited for a violation relating to possessing
 96 proof of boating safety education under certain
 97 circumstances; increasing certain civil penalties;
 98 providing that certain vessels shall be declared a
 99 public nuisance subject to certain statutory
 100 provisions; authorizing the commission or certain
 101 officers to relocate or remove public nuisance vessels
 102 from the waters of this state; providing that the
 103 commission or officers are not liable for damages to
 104 such vessels; providing an exception; amending s.
 105 328.09, F.S.; prohibiting the Department of Highway
 106 Safety and Motor Vehicles from issuing a certificate
 107 of title to an applicant for a vessel that has been
 108 deemed derelict pursuant to certain provisions;
 109 authorizing the department, at a later date, to reject
 110 an application for a certificate of title for such a
 111 vessel; amending s. 376.15, F.S.; revising unlawful
 112 acts relating to derelict vessels; defining the term
 113 "leave"; prohibiting an owner or operator whose vessel
 114 becomes derelict due to specified accidents or events
 115 from being charged with a violation under certain
 116 circumstances; providing applicability; conforming

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117 provisions to changes made by the act; authorizing a
 118 governmental subdivision that has received
 119 authorization from a law enforcement officer or agency
 120 to direct a contractor to perform vessel storage,
 121 destruction, and disposal activities; authorizing the
 122 commission to provide local government grants for the
 123 storage, destruction, and disposal of derelict
 124 vessels; providing for funding; amending s. 705.103,
 125 F.S.; providing notice procedures for when a law
 126 enforcement officer ascertains that a derelict or
 127 public nuisance vessel is present on the waters of
 128 this state; requiring a mailed notice to the owner or
 129 party responsible for the vessel to inform him or her
 130 of the right to a hearing; providing hearing
 131 requirements; authorizing a law enforcement agency to
 132 take certain actions if a hearing is not requested or
 133 a vessel is determined to be derelict or otherwise in
 134 violation of law; revising provisions relating to
 135 liability for vessel removal costs and notification of
 136 the amount owed; providing penalties for a person who
 137 is issued a registration for a vessel or motor vehicle
 138 before such costs are paid; requiring persons whose
 139 vessel registration and motor vehicle privileges have
 140 been revoked for failure to pay certain costs to be
 141 reported to the department; prohibiting issuance of a
 142 certificate of registration to such persons until such
 143 costs are paid; amending s. 823.11, F.S.; revising
 144 application of definitions; revising the definition of
 145 the term "derelict vessel"; specifying requirements

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146 for a vessel to be considered wrecked, junked, or
 147 substantially dismantled; providing construction;
 148 revising unlawful acts relating to derelict vessels;
 149 defining the term "leave"; prohibiting an owner or
 150 operator whose vessel becomes derelict due to
 151 specified accidents or events from being charged with
 152 a violation under certain circumstances; providing
 153 applicability; providing that relocation or removal
 154 costs incurred by a governmental subdivision are
 155 recoverable against the vessel owner or the party
 156 determined to be legally responsible for the vessel
 157 being derelict; providing penalties for a person who
 158 is issued a registration for a vessel or motor vehicle
 159 before such costs are paid; authorizing a governmental
 160 subdivision that has received authorization from a law
 161 enforcement officer or agency to direct a contractor
 162 to perform vessel relocation or removal activities;
 163 providing effective dates.

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

166
 167 Section 1. Paragraphs (a) and (c) of subsection (1) of
 168 section 316.1932, Florida Statutes, are amended to read:
 169 316.1932 Tests for alcohol, chemical substances, or
 170 controlled substances; implied consent; refusal.-

171 (1)(a)1.a. A ~~Any~~ person who accepts the privilege extended
 172 by the laws of this state of operating a motor vehicle within
 173 this state is, by ~~so~~ operating such vehicle, deemed to have
 174 given his or her consent to submit to an approved chemical test

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175 or physical test including, but not limited to, an infrared
 176 light test of his or her breath for the purpose of determining
 177 the alcoholic content of his or her blood or breath if the
 178 person is lawfully arrested for any offense allegedly committed
 179 while the person was driving or was in actual physical control
 180 of a motor vehicle while under the influence of alcoholic
 181 beverages. The chemical or physical breath test must be
 182 incidental to a lawful arrest and administered at the request of
 183 a law enforcement officer who has reasonable cause to believe
 184 such person was driving or was in actual physical control of the
 185 motor vehicle within this state while under the influence of
 186 alcoholic beverages. The administration of a breath test does
 187 not preclude the administration of another type of test. The
 188 person shall be told that his or her failure to submit to any
 189 lawful test of his or her breath will result in the suspension
 190 of the person's privilege to operate a motor vehicle for a
 191 period of 1 year for a first refusal, or for a period of 18
 192 months if the driving privilege of such person has been
 193 previously suspended or if he or she has previously been fined
 194 under s. 327.35215 as a result of a refusal to submit to ~~such~~ a
 195 test or tests required under this chapter or chapter 327, and
 196 shall also be told that if he or she refuses to submit to a
 197 lawful test of his or her breath and his or her driving
 198 privilege has been previously suspended or if he or she has
 199 previously been fined under s. 327.35215 for a prior refusal to
 200 submit to a lawful test of his or her breath, urine, or blood as
 201 required under this chapter or chapter 327, he or she commits a
 202 misdemeanor of the first degree, punishable as provided in s.
 203 775.082 or s. 775.083, in addition to any other penalties

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204 provided by law. The refusal to submit to a chemical or physical
 205 breath test upon the request of a law enforcement officer as
 206 provided in this section is admissible into evidence in any
 207 criminal proceeding.

208 b. ~~A~~ Any person who accepts the privilege extended by the
 209 laws of this state of operating a motor vehicle within this
 210 state is, by ~~so~~ operating such vehicle, deemed to have given his
 211 or her consent to submit to a urine test for the purpose of
 212 detecting the presence of chemical substances as set forth in s.
 213 877.111 or controlled substances if the person is lawfully
 214 arrested for any offense allegedly committed while the person
 215 was driving or was in actual physical control of a motor vehicle
 216 while under the influence of chemical substances or controlled
 217 substances. The urine test must be incidental to a lawful arrest
 218 and administered at a detention facility or any other facility,
 219 mobile or otherwise, which is equipped to administer such tests
 220 at the request of a law enforcement officer who has reasonable
 221 cause to believe such person was driving or was in actual
 222 physical control of a motor vehicle within this state while
 223 under the influence of chemical substances or controlled
 224 substances. The urine test shall be administered at a detention
 225 facility or any other facility, mobile or otherwise, which is
 226 equipped to administer such test in a reasonable manner that
 227 will ensure the accuracy of the specimen and maintain the
 228 privacy of the individual involved. The administration of a
 229 urine test does not preclude the administration of another type
 230 of test. The person shall be told that his or her failure to
 231 submit to any lawful test of his or her urine will result in the
 232 suspension of the person's privilege to operate a motor vehicle

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233 for a period of 1 year for the first refusal, or for a period of
 234 18 months if the driving privilege of such person has been
 235 previously suspended or if he or she has previously been fined
 236 under s. 327.35215 as a result of a refusal to submit to ~~such~~ a
 237 test or tests required under this chapter or chapter 327, and
 238 shall also be told that if he or she refuses to submit to a
 239 lawful test of his or her urine and his or her driving privilege
 240 has been previously suspended or if he or she has previously
 241 been fined under s. 327.35215 for a prior refusal to submit to a
 242 lawful test of his or her breath, urine, or blood as required
 243 under this chapter or chapter 327, he or she commits a
 244 misdemeanor of the first degree, punishable as provided in s.
 245 775.082 or s. 775.083, in addition to any other penalties
 246 provided by law. The refusal to submit to a urine test upon the
 247 request of a law enforcement officer as provided in this section
 248 is admissible into evidence in any criminal proceeding.

249 2. The Alcohol Testing Program within the Department of Law
 250 Enforcement is responsible for the regulation of the operation,
 251 inspection, and registration of breath test instruments utilized
 252 under the driving and boating under the influence provisions and
 253 related provisions located in this chapter and chapters 322 and
 254 327. The program is responsible for the regulation of the
 255 individuals who operate, inspect, and instruct on the breath
 256 test instruments utilized in the driving and boating under the
 257 influence provisions and related provisions located in this
 258 chapter and chapters 322 and 327. The program is further
 259 responsible for the regulation of blood analysts who conduct
 260 blood testing to be utilized under the driving and boating under
 261 the influence provisions and related provisions located in this

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262 chapter and chapters 322 and 327. The program shall:

263 a. Establish uniform criteria for the issuance of permits
 264 to breath test operators, agency inspectors, instructors, blood
 265 analysts, and instruments.

266 b. Have the authority to permit breath test operators,
 267 agency inspectors, instructors, blood analysts, and instruments.

268 c. Have the authority to discipline and suspend, revoke, or
 269 renew the permits of breath test operators, agency inspectors,
 270 instructors, blood analysts, and instruments.

271 d. Establish uniform requirements for instruction and
 272 curricula for the operation and inspection of approved
 273 instruments.

274 e. Have the authority to specify one approved curriculum
 275 for the operation and inspection of approved instruments.

276 f. Establish a procedure for the approval of breath test
 277 operator and agency inspector classes.

278 g. Have the authority to approve or disapprove breath test
 279 instruments and accompanying paraphernalia for use pursuant to
 280 the driving and boating under the influence provisions and
 281 related provisions located in this chapter and chapters 322 and
 282 327.

283 h. With the approval of the executive director of the
 284 Department of Law Enforcement, make and enter into contracts and
 285 agreements with other agencies, organizations, associations,
 286 corporations, individuals, or federal agencies as are necessary,
 287 expedient, or incidental to the performance of duties.

288 i. Issue final orders which include findings of fact and
 289 conclusions of law and which constitute final agency action for
 290 the purpose of chapter 120.

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291 j. Enforce compliance with ~~the provisions of~~ this section
292 through civil or administrative proceedings.

293 k. Make recommendations concerning any matter within the
294 purview of this section, this chapter, chapter 322, or chapter
295 327.

296 l. Promulgate rules for the administration and
297 implementation of this section, including definitions of terms.

298 m. Consult and cooperate with other entities for the
299 purpose of implementing the mandates of this section.

300 n. Have the authority to approve the type of blood test
301 utilized under the driving and boating under the influence
302 provisions and related provisions located in this chapter and
303 chapters 322 and 327.

304 o. Have the authority to specify techniques and methods for
305 breath alcohol testing and blood testing utilized under the
306 driving and boating under the influence provisions and related
307 provisions located in this chapter and chapters 322 and 327.

308 p. Have the authority to approve repair facilities for the
309 approved breath test instruments, including the authority to set
310 criteria for approval.

311
312 Nothing in this section shall be construed to supersede
313 provisions in this chapter and chapters 322 and 327. The
314 specifications in this section are derived from the power and
315 authority previously and currently possessed by the Department
316 of Law Enforcement and are enumerated to conform with the
317 mandates of chapter 99-379, Laws of Florida.

318 (c) A ~~Any~~ person who accepts the privilege extended by the
319 laws of this state of operating a motor vehicle within this

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320 state is, by operating such vehicle, deemed to have given his or
321 her consent to submit to an approved blood test for the purpose
322 of determining the alcoholic content of the blood or a blood
323 test for the purpose of determining the presence of chemical
324 substances or controlled substances as provided in this section
325 if there is reasonable cause to believe the person was driving
326 or in actual physical control of a motor vehicle while under the
327 influence of alcoholic beverages or chemical or controlled
328 substances and the person appears for treatment at a hospital,
329 clinic, or other medical facility and the administration of a
330 breath or urine test is impractical or impossible. As used in
331 this paragraph, the term "other medical facility" includes an
332 ambulance or other medical emergency vehicle. The blood test
333 shall be performed in a reasonable manner. A ~~Any~~ person who is
334 incapable of refusal by reason of unconsciousness or other
335 mental or physical condition is deemed not to have withdrawn his
336 or her consent to such test. A blood test may be administered
337 whether or not the person is told that his or her failure to
338 submit to such a blood test will result in the suspension of the
339 person's privilege to operate a motor vehicle upon the public
340 highways of this state and that a refusal to submit to a lawful
341 test of his or her blood, if his or her driving privilege has
342 been previously suspended for refusal to submit to a lawful test
343 of his or her breath, urine, or blood, is a misdemeanor. A ~~Any~~
344 person who is capable of refusal shall be told that his or her
345 failure to submit to such a blood test will result in the
346 suspension of the person's privilege to operate a motor vehicle
347 for a period of 1 year for a first refusal, or for a period of
348 18 months if the driving privilege of the person has been

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349 suspended previously or if he or she has previously been fined
 350 under s. 327.35215 as a result of a refusal to submit to such a
 351 test or tests required under this chapter or chapter 327, and
 352 ~~that a refusal to submit to a lawful test of his or her blood,~~
 353 ~~if his or her driving privilege has been previously suspended~~
 354 ~~for a prior refusal to submit to a lawful test of his or her~~
 355 ~~breath, urine, or blood, is a misdemeanor.~~ The refusal to submit
 356 to a blood test upon the request of a law enforcement officer is
 357 admissible in evidence in any criminal proceeding.

358 Section 2. Subsection (1) of section 316.1939, Florida
 359 Statutes, is amended to read:

360 316.1939 Refusal to submit to testing; penalties.—

361 (1) ~~A~~ Any person who has refused to submit to a chemical or
 362 physical test of his or her breath, ~~blood,~~ or urine, as
 363 described in s. 316.1932, and whose driving privilege was
 364 previously suspended or who was previously fined under s.
 365 327.35215 for a prior refusal to submit to a lawful test of his
 366 or her breath, urine, or blood required under this chapter or
 367 chapter 327, and:

368 (a) Who the arresting law enforcement officer had probable
 369 cause to believe was driving or in actual physical control of a
 370 motor vehicle in this state while under the influence of
 371 alcoholic beverages, chemical substances, or controlled
 372 substances;

373 (b) Who was placed under lawful arrest for a violation of
 374 s. 316.193 unless such test was requested pursuant to s.
 375 316.1932(1)(c);

376 (c) Who was informed that, if he or she refused to submit
 377 to such test, his or her privilege to operate a motor vehicle

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378 would be suspended for a period of 1 year or, in the case of a
 379 second or subsequent refusal, for a period of 18 months;

380 (d) Who was informed that a refusal to submit to a lawful
 381 test of his or her breath ~~or,~~ urine, ~~or blood,~~ if his or her
 382 driving privilege has been previously suspended or if he or she
 383 has previously been fined under s. 327.35215 for a prior refusal
 384 to submit to a lawful test of his or her breath, urine, or blood
 385 as required under this chapter or chapter 327, is a misdemeanor
 386 of the first degree, punishable as provided in s. 775.082 or s.
 387 775.083, in addition to any other penalties provided by law; and

388 (e) Who, after having been so informed, refused to submit
 389 to any such test when requested to do so by a law enforcement
 390 officer or correctional officer

391 commits a misdemeanor of the first degree and is subject to
 392 punishment as provided in s. 775.082 or s. 775.083.

394 Section 3. Present subsections (18) through (47) of section
 395 327.02, Florida Statutes, are redesignated as subsections (19)
 396 through (48), respectively, a new subsection (18) is added to
 397 that section, and present subsection (31) of that section is
 398 amended, to read:

399 327.02 Definitions.—As used in this chapter and in chapter
 400 328, unless the context clearly requires a different meaning,
 401 the term:

402 (18) "Human-powered vessel" means a vessel powered only by
 403 its occupant or occupants, including, but not limited to, a
 404 vessel powered only by the occupants' hands or feet, oars, or
 405 paddles.

406 (32)-(31) "Navigation rules" means, for vessels on:

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407 (a) Waters outside established navigational lines of
 408 demarcation as specified in 33 C.F.R. part 80, the International
 409 Navigational Rules Act of 1977, 33 U.S.C. s. 1602, as amended,
 410 including the appendix and annexes thereto, through December 31,
 411 2020 ~~October 1, 2012~~.

412 (b) All waters not outside of such established lines of
 413 demarcation, the Inland Navigational Rules Act of 1980, 33
 414 C.F.R. parts 83-90, as amended, through December 31, 2020
 415 ~~October 1, 2012~~.

416 Section 4. Section 327.04, Florida Statutes, is amended to
 417 read:

418 327.04 Rules.—The commission ~~may~~ has authority to adopt
 419 rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the~~
 420 ~~provisions of~~ this chapter, the provisions of chapter 705
 421 relating to vessels, and ss. 376.15 and 823.11 conferring powers
 422 or duties upon it.

423 Section 5. Section 327.462, Florida Statutes, is created to
 424 read:

425 327.462 Temporary protection zones for spaceflight launches
 426 and recovery of spaceflight assets.—

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

428 (a) "Launch services" means the conduct of a launch and
 429 activities involved in the preparation of a launch vehicle,
 430 payload, government astronaut, commercial astronaut, or
 431 spaceflight participant for such launch.

432 (b) "Reentry services" means the conduct of a reentry and
 433 activities involved in the preparation of a reentry vehicle,
 434 payload, government astronaut, commercial astronaut, or
 435 spaceflight participant for such reentry.

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436 (c) "Spaceflight assets" means any item, or any part of an
 437 item, owned by a spaceflight entity which is used in launch
 438 services or reentry services, including crewed and uncrewed
 439 spacecraft, launch vehicles, parachutes and other landing aids,
 440 and any spacecraft or ancillary equipment that was attached to
 441 the launch vehicle during launch, orbit, or reentry.

442 (d) "Spaceflight entity" has the same meaning as provided
 443 in s. 331.501.

444 (2) The head of a law enforcement agency or entity
 445 identified in s. 327.70(1), or his or her designee, may, upon
 446 waters of this state within the law enforcement agency's or
 447 entity's jurisdiction, when necessary for preparations in
 448 advance of a launch service or reentry service or for the
 449 recovery of spaceflight assets before or after a launch service
 450 or reentry service, temporarily establish a protection zone
 451 requiring vessels to leave, or prohibiting vessels from
 452 entering, water bodies within:

453 (a) Five hundred yards of where launch services, reentry
 454 services, or spaceflight asset recovery operations are being
 455 conducted; or

456 (b) A distance greater than provided in paragraph (a) if
 457 the head of such law enforcement agency or entity, or his or her
 458 designee, determines such greater distance is in the best
 459 interest of public safety.

460 (3) A protection zone established under subsection (2) may
 461 remain in effect only as long as necessary to ensure security
 462 around the launch and recovery areas and to recover spaceflight
 463 assets and any personnel being transported within a spacecraft
 464 following the launch or reentry activity. Such protection zone

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465 may not be in place more than 72 hours before or 72 hours after
 466 the launch. The head of a law enforcement agency or entity
 467 identified in s. 327.70(1), or his or her designee, may also
 468 restrict vessels from operating within up to 500 yards of any
 469 vessel transporting recovered spaceflight assets following a
 470 spaceflight launch or reentry while such vessel is continuously
 471 underway transporting such assets to a location for removal from
 472 the waters of this state.

473 (4) The head of a law enforcement agency or entity
 474 establishing a protection zone under this section, or his or her
 475 designee, must report the establishment of such protection zone
 476 via e-mail to the commission's Division of Law Enforcement,
 477 Boating and Waterways Section, and to the appropriate United
 478 States Coast Guard Sector Command having responsibility over the
 479 water body, at least 72 hours before establishment of the
 480 protection zone. Such report must include the reasons for the
 481 protection zone, the portion of the water body or water bodies
 482 which will be included in the protection zone, and the duration
 483 of the protection zone. No later than 72 hours after the end of
 484 the protection zone period, the head of the law enforcement
 485 agency or entity, or his or her designee, must report via e-mail
 486 to the commission's Division of Law Enforcement, Boating and
 487 Waterways Section, the details of all citations issued for
 488 violating the protection zone.

489 (5) This section applies only to launch services, reentry
 490 services, or the recovery of spaceflight assets occurring or
 491 originating within spaceport territory, as defined in s.
 492 331.304, and to federally licensed or federally authorized
 493 launches and reentries occurring or transiting to an end

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494 destination upon waters of this state.

495 (6) A person who violates this section or any directive
 496 given by a law enforcement officer relating to the establishment
 497 of a protection zone under this section after being advised of
 498 the establishment of the protection zone commits a misdemeanor
 499 of the second degree, punishable as provided in s. 775.082 or s.
 500 775.083.

501 Section 6. Paragraphs (a) and (c) of subsection (1) of
 502 section 327.352, Florida Statutes, are amended to read:

503 327.352 Tests for alcohol, chemical substances, or
 504 controlled substances; implied consent; refusal.-

505 (1)(a)1. The Legislature declares that the operation of a
 506 vessel is a privilege that must be exercised in a reasonable
 507 manner. In order to protect the public health and safety, it is
 508 essential that a lawful and effective means of reducing the
 509 incidence of boating while impaired or intoxicated be
 510 established. Therefore, ~~a~~ any person who accepts the privilege
 511 extended by the laws of this state of operating a vessel within
 512 this state is, by ~~so~~ operating such vessel, deemed to have given
 513 his or her consent to submit to an approved chemical test or
 514 physical test including, but not limited to, an infrared light
 515 test of his or her breath for the purpose of determining the
 516 alcoholic content of his or her blood or breath if the person is
 517 lawfully arrested for any offense allegedly committed while the
 518 person was operating a vessel while under the influence of
 519 alcoholic beverages. The chemical or physical breath test must
 520 be incidental to a lawful arrest and administered at the request
 521 of a law enforcement officer who has reasonable cause to believe
 522 such person was operating the vessel within this state while

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523 under the influence of alcoholic beverages. The administration
 524 of a breath test does not preclude the administration of another
 525 type of test. The person shall be told that his or her failure
 526 to submit to any lawful test of his or her breath under this
 527 chapter will result in a civil penalty of \$500, and shall also
 528 be told that if he or she refuses to submit to a lawful test of
 529 his or her breath and he or she has been previously fined under
 530 s. 327.35215 or has previously had his or her driver license
 531 suspended under s. 322.2615 for refusal to submit to any lawful
 532 test of his or her breath, urine, or blood, he or she commits a
 533 misdemeanor of the first degree, punishable as provided in s.
 534 775.082 or s. 775.083, in addition to any other penalties
 535 provided by law. The refusal to submit to a chemical or physical
 536 breath test upon the request of a law enforcement officer as
 537 provided in this section is admissible into evidence in any
 538 criminal proceeding.

539 2. ~~A~~ Any person who accepts the privilege extended by the
 540 laws of this state of operating a vessel within this state is,
 541 by ~~se~~ operating such vessel, deemed to have given his or her
 542 consent to submit to a urine test for the purpose of detecting
 543 the presence of chemical substances as set forth in s. 877.111
 544 or controlled substances if the person is lawfully arrested for
 545 any offense allegedly committed while the person was operating a
 546 vessel while under the influence of chemical substances or
 547 controlled substances. The urine test must be incidental to a
 548 lawful arrest and administered at a detention facility or any
 549 other facility, mobile or otherwise, which is equipped to
 550 administer such tests at the request of a law enforcement
 551 officer who has reasonable cause to believe such person was

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552 operating a vessel within this state while under the influence
 553 of chemical substances or controlled substances. The urine test
 554 shall be administered at a detention facility or any other
 555 facility, mobile or otherwise, which is equipped to administer
 556 such test in a reasonable manner that will ensure the accuracy
 557 of the specimen and maintain the privacy of the individual
 558 involved. The administration of a urine test does not preclude
 559 the administration of another type of test. The person shall be
 560 told that his or her failure to submit to any lawful test of his
 561 or her urine under this chapter will result in a civil penalty
 562 of \$500, and shall also be told that if he or she refuses to
 563 submit to a lawful test of his or her urine and he or she has
 564 been previously fined under s. 327.35215 or has previously had
 565 his or her driver license suspended under s. 322.2615 for
 566 refusal to submit to any lawful test of his or her breath,
 567 urine, or blood, he or she commits a misdemeanor of the first
 568 degree, punishable as provided in s. 775.082 or s. 775.083, in
 569 addition to any other penalties provided by law. The refusal to
 570 submit to a urine test upon the request of a law enforcement
 571 officer as provided in this section is admissible into evidence
 572 in any criminal proceeding.

573 (c) ~~A~~ Any person who accepts the privilege extended by the
 574 laws of this state of operating a vessel within this state is,
 575 by operating such vessel, deemed to have given his or her
 576 consent to submit to an approved blood test for the purpose of
 577 determining the alcoholic content of the blood or a blood test
 578 for the purpose of determining the presence of chemical
 579 substances or controlled substances as provided in this section
 580 if there is reasonable cause to believe the person was operating

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581 a vessel while under the influence of alcoholic beverages or
 582 chemical or controlled substances and the person appears for
 583 treatment at a hospital, clinic, or other medical facility and
 584 the administration of a breath or urine test is impractical or
 585 impossible. As used in this paragraph, the term "other medical
 586 facility" includes an ambulance or other medical emergency
 587 vehicle. The blood test shall be performed in a reasonable
 588 manner. ~~A Any~~ person who is incapable of refusal by reason of
 589 unconsciousness or other mental or physical condition is deemed
 590 not to have withdrawn his or her consent to such test. ~~A Any~~
 591 person who is capable of refusal shall be told that his or her
 592 failure to submit to such a blood test will result in a civil
 593 penalty of \$500 ~~and that a refusal to submit to a lawful test of~~
 594 ~~his or her blood, if he or she has previously been fined for~~
 595 ~~refusal to submit to any lawful test of his or her breath,~~
 596 ~~urine, or blood, is a misdemeanor.~~ The refusal to submit to a
 597 blood test upon the request of a law enforcement officer shall
 598 be admissible in evidence in any criminal proceeding.

599 Section 7. Section 327.359, Florida Statutes, is amended to
 600 read:

601 327.359 Refusal to submit to testing; penalties.—~~A Any~~
 602 person who has refused to submit to a chemical or physical test
 603 of his or her breath, ~~blood,~~ or urine, as described in s.
 604 327.352, and who has been previously fined under s. 327.35215 or
 605 has previously had his or her driver license suspended under s.
 606 322.2615 for refusal to submit to a lawful test of his or her
 607 breath, urine, or blood, and:

608 (1) Who the arresting law enforcement officer had probable
 609 cause to believe was operating or in actual physical control of

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610 a vessel in this state while under the influence of alcoholic
 611 beverages, chemical substances, or controlled substances;

612 (2) Who was placed under lawful arrest for a violation of
 613 s. 327.35 unless such test was requested pursuant to s.
 614 327.352(1)(c);

615 (3) Who was informed that if he or she refused to submit to
 616 such test, he or she is subject to a fine of \$500;

617 (4) Who was informed that a refusal to submit to a lawful
 618 test of his or her breath or, ~~urine, or blood,~~ if he or she has
 619 been previously fined under s. 327.35215 or has previously had
 620 his or her driver license suspended under s. 322.2615 for
 621 refusal to submit to a lawful test of his or her breath, urine,
 622 or blood, is a misdemeanor of the first degree, punishable as
 623 provided in s. 775.082 or s. 775.083; and

624 (5) Who, after having been so informed, refused to submit
 625 to any such test when requested to do so by a law enforcement
 626 officer or correctional officer

627
 628 commits a misdemeanor of the first degree, punishable ~~and is~~
 629 ~~subject to punishment~~ as provided in s. 775.082 or s. 775.083.

630 Section 8. Section 327.371, Florida Statutes, is created to
 631 read:

632 327.371 Human-powered vessels regulated.—

633 (1) A person may operate a human-powered vessel within the
 634 boundaries of the marked channel of the Florida Intracoastal
 635 Waterway as defined in s. 327.02:

636 (a) When the marked channel is the only navigable portion
 637 of the waterway available due to vessel congestion or
 638 obstructions on the water. The operator of the human-powered

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639 vessel shall proceed with diligence to a location where he or
 640 she may safely operate the vessel outside the marked channel of
 641 the Florida Intracoastal Waterway.

642 (b) When crossing the marked channel, provided that the
 643 crossing is done in the most direct, continuous, and expeditious
 644 manner possible and does not interfere with other vessel traffic
 645 in the channel.

646 (c) During an emergency endangering life or limb.

647 (2) A person may not operate a human-powered vessel in the
 648 marked channel of the Florida Intracoastal Waterway except as
 649 provided in subsection (1).

650 (3) A person who violates this section commits a
 651 noncriminal infraction, punishable as provided in s. 327.73.

652 Section 9. Subsection (1) and paragraphs (a) and (b) of
 653 subsection (5) of section 327.391, Florida Statutes, are amended
 654 to read:

655 327.391 Airboats regulated.—

656 (1) The exhaust of every internal combustion engine used on
 657 any airboat operated on the waters of this state shall be
 658 provided with an automotive-style factory muffler, underwater
 659 exhaust, or other manufactured device capable of adequately
 660 muffling the sound of the exhaust of the engine as described in
 661 s. 327.02(31) ~~s. 327.02(30)~~. The use of cutouts or flex pipe as
 662 the sole source of muffling is prohibited, except as provided in
 663 subsection (4). A ~~Any~~ person who violates this subsection
 664 commits a noncriminal infraction, punishable as provided in s.
 665 327.73(1).

666 (5) (a) ~~Beginning July 1, 2019,~~ A person may not operate an
 667 airboat to carry one or more passengers for hire on waters of

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668 this ~~the~~ state unless he or she has all of the following onboard
 669 the airboat:

670 1. A photographic identification card.

671 2. Proof of completion of a boater education course that
 672 complies with s. 327.395(2) (a) ~~s. 327.395(1) (a)~~. Except as
 673 provided in paragraph (b), no operator is exempt from this
 674 requirement, regardless of age or the exemptions provided under
 675 s. 327.395.

676 3. Proof of successful completion of a commission-approved
 677 airboat operator course that meets the minimum standards
 678 established by commission rule.

679 4. Proof of successful course completion in cardiopulmonary
 680 resuscitation and first aid.

681 (b) A person issued a captain's license by the United
 682 States Coast Guard is not required to complete a boating safety
 683 education course that complies with s. 327.395(2) (a) ~~s.~~
 684 ~~327.395(1) (a)~~. Proof of the captain's license must be onboard
 685 the airboat when carrying one or more passengers for hire on
 686 waters of this ~~the~~ state.

687 Section 10. Section 327.395, Florida Statutes, is amended
 688 to read:

689 327.395 Boating safety education.—

690 (1) A person born on or after January 1, 1988, may not
 691 operate a vessel powered by a motor of 10 horsepower or greater
 692 unless such person has in his or her possession aboard the
 693 vessel the documents required by subsection (2).

694 (2) While operating a vessel, a person identified under
 695 subsection (1) must have in his or her possession aboard the
 696 vessel photographic identification and a boating safety

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697 identification card issued by the commission, a state-issued
 698 identification card or driver license indicating possession of
 699 the boating safety identification card, or photographic
 700 identification and a temporary certificate issued or approved by
 701 the commission, which shows that he or she has:

702 (a) Completed a commission-approved boating safety
 703 education course that meets the minimum requirements established
 704 by the National Association of State Boating Law Administrators;
 705 or

706 (b) Passed a temporary certificate examination developed or
 707 approved by the commission.

708 (3) (a) (2) (a) A person may obtain a boating safety
 709 identification card by successfully completing a boating safety
 710 education course that meets the requirements of this section and
 711 rules adopted by the commission pursuant to this section.

712 (b) A person may obtain a temporary certificate by passing
 713 a temporary certificate examination that meets the requirements
 714 of this section and rules adopted by the commission pursuant to
 715 this section.

716 (4) (3) ~~A~~ Any commission-approved boating safety education
 717 course or temporary certificate examination developed or
 718 approved by the commission must include a component regarding
 719 diving vessels, awareness of divers in the water, divers-down
 720 warning devices, and the requirements of s. 327.331.

721 ~~(4) The commission may appoint liveries, marinas, or other~~
 722 ~~persons as its agents to administer the course or temporary~~
 723 ~~certificate examination and issue identification cards or~~
 724 ~~temporary certificates in digital, electronic, or paper format~~
 725 ~~under guidelines established by the commission. An agent must~~

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726 ~~charge the \$2 examination fee, which must be forwarded to the~~
 727 ~~commission with proof of passage of the examination and may~~
 728 ~~charge and keep a \$1 service fee.~~

729 (5) A boating safety identification card issued to a person
 730 who has completed a boating safety education course is valid for
 731 life. A temporary certificate issued to a person who has passed
 732 a temporary certification examination is valid for 90 days after
 733 the date of issuance. The commission may issue either the
 734 boating safety identification card or the temporary certificate
 735 in a digital, electronic, or paper format.

736 (6) A person is exempt from subsection (1) if he or she:

737 (a) 1. Is licensed by the United States Coast Guard to serve
 738 as master of a vessel;

739 2. Has been previously licensed by the United States Coast
 740 Guard to serve as master of a vessel, provides proof of such
 741 licensure to the commission, and requests that a boating safety
 742 identification card be issued in his or her name; or

743 3. Possesses an International Certificate of Competence in
 744 sailing.

745 (b) Operates a vessel only on a private lake or pond.

746 (c) Is accompanied in the vessel by a person who is exempt
 747 from this section or who holds a boating safety identification
 748 card in compliance with this section, who is 18 years of age or
 749 older, and who is attendant to the operation of the vessel and
 750 responsible for the safe operation of the vessel and for any
 751 violation that occurs during the operation of the vessel.

752 (d) Is a nonresident who has in his or her possession
 753 photographic identification and proof that he or she has
 754 completed a boating safety education course or equivalency

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755 examination in another state or a United States territory which
756 meets or exceeds the minimum requirements established by the
757 National Association of State Boating Law Administrators.

758 (e) Is operating a vessel within 90 days after the purchase
759 of that vessel and has available for inspection aboard that
760 vessel a bill of sale meeting the requirements of s. 328.46(1).

761 (f) Is operating a vessel within 90 days after completing a
762 boating safety education course in accordance with paragraph

763 (2) (a) the requirements of paragraph (1) (a) and has a
764 photographic identification card and a boating safety education
765 certificate available for inspection as proof of having
766 completed a boating safety education course. The boating safety
767 education certificate must provide, at a minimum, the student's
768 first and last name, the student's date of birth, and the date
769 that he or she passed the course examination.

770 (g) Is exempted by rule of the commission.

771 (7) A person who operates a vessel in violation of this
772 section subsection (1) commits a noncriminal infraction,
773 punishable as provided in s. 327.73.

774 (8) The commission shall institute and coordinate a
775 statewide program of boating safety instruction and
776 certification to ensure that boating safety courses and
777 examinations are available in each county of this the state. The
778 commission may appoint agents to administer the boating safety
779 education course or temporary certificate examination and may
780 authorize the agents to issue temporary certificates in digital,
781 electronic, or paper format. An agent ~~The agents~~ shall charge
782 and collect the \$2 fee required in subsection (9) for each
783 temporary certificate requested of the commission by that agent,

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784 which must be forwarded to the commission. The agent may charge
785 and keep a \$1 service fee.

786 (9) The commission ~~may is authorized to~~ establish and ~~to~~
787 collect a \$2 fee for each card and temporary certificate issued
788 pursuant to this section.

789 (10) The commission shall design forms and adopt rules
790 pursuant to chapter 120 to implement ~~the provisions of~~ this
791 section.

792 (11) This section may be cited as the "Osmany 'Ozzie'
793 Castellanos Boating Safety Education Act."

794 Section 11. Present subsection (5) of section 327.4107,
795 Florida Statutes, is redesignated as subsection (6), a new
796 subsection (5) and subsection (7) are added to that section, and
797 paragraphs (d) and (e) of subsection (2) of that section are
798 amended, to read:

799 327.4107 Vessels at risk of becoming derelict on waters of
800 this state.—

801 (2) An officer of the commission or of a law enforcement
802 agency specified in s. 327.70 may determine that a vessel is at
803 risk of becoming derelict if any of the following conditions
804 exist:

805 (d) The vessel is ~~left or stored aground unattended in such~~
806 ~~a state that would prevent the vessel from getting underway, is~~
807 listing due to water intrusion, ~~or is sunk or partially sunk.~~

808 (e) The vessel does not have an effective means of
809 propulsion for safe navigation within 72 hours after the vessel
810 owner or operator receives telephonic notice, in-person notice
811 recorded on an agency-approved body camera, or written notice,
812 which may be provided by facsimile, electronic mail, or other

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813 electronic means, stating such from an officer, and the vessel
 814 owner or operator is unable to provide a receipt, proof of
 815 purchase, or other documentation of having ordered necessary
 816 parts for vessel repair. The commission may adopt rules to
 817 implement this paragraph.

818 (5) The commission, an officer of the commission, or a law
 819 enforcement agency or officer specified in s. 327.70 may
 820 relocate or cause to be relocated an at-risk vessel found to be
 821 in violation of this section to a distance greater than 20 feet
 822 from a mangrove or upland vegetation. The commission, an officer
 823 of the commission, or a law enforcement agency or officer acting
 824 pursuant to this subsection upon waters of this state shall be
 825 held harmless for all damages to the at-risk vessel resulting
 826 from such relocation unless the damage results from gross
 827 negligence or willful misconduct as these terms are defined in
 828 s. 823.11.

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

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

836 (b) Creation of a vessel turn-in program allowing the owner
 837 of a vessel determined by law enforcement to be at risk of
 838 becoming derelict in accordance with this section to turn his or
 839 her vessel and vessel title over to the commission to be
 840 destroyed without penalty.

841 (c) Providing for removal and destruction of an abandoned

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842 vessel for which an owner cannot be identified or the owner of
 843 which is deceased and no heir is interested in acquiring the
 844 vessel.

845 (d) Purchase of anchor line, anchors, and other equipment
 846 necessary for securing vessels at risk of becoming derelict.

847 (e) Creating or acquiring moorings designated for securing
 848 vessels at risk of becoming derelict.

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

854 Section 12. Section 327.4108, Florida Statutes, is amended
 855 to read:

856 327.4108 Anchoring of vessels in anchoring limitation
 857 areas.—

858 (1) The following densely populated urban areas, which have
 859 narrow state waterways, residential docking facilities, and
 860 significant recreational boating traffic, are designated as
 861 anchoring limitation areas, within which a person may not anchor
 862 a vessel at any time during the period between one-half hour
 863 after sunset and one-half hour before sunrise, except as
 864 provided in subsections (3) and (4):

865 (a) The section of Middle River lying between Northeast
 866 21st Court and the Intracoastal Waterway in Broward County.

867 (b) Sunset Lake in Miami-Dade County.

868 (c) The sections of Biscayne Bay in Miami-Dade County lying
 869 between:

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871 1. Rivo Alto Island and Di Lido Island.
 872 2. San Marino Island and San Marco Island.
 873 3. San Marco Island and Biscayne Island.
 874 (2) (a) Monroe County is designated as an anchoring
 875 limitation area within which a vessel may only be anchored in
 876 the same location for a maximum of 90 days. The commission shall
 877 adopt rules to implement this subsection.
 878 (b) This subsection does not apply to an approved and
 879 permitted mooring field.
 880 ~~(2) To promote the public's use and enjoyment of the~~
 881 ~~designated waterway, except as provided in subsections (3) and~~
 882 ~~(4), a person may not anchor a vessel at any time during the~~
 883 ~~period between one half hour after sunset and one half hour~~
 884 ~~before sunrise in an anchoring limitation area.~~
 885 (3) Notwithstanding subsections (1) and ~~subsection~~ (2), a
 886 person may anchor a vessel in an anchoring limitation area
 887 during a time that would otherwise be unlawful:
 888 (a) If the vessel suffers a mechanical failure that poses
 889 an unreasonable risk of harm to the vessel or the persons
 890 onboard unless the vessel anchors. The vessel may anchor for 3
 891 business days or until the vessel is repaired, whichever occurs
 892 first.
 893 (b) If imminent or existing weather conditions in the
 894 vicinity of the vessel pose an unreasonable risk of harm to the
 895 vessel or the persons onboard unless the vessel anchors. The
 896 vessel may anchor until weather conditions no longer pose such
 897 risk. During a hurricane or tropical storm, weather conditions
 898 are deemed to no longer pose an unreasonable risk of harm when
 899 the hurricane or tropical storm warning affecting the area has

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900 expired.
 901 (c) During events described in s. 327.48 or other special
 902 events, including, but not limited to, public music
 903 performances, local government waterfront activities, or
 904 fireworks displays. A vessel may anchor for the lesser of the
 905 duration of the special event or 3 days.
 906 (4) This section does not apply to:
 907 (a) Vessels owned or operated by a governmental entity for
 908 law enforcement, firefighting, military, or rescue purposes.
 909 (b) Construction or dredging vessels on an active job site.
 910 (c) Vessels actively engaged in commercial fishing.
 911 (d) Vessels engaged in recreational fishing if the persons
 912 onboard are actively tending hook and line fishing gear or nets.
 913 (5) (a) As used in this subsection, the term "law
 914 enforcement officer or agency" means an officer or agency
 915 authorized to enforce this section pursuant to s. 327.70.
 916 (b) A law enforcement officer or agency may remove a vessel
 917 from an anchoring limitation area and impound the vessel for up
 918 to 48 hours, or cause such removal and impoundment, if the
 919 vessel operator, after being issued a citation for a violation
 920 of this section:
 921 1. Anchors the vessel in violation of this section within
 922 12 hours after being issued the citation; or
 923 2. Refuses to leave the anchoring limitation area after
 924 being directed to do so by a law enforcement officer or agency.
 925 (c) A law enforcement officer or agency acting under this
 926 subsection to remove or impound a vessel, or to cause such
 927 removal or impoundment, shall be held harmless for any damage to
 928 the vessel resulting from such removal or impoundment unless the

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929 damage results from gross negligence or willful misconduct.

930 (d) A contractor performing removal or impoundment services

931 at the direction of a law enforcement officer or agency pursuant

932 to this subsection must:

933 1. Be licensed in accordance with United States Coast Guard

934 regulations, as applicable.

935 2. Obtain and carry a current policy issued by a licensed

936 insurance carrier in this state to insure against any accident,

937 loss, injury, property damage, or other casualty caused by or

938 resulting from the contractor's actions.

939 3. Be properly equipped to perform such services.

940 (e) In addition to the civil penalty imposed under s.

941 327.73(1)(z), the operator of a vessel that is removed and

942 impounded pursuant to paragraph (b) must pay all removal and

943 storage fees before the vessel is released. A vessel removed

944 pursuant to paragraph (b) may not be impounded for longer than

945 48 hours.

946 (6) A violation of this section is punishable as provided

947 in s. 327.73(1)(z).

948 ~~(7) This section shall remain in effect notwithstanding the~~

949 ~~Legislature's adoption of the commission's recommendations for~~

950 ~~the regulation of mooring vessels outside of public mooring~~

951 ~~fields pursuant to s. 327.4105.~~

952 Section 13. Paragraph (a) of subsection (1) and subsection

953 (2) of section 327.4109, Florida Statutes, are amended to read:

954 327.4109 Anchoring or mooring prohibited; exceptions;

955 penalties.-

956 (1)(a) The owner or operator of a vessel or floating

957 structure may not anchor or moor such that the nearest approach

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958 of the anchored or moored vessel or floating structure is:

959 1. Within 150 feet of any public or private marina, boat

960 ramp, boatyard, or other public vessel launching or loading

961 facility;

962 2. Within 300 feet of a superyacht repair facility. For

963 purposes of this subparagraph, the term "superyacht repair

964 facility" means a facility that services or repairs a yacht with

965 a water line of 120 feet or more in length; or

966 3. Within 100 feet outward from the marked boundary of a

967 public mooring field or a lesser distance if approved by the

968 commission upon request of a local government within which the

969 mooring field is located. The commission may adopt rules to

970 implement this subparagraph.

971 (2) Notwithstanding subsection (1), an owner or operator of

972 a vessel may anchor or moor within 150 feet of any public or

973 private marina, boat ramp, boatyard, or other public vessel

974 launching or loading facility; within 300 feet of a superyacht

975 repair facility; or within 100 feet outward from the marked

976 boundary of a public mooring field if:

977 (a) The vessel suffers a mechanical failure that poses an

978 unreasonable risk of harm to the vessel or the persons onboard

979 such vessel. The owner or operator of the vessel may anchor or

980 moor for 5 business days or until the vessel is repaired,

981 whichever occurs first.

982 (b) Imminent or existing weather conditions in the vicinity

983 of the vessel pose an unreasonable risk of harm to the vessel or

984 the persons onboard such vessel. The owner or operator of the

985 vessel may anchor or moor until weather conditions no longer

986 pose such risk. During a hurricane or tropical storm, weather

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987 conditions are deemed to no longer pose an unreasonable risk of
988 harm when the hurricane or tropical storm warning affecting the
989 area has expired.

990 Section 14. Subsection (2) of section 327.45, Florida
991 Statutes, is amended to read:

992 327.45 Protection zones for springs.-

993 (2) The commission may establish by rule protection zones
994 that restrict the speed and operation of vessels, or which
995 prohibit the anchoring, mooring, beaching, or grounding of
996 vessels, to protect and prevent harm to first, second, and third
997 magnitude springs and springs groups, including their associated
998 spring runs, as determined by the commission using the most
999 recent Florida Geological Survey springs bulletin. This harm
1000 includes negative impacts to water quality, water quantity,
1001 hydrology, wetlands, and aquatic and wetland-dependent species.

1002 Section 15. Paragraph (b) of subsection (1) of section
1003 327.46, Florida Statutes, is amended to read:

1004 327.46 Boating-restricted areas.-

1005 (1) Boating-restricted areas, including, but not limited
1006 to, restrictions of vessel speeds and vessel traffic, may be
1007 established on the waters of this state for any purpose
1008 necessary to protect the safety of the public if such
1009 restrictions are necessary based on boating accidents,
1010 visibility, hazardous currents or water levels, vessel traffic
1011 congestion, or other navigational hazards or to protect
1012 seagrasses on privately owned submerged lands.

1013 (b) Municipalities and counties ~~may have the authority to~~
1014 establish the following boating-restricted areas by ordinance:

1015 1. An ordinance establishing an idle speed, no wake

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1016 boating-restricted area, if the area is:

1017 a. Within 500 feet of any boat ramp, hoist, marine railway,
1018 or other launching or landing facility available for use by the
1019 general boating public on waterways more than 300 feet in width
1020 or within 300 feet of any boat ramp, hoist, marine railway, or
1021 other launching or landing facility available for use by the
1022 general boating public on waterways not exceeding 300 feet in
1023 width.

1024 b. Within 500 feet of fuel pumps or dispensers at any
1025 marine fueling facility that sells motor fuel to the general
1026 boating public on waterways more than 300 feet in width or
1027 within 300 feet of the fuel pumps or dispensers at any licensed
1028 terminal facility that sells motor fuel to the general boating
1029 public on waterways not exceeding 300 feet in width.

1030 c. Inside or within 300 feet of any lock structure.

1031 2. An ordinance establishing a slow speed, minimum wake
1032 boating-restricted area if the area is:

1033 a. Within 300 feet of any bridge fender system.

1034 b. Within 300 feet of any bridge span presenting a vertical
1035 clearance of less than 25 feet or a horizontal clearance of less
1036 than 100 feet.

1037 c. On a creek, stream, canal, or similar linear waterway if
1038 the waterway is less than 75 feet in width from shoreline to
1039 shoreline.

1040 d. On a lake or pond of less than 10 acres in total surface
1041 area.

1042 e. Within the boundaries of a permitted public mooring
1043 field and a buffer around the mooring field of up to 100 feet.

1044 3. An ordinance establishing a vessel-exclusion zone if the

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1045 area is:

- 1046 a. Designated as a public bathing beach or swim area.
 1047 b. Within 300 feet of a dam, spillway, or flood control
 1048 structure.

1049 4. Notwithstanding the prohibition in s. 327.60(2)(c),
 1050 within the portion of the Florida Intracoastal Waterway within
 1051 their jurisdiction, except that the municipality or county may
 1052 not establish a vessel-exclusion zone for public bathing beaches
 1053 or swim areas within the waterway.

1054 Section 16. Section 327.463, Florida Statutes, is created
 1055 to read:

1056 327.463 Special hazards.-

1057 (1) For purposes of this section, a vessel:

1058 (a) Is operating at slow speed, minimum wake only if it is:

1059 1. Fully off plane and completely settled into the water;

1060 and

1061 2. Proceeding without wake or with minimum wake.

1062

1063 A vessel that is required to operate at slow speed, minimum wake
 1064 may not proceed at a speed greater than a speed that is
 1065 reasonable and prudent to avoid the creation of an excessive
 1066 wake or other hazardous condition under the existing
 1067 circumstances.

1068 (b) Is not proceeding at slow speed, minimum wake if it is:

1069 1. Operating on plane;

1070 2. In the process of coming off plane and settling into the
 1071 water or getting on plane; or

1072 3. Operating at a speed that creates a wake that
 1073 unreasonably or unnecessarily endangers other vessels.

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1074 (2) A person may not operate a vessel faster than slow
 1075 speed, minimum wake within 300 feet of any emergency vessel,
 1076 including, but not limited to, a law enforcement vessel, United
 1077 States Coast Guard vessel, or firefighting vessel, when such
 1078 emergency vessel's emergency lights are activated.

1079 (3)(a) A person may not operate a vessel faster than slow
 1080 speed, minimum wake within 300 feet of any construction vessel
 1081 or barge when the vessel or barge is displaying an orange flag
 1082 from a pole extending:

1083 1. At least 10 feet above the tallest portion of the vessel
 1084 or barge, indicating that the vessel or barge is actively
 1085 engaged in construction operations; or

1086 2. At least 5 feet above any superstructure permanently
 1087 installed upon the vessel or barge, indicating that the vessel
 1088 or barge is actively engaged in construction operations.

1089 (b) A flag displayed on a construction vessel or barge
 1090 pursuant to this subsection must:

1091 1. Be at least 2 feet by 3 feet in size.

1092 2. Have a wire or other stiffener or be otherwise
 1093 constructed to ensure that the flag remains fully unfurled and
 1094 extended in the absence of a wind or breeze.

1095 3. Be displayed so that the visibility of the flag is not
 1096 obscured in any direction.

1097 (c) In periods of low visibility, including any time
 1098 between 30 minutes after sunset and 30 minutes before sunrise, a
 1099 person may not be cited for a violation of this subsection
 1100 unless the orange flag is illuminated and visible from a
 1101 distance of at least 2 nautical miles. Such illumination does
 1102 not relieve the construction vessel or barge from complying with

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1103 all navigation rules.

1104 (4) (a) A person operating a vessel in violation of this
 1105 section commits a noncriminal infraction, punishable as provided
 1106 in s. 327.73.

1107 (b) The owner of, or party who is responsible for, a
 1108 construction vessel or barge who displays an orange flag on the
 1109 vessel or barge when it is not actively engaged in construction
 1110 operations commits a noncriminal infraction, punishable as
 1111 provided in s. 327.73.

1112 (5) The speed and penalty provisions of this section do not
 1113 apply to a law enforcement, firefighting, or rescue vessel that
 1114 is owned or operated by a governmental entity.

1115 Section 17. Paragraph (a) of subsection (1) of section
 1116 327.50, Florida Statutes, is amended to read:

1117 327.50 Vessel safety regulations; equipment and lighting
 1118 requirements.—

1119 (1) (a) The owner and operator of every vessel on the waters
 1120 of this state shall carry, store, maintain, and use safety
 1121 equipment in accordance with current United States Coast Guard
 1122 safety equipment requirements as specified in the Code of
 1123 Federal Regulations, unless expressly exempted by the commission
 1124 department.

1125 Section 18. Paragraph (a) of subsection (6) and subsection
 1126 (7) of section 327.53, Florida Statutes, are amended, and
 1127 subsection (8) is added to that section, to read:

1128 327.53 Marine sanitation.—

1129 (6) (a) A violation of this section is a noncriminal
 1130 infraction, punishable as provided in s. 327.73. Each violation
 1131 shall be a separate offense. The owner and operator of any

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1132 vessel shall be jointly and severally liable for the civil
 1133 penalty imposed pursuant to this section.

1134 (7) ~~A~~ Any vessel or floating structure operated or occupied
 1135 on the waters of ~~this~~ the state in violation of this section is
 1136 declared a nuisance and a hazard to public safety and health.
 1137 The owner or operator of ~~a~~ any vessel or floating structure
 1138 cited for violating this section shall, within 30 days following
 1139 the issuance of the citation, correct the violation for which
 1140 the citation was issued or remove the vessel or floating
 1141 structure from the waters of ~~this~~ the state. If the violation is
 1142 not corrected within the 30 days and the vessel or floating
 1143 structure remains on the waters of ~~this~~ the state in violation
 1144 of this section, law enforcement officers charged with the
 1145 enforcement of this chapter under s. 327.70 shall apply to the
 1146 appropriate court in the county in which the vessel or floating
 1147 structure is located, to order or otherwise cause the removal of
 1148 such vessel or floating structure from the waters of ~~this~~ the
 1149 state at the owner's expense. If the owner cannot be found or
 1150 otherwise fails to pay the removal costs, the provisions of s.
 1151 328.17 shall apply. If the proceeds under s. 328.17 are not
 1152 sufficient to pay all removal costs, funds appropriated from the
 1153 Marine Resources Conservation Trust Fund pursuant to paragraph
 1154 (6) (b) or s. 328.72(15) (c) ~~s. 328.72(16)~~ may be used.

1155 (8) The owner or operator of a live-aboard vessel as
 1156 defined in s. 327.02(23) (a) or (c), or a houseboat as defined in
 1157 s. 327.02(17), that is equipped with a marine sanitation device
 1158 must maintain a record of the date of each pumpout of the marine
 1159 sanitation device and the location of the pumpout station or
 1160 waste reception facility. Each record must be maintained for 1

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1161 year after the date of the pumpout.

1162 Section 19. Subsection (2) of section 327.54, Florida

1163 Statutes, is amended to read:

1164 327.54 Liveries; safety regulations; penalty.—

1165 (2) A livery may not knowingly lease, hire, or rent a ~~any~~
 1166 vessel ~~powered by a motor of 10 horsepower or greater to a any~~
 1167 person who is required to comply with s. 327.395, unless such
 1168 person presents to the livery photographic identification and a
 1169 valid boater safety identification card issued by the
 1170 commission, a state-issued identification card or driver license
 1171 indicating possession of the boating safety identification card,
 1172 or photographic identification and a valid temporary certificate
 1173 issued or approved by the commission as required under s.
 1174 327.395(2) s. 327.395(1), or meets the exemption provided under
 1175 s. 327.395(6) (f).

1176 Section 20. Subsection (5) of section 327.60, Florida
 1177 Statutes, is amended to read:

1178 327.60 Local regulations; limitations.—

1179 (5) A local government may enact and enforce regulations to
 1180 implement the procedures for abandoned or lost property that
 1181 allow the local law enforcement agency to remove a vessel
 1182 affixed to a public dock or mooring within its jurisdiction that
 1183 is abandoned or lost property pursuant to s. 705.103(1). Such
 1184 regulation must require the local law enforcement agency to post
 1185 a written notice at least 24 hours before removing the vessel.

1186 Section 21. Paragraphs (q), (s), and (aa) of subsection (1)
 1187 of section 327.73, Florida Statutes, are amended, and paragraphs
 1188 (cc) and (dd) are added to that subsection, to read:

1189 327.73 Noncriminal infractions.—

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1190 (1) Violations of the following provisions of the vessel
 1191 laws of this state are noncriminal infractions:

1192 (q) Section 327.53(1), (2), ~~and~~ (3), and (8), relating to
 1193 marine sanitation.

1194 (s) Section 327.395, relating to boater safety education.
 1195 However, a person cited for violating the requirements of s.
 1196 327.395 relating to failure to have required proof of boating
 1197 safety education in his or her possession may not be convicted
 1198 if, before or at the time of a county court hearing, the person
 1199 produces proof of the boating safety education identification
 1200 card or temporary certificate for verification by the hearing
 1201 officer or the court clerk and the identification card or
 1202 temporary certificate was valid at the time the person was
 1203 cited.

1204 (aa) Section 327.4107, relating to vessels at risk of
 1205 becoming derelict on waters of this state, for which the civil
 1206 penalty is:

1207 1. For a first offense, \$100 ~~\$50~~.

1208 2. For a second offense occurring 30 days or more after a
 1209 first offense, \$250 ~~\$100~~.

1210 3. For a third or subsequent offense occurring 30 days or
 1211 more after a previous offense, \$500 ~~\$250~~.

1212
 1213 A vessel that is the subject of three or more violations issued
 1214 pursuant to the same paragraph of s. 327.4107(2) within an 18-
 1215 month period which result in dispositions other than acquittal
 1216 or dismissal shall be declared to be a public nuisance and
 1217 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,
 1218 an officer of the commission, or a law enforcement agency or

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1219 officer specified in s. 327.70 may relocate, remove, or cause to
 1220 be relocated or removed such public nuisance vessels from waters
 1221 of this state. The commission, an officer of the commission, or
 1222 a law enforcement agency or officer acting pursuant to this
 1223 paragraph upon waters of this state shall be held harmless for
 1224 all damages to the vessel resulting from such relocation or
 1225 removal unless the damage results from gross negligence or
 1226 willful misconduct as these terms are defined in s. 823.11.

1227 (cc) Section 327.463(4) (a) and (b), relating to vessels
 1228 creating special hazards, for which the penalty is:

1229 1. For a first offense, \$50.

1230 2. For a second offense occurring within 12 months after a
 1231 prior offense, \$100.

1232 3. For a third offense occurring within 36 months after a
 1233 prior offense, \$250.

1234 (dd) Section 327.371, relating to the regulation of human-
 1235 powered vessels.

1236
 1237 Any person cited for a violation of any provision of this
 1238 subsection shall be deemed to be charged with a noncriminal
 1239 infraction, shall be cited for such an infraction, and shall be
 1240 cited to appear before the county court. The civil penalty for
 1241 any such infraction is \$50, except as otherwise provided in this
 1242 section. Any person who fails to appear or otherwise properly
 1243 respond to a uniform boating citation shall, in addition to the
 1244 charge relating to the violation of the boating laws of this
 1245 state, be charged with the offense of failing to respond to such
 1246 citation and, upon conviction, be guilty of a misdemeanor of the
 1247 second degree, punishable as provided in s. 775.082 or s.

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1248 775.083. A written warning to this effect shall be provided at
 1249 the time such uniform boating citation is issued.

1250 Section 22. Subsection (4) of section 328.09, Florida
 1251 Statutes, is amended to read:

1252 328.09 Refusal to issue and authority to cancel a
 1253 certificate of title or registration.-

1254 (4) The department may not issue a certificate of title to
 1255 an ~~any~~ applicant for a ~~any~~ vessel that has been deemed derelict
 1256 by a law enforcement officer under s. 376.15 or s. 823.11. A law
 1257 enforcement officer must inform the department in writing, which
 1258 may be provided by facsimile, electronic mail, or other
 1259 electronic means, of the vessel's derelict status and supply the
 1260 department with the vessel title number or vessel identification
 1261 number. The department may issue a certificate of title once a
 1262 law enforcement officer has verified in writing, which may be
 1263 provided by facsimile, electronic mail, or other electronic
 1264 means, that the vessel is no longer a derelict vessel.

1265 Section 23. Effective July 1, 2023, paragraph (e) of
 1266 subsection (3) of section 328.09, Florida Statutes, as amended
 1267 by section 12 of chapter 2019-76, Laws of Florida, is amended to
 1268 read:

1269 328.09 Refusal to issue and authority to cancel a
 1270 certificate of title or registration.-

1271 (3) Except as otherwise provided in subsection (4), the
 1272 department may reject an application for a certificate of title
 1273 only if:

1274 (e) The application is for a vessel that has been deemed
 1275 derelict by a law enforcement officer under s. 376.15 or s.
 1276 823.11. In such case, a law enforcement officer must inform the

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1277 department in writing, which may be provided by facsimile, e-
 1278 mail, or other electronic means, of the vessel's derelict status
 1279 and supply the department with the vessel title number or vessel
 1280 identification number. The department may issue a certificate of
 1281 title once a law enforcement officer has verified in writing,
 1282 which may be provided by facsimile, e-mail, or other electronic
 1283 means, that the vessel is no longer a derelict vessel.

1284 Section 24. Section 376.15, Florida Statutes, is amended to
 1285 read:

1286 376.15 Derelict vessels; relocation or removal from ~~public~~
 1287 waters of this state.-

1288 (1) As used in this section, the term:

1289 (a) "Commission" means the Fish and Wildlife Conservation
 1290 Commission.

1291 (b) "Gross negligence" means conduct so reckless or wanting
 1292 in care that it constitutes a conscious disregard or
 1293 indifference to the safety of the property exposed to such
 1294 conduct.

1295 (c) "Willful misconduct" means conduct evidencing
 1296 carelessness or negligence of such a degree or recurrence as to
 1297 manifest culpability, wrongful intent, or evil design or to show
 1298 an intentional and substantial disregard of the interests of the
 1299 vessel owner.

1300 (2) (a) It is unlawful for any person, firm, or corporation
 1301 to ~~store, leave, or abandon~~ any derelict vessel as defined in s.
 1302 823.11 upon the waters of ~~in~~ this state. For purposes of this
 1303 paragraph, the term "leave" means to allow a vessel to remain
 1304 occupied or unoccupied on the waters of this state for more than
 1305 24 hours.

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1306 (b) Notwithstanding paragraph (a), a person who owns or
 1307 operates a vessel that becomes derelict upon the waters of this
 1308 state solely as a result of a boating accident that is reported
 1309 to law enforcement in accordance with s. 327.301 or otherwise
 1310 reported to law enforcement; a hurricane; or another sudden
 1311 event outside of his or her control may not be charged with a
 1312 violation if:

1313 1. The individual documents for law enforcement the
 1314 specific event that led to the vessel being derelict upon the
 1315 waters of this state; and

1316 2. The vessel has been removed from the waters of this
 1317 state or has been repaired or addressed such that it is no
 1318 longer derelict upon the waters of this state:

1319 a. For a vessel that has become derelict as a result of a
 1320 boating accident or other sudden event outside of his or her
 1321 control, within 7 days after such accident or event; or

1322 b. Within 45 days after the hurricane has passed over this
 1323 state.

1324 (c) This subsection does not apply to a vessel that was
 1325 derelict upon the waters of this state before the stated
 1326 accident or event.

1327 (3) (a) The commission, an officer ~~officers~~ of the
 1328 commission, or a ~~and any~~ law enforcement agency or officer
 1329 specified in s. 327.70 ~~may be authorized and empowered to~~
 1330 relocate, remove, store, destroy, or dispose of or cause to be
 1331 relocated, ~~or~~ removed, stored, destroyed, or disposed of a ~~any~~
 1332 derelict vessel as defined in s. 823.11 from ~~public~~ waters of
 1333 this state as defined in s. 327.02. All costs, including costs
 1334 owed to a third party, incurred by the commission or other law

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1335 enforcement agency in the relocation, ~~or~~ removal, storage,
 1336 destruction, or disposal of any abandoned or derelict vessel are
 1337 recoverable against the owner of the vessel or the party
 1338 determined to be legally responsible for the vessel being upon
 1339 the waters of this state in a derelict condition. The Department
 1340 of Legal Affairs shall represent the commission in actions to
 1341 recover such costs.

1342 (b) The commission, an officer ~~officers~~ of the commission,
 1343 or a and any other law enforcement agency or officer specified
 1344 in s. 327.70 acting pursuant to ~~under~~ this section to relocate,
 1345 remove, store, destroy, or dispose of or cause to be relocated,
 1346 ~~or~~ removed, stored, destroyed, or disposed of a derelict vessel
 1347 from public waters of this state as defined in s. 327.02 shall
 1348 be held harmless for all damages to the derelict vessel
 1349 resulting from such action ~~relocation or removal~~ unless the
 1350 damage results from gross negligence or willful misconduct as
 1351 these terms are defined in s. 823.11.

1352 (c) A contractor performing relocation or removal
 1353 activities at the direction of the commission, an officer
 1354 ~~officers~~ of the commission, ~~or~~ a law enforcement agency or
 1355 officer, or a governmental subdivision, when the governmental
 1356 subdivision has received authorization for the relocation or
 1357 removal from a law enforcement officer or agency pursuant to
 1358 this section, must be licensed in accordance with applicable
 1359 United States Coast Guard regulations where required; obtain and
 1360 carry in full force and effect a policy from a licensed
 1361 insurance carrier in this state to insure against any accident,
 1362 loss, injury, property damage, or other casualty caused by or
 1363 resulting from the contractor's actions; and be properly

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1364 equipped to perform the services to be provided.

1365 (d) The commission may establish a program to provide
 1366 grants to local governments for the removal, storage,
 1367 destruction, and disposal of derelict vessels from the ~~public~~
 1368 waters of ~~this the~~ state as defined in s. 327.02. The program
 1369 shall be funded from the Marine Resources Conservation Trust
 1370 Fund or the Florida Coastal Protection Trust Fund.
 1371 Notwithstanding ~~the provisions in~~ s. 216.181(11), funds
 1372 available for grants may only be authorized by appropriations
 1373 acts of the Legislature. In a given fiscal year, if all funds
 1374 appropriated pursuant to this paragraph are not requested by and
 1375 granted to local governments for the removal, storage,
 1376 destruction, and disposal of derelict vessels by the end of the
 1377 third quarter, the Fish and Wildlife Conservation Commission may
 1378 use the remainder of the funds to remove, store, destroy, and
 1379 dispose of, or to pay private contractors to remove, store,
 1380 destroy, and dispose of, derelict vessels.

1381 (e) The commission shall adopt by rule procedures for
 1382 submitting a grant application and criteria for allocating
 1383 available funds. Such criteria shall include, but not be limited
 1384 to, the following:

1385 1. The number of derelict vessels within the jurisdiction
 1386 of the applicant.

1387 2. The threat posed by such vessels to public health or
 1388 safety, the environment, navigation, or the aesthetic condition
 1389 of the general vicinity.

1390 3. The degree of commitment of the local government to
 1391 maintain waters free of abandoned and derelict vessels and to
 1392 seek legal action against those who abandon vessels in the

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1393 waters of ~~this the~~ state as defined in s. 327.02.
 1394 (f) This section constitutes the authority for such removal
 1395 but is not intended to be in contravention of any applicable
 1396 federal act.
 1397 Section 25. Subsections (2) and (4) of section 705.103,
 1398 Florida Statutes, are amended to read:
 1399 705.103 Procedure for abandoned or lost property.—
 1400 (2)(a)1. Whenever a law enforcement officer ascertains
 1401 that:
 1402 a. An article of lost or abandoned property other than a
 1403 derelict vessel or a vessel declared a public nuisance pursuant
 1404 to s. 327.73(1)(aa) is present on public property and is of such
 1405 nature that it cannot be easily removed, the officer shall cause
 1406 a notice to be placed upon such article in substantially the
 1407 following form:
 1408
 1409 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1410 PROPERTY. This property, to wit: ...(setting forth brief
 1411 description)... is unlawfully upon public property known as
 1412 ...(setting forth brief description of location)... and must be
 1413 removed within 5 days; otherwise, it will be removed and
 1414 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1415 will be liable for the costs of removal, storage, and
 1416 publication of notice. Dated this: ...(setting forth the date of
 1417 posting of notice)..., signed: ...(setting forth name, title,
 1418 address, and telephone number of law enforcement officer)...
 1419
 1420 b. A derelict vessel or a vessel declared a public nuisance
 1421 pursuant to s. 327.73(1)(aa) is present on the waters of this

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1422 state, the officer shall cause a notice to be placed upon such
 1423 vessel in substantially the following form:
 1424
 1425 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1426 VESSEL. This vessel, to wit: ...(setting forth brief
 1427 description)... has been determined to be (derelict or a public
 1428 nuisance) and is unlawfully upon waters of this state
 1429 ...(setting forth brief description of location)... and must be
 1430 removed within 21 days; otherwise, it will be removed and
 1431 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1432 and other interested parties have the right to a hearing to
 1433 challenge the determination that this vessel is derelict or
 1434 otherwise in violation of the law. Please contact ...(contact
 1435 information for person who can arrange for a hearing in
 1436 accordance with this section).... The owner or the party
 1437 determined to be legally responsible for the vessel being upon
 1438 the waters of this state in a derelict condition will be liable
 1439 for the costs of removal, destruction, and disposal if this
 1440 vessel is not removed by the owner. Dated this: ...(setting
 1441 forth the date of posting of notice)..., signed: ...(setting
 1442 forth name, title, address, and telephone number of law
 1443 enforcement officer)....
 1444 2. The notices required under subparagraph 1. may ~~Such~~
 1445 ~~notice shall be~~ not be less than 8 inches by 10 inches and shall
 1446 be sufficiently weatherproof to withstand normal exposure to the
 1447 elements. In addition to posting, the law enforcement officer
 1448 shall make a reasonable effort to ascertain the name and address
 1449 of the owner. If such is reasonably available to the officer,
 1450 she or he shall mail a copy of such notice to the owner on or

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1451 before the date of posting. If the property is a motor vehicle
 1452 as defined in s. 320.01(1) or a vessel as defined in s. 327.02,
 1453 the law enforcement agency shall contact the Department of
 1454 Highway Safety and Motor Vehicles in order to determine the name
 1455 and address of the owner and any person who has filed a lien on
 1456 the vehicle or vessel as provided in s. 319.27(2) or (3) or s.
 1457 328.15(1). On receipt of this information, the law enforcement
 1458 agency shall mail a copy of the notice by certified mail, return
 1459 receipt requested, to the owner and to the lienholder, if any,
 1460 except that a law enforcement officer who has issued a citation
 1461 for a violation of s. 376.15 or s. 823.11 to the owner of a
 1462 derelict vessel is not required to mail a copy of the notice by
 1463 certified mail, return receipt requested, to the owner. For a
 1464 derelict vessel or a vessel declared a public nuisance pursuant
 1465 to s. 327.73(1)(aa), the mailed notice must inform the owner or
 1466 responsible party that he or she has a right to a hearing to
 1467 dispute the determination that the vessel is derelict or
 1468 otherwise in violation of the law. If a request for a hearing is
 1469 made, a state agency shall follow the processes set forth in s.
 1470 120.569. Local governmental entities shall follow the processes
 1471 set forth in s. 120.569, except that a local judge, magistrate,
 1472 or code enforcement officer may be designated to conduct such a
 1473 hearing. If, at the end of 5 days after posting the notice in
 1474 sub-subparagraph 1.a., or at the end of 21 days after posting
 1475 the notice in sub-subparagraph 1.b., and mailing such notice, if
 1476 required, the owner or any person interested in the lost or
 1477 abandoned article or articles described has not removed the
 1478 article or articles from public property or shown reasonable
 1479 cause for failure to do so, and, in the case of a derelict

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1480 vessel or a vessel declared a public nuisance pursuant to s.
 1481 327.73(1)(aa), has not requested a hearing in accordance with
 1482 this section, the following shall apply:
 1483 a. ~~(a)~~ For abandoned property other than a derelict vessel
 1484 or a vessel declared a public nuisance pursuant to s.
 1485 327.73(1)(aa), the law enforcement agency may retain any or all
 1486 of the property for its own use or for use by the state or unit
 1487 of local government, trade such property to another unit of
 1488 local government or state agency, donate the property to a
 1489 charitable organization, sell the property, or notify the
 1490 appropriate refuse removal service.
 1491 b. For a derelict vessel or a vessel declared a public
 1492 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
 1493 agency or its designee may:
 1494 (I) Remove the vessel from the waters of this state and
 1495 destroy and dispose of the vessel or authorize another
 1496 governmental entity or its designee to do so; or
 1497 (II) Authorize the vessel's use as an artificial reef in
 1498 accordance with s. 379.249 if all necessary federal, state, and
 1499 local authorizations are received.
 1500 A law enforcement agency or its designee may also take action as
 1501 described in this sub-subparagraph if, following a hearing
 1502 pursuant to this section, the judge, magistrate, administrative
 1503 law judge, or hearing officer has determined the vessel to be
 1504 derelict as provided in s. 823.11 or otherwise in violation of
 1505 the law in accordance with s. 327.73(1)(aa) and a final order
 1506 has been entered or the case is otherwise closed.
 1507 (b) For lost property, the officer shall take custody and
 1508

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1509 the agency shall retain custody of the property for 90 days. The
 1510 agency shall publish notice of the intended disposition of the
 1511 property, as provided in this section, during the first 45 days
 1512 of this time period.

1513 1. If the agency elects to retain the property for use by
 1514 the unit of government, donate the property to a charitable
 1515 organization, surrender such property to the finder, sell the
 1516 property, or trade the property to another unit of local
 1517 government or state agency, notice of such election shall be
 1518 given by an advertisement published once a week for 2
 1519 consecutive weeks in a newspaper of general circulation in the
 1520 county where the property was found if the value of the property
 1521 is more than \$100. If the value of the property is \$100 or less,
 1522 notice shall be given by posting a description of the property
 1523 at the law enforcement agency where the property was turned in.
 1524 The notice must be posted for not less than 2 consecutive weeks
 1525 in a public place designated by the law enforcement agency. The
 1526 notice must describe the property in a manner reasonably
 1527 adequate to permit the rightful owner of the property to claim
 1528 it.

1529 2. If the agency elects to sell the property, it must do so
 1530 at public sale by competitive bidding. Notice of the time and
 1531 place of the sale shall be given by an advertisement of the sale
 1532 published once a week for 2 consecutive weeks in a newspaper of
 1533 general circulation in the county where the sale is to be held.
 1534 The notice shall include a statement that the sale shall be
 1535 subject to any and all liens. The sale must be held at the
 1536 nearest suitable place to that where the lost or abandoned
 1537 property is held or stored. The advertisement must include a

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1538 description of the goods and the time and place of the sale. The
 1539 sale may take place no earlier than 10 days after the final
 1540 publication. If there is no newspaper of general circulation in
 1541 the county where the sale is to be held, the advertisement shall
 1542 be posted at the door of the courthouse and at three other
 1543 public places in the county at least 10 days prior to sale.
 1544 Notice of the agency's intended disposition shall describe the
 1545 property in a manner reasonably adequate to permit the rightful
 1546 owner of the property to identify it.

1547 (4) The owner of any abandoned or lost property, or in the
 1548 case of a derelict vessel, the owner or other party determined
 1549 to be legally responsible for the vessel being upon the waters
 1550 of this state in a derelict condition, who, after notice as
 1551 provided in this section, does not remove such property within
 1552 the specified period shall be liable to the law enforcement
 1553 agency, other governmental entity, or the agency's or entity's
 1554 designee for all costs of removal, storage, and destruction of
 1555 such property, less any salvage value obtained by disposal of
 1556 the property. Upon final disposition of the property, the law
 1557 enforcement officer or representative of the law enforcement
 1558 agency or other governmental entity shall notify the owner, if
 1559 known, of the amount owed. In the case of an abandoned vessel or
 1560 motor vehicle, any person who neglects or refuses to pay such
 1561 amount is not entitled to be issued a certificate of
 1562 registration for such vessel or motor vehicle, or any other
 1563 vessel or motor vehicle, until such costs have been paid. A
 1564 person who has neglected or refused to pay all costs of removal,
 1565 storage, disposal, and destruction of a vessel or motor vehicle
 1566 as provided in this section, after having been provided written

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1567 notice via certified mail that such costs are owed, and who
 1568 applies for and is issued a registration for a vessel or motor
 1569 vehicle before such costs have been paid in full commits a
 1570 misdemeanor of the first degree, punishable as provided in s.
 1571 775.082 or s. 775.083. The law enforcement officer or
 1572 representative of the law enforcement agency or other
 1573 governmental entity shall supply the Department of Highway
 1574 Safety and Motor Vehicles with a list of persons whose vessel
 1575 registration privileges and ~~or whose~~ motor vehicle privileges
 1576 have been revoked under this subsection. ~~Neither~~ The department
 1577 or a ~~nor any other~~ person acting as an agent of the department
 1578 may not thereof shall issue a certificate of registration to a
 1579 person whose vessel and ~~or~~ motor vehicle registration privileges
 1580 have been revoked, as provided by this subsection, until such
 1581 costs have been paid.

1582 Section 26. Effective July 1, 2023, subsection (2) of
 1583 section 705.103, Florida Statutes, as amended by section 29 of
 1584 chapter 2019-76, Laws of Florida, is amended to read:

1585 705.103 Procedure for abandoned or lost property.—

1586 (2) (a)1. Whenever a law enforcement officer ascertains
 1587 that:

1588 a. An article of lost or abandoned property other than a
 1589 derelict vessel or a vessel declared a public nuisance pursuant
 1590 to s. 327.73(1)(aa) is present on public property and is of such
 1591 nature that it cannot be easily removed, the officer shall cause
 1592 a notice to be placed upon such article in substantially the
 1593 following form:

1594 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1595

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1596 PROPERTY. This property, to wit: ...(setting forth brief
 1597 description)... is unlawfully upon public property known as
 1598 ...(setting forth brief description of location)... and must be
 1599 removed within 5 days; otherwise, it will be removed and
 1600 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1601 will be liable for the costs of removal, storage, and
 1602 publication of notice. Dated this: ...(setting forth the date of
 1603 posting of notice)..., signed: ...(setting forth name, title,
 1604 address, and telephone number of law enforcement officer)...

1605
 1606 b. A derelict vessel or a vessel declared a public nuisance
 1607 pursuant to s. 327.73(1)(aa) is present on the waters of this
 1608 state, the officer shall cause a notice to be placed upon such
 1609 vessel in substantially the following form:

1610
 1611 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1612 VESSEL. This vessel, to wit: ...(setting forth brief description
 1613 of location)... has been determined to be (derelict or a public
 1614 nuisance) and is unlawfully upon the waters of this state
 1615 ...(setting forth brief description of location)... and must be
 1616 removed within 21 days; otherwise, it will be removed and
 1617 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1618 and other interested parties have the right to a hearing to
 1619 challenge the determination that this vessel is derelict or
 1620 otherwise in violation of the law. Please contact ...(contact
 1621 information for person who can arrange for a hearing in
 1622 accordance with this section)... The owner or the party
 1623 determined to be legally responsible for the vessel being upon
 1624 the waters of this state in a derelict condition will be liable

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1625 for the costs of removal, destruction, and disposal if this
 1626 vessel is not removed by the owner. Dated this: ... (setting
 1627 forth the date of posting of notice)..., signed: ... (setting
 1628 forth name, title, address, and telephone number of law
 1629 enforcement officer)....

1631 2. The notices required under subparagraph 1. may ~~Such~~
 1632 ~~notice shall be~~ not ~~be~~ less than 8 inches by 10 inches and shall
 1633 be sufficiently weatherproof to withstand normal exposure to the
 1634 elements. In addition to posting, the law enforcement officer
 1635 shall make a reasonable effort to ascertain the name and address
 1636 of the owner. If such is reasonably available to the officer,
 1637 she or he shall mail a copy of such notice to the owner on or
 1638 before the date of posting. If the property is a motor vehicle
 1639 as defined in s. 320.01(1) or a vessel as defined in s. 327.02,
 1640 the law enforcement agency shall contact the Department of
 1641 Highway Safety and Motor Vehicles in order to determine the name
 1642 and address of the owner and any person who has filed a lien on
 1643 the vehicle or vessel as provided in s. 319.27(2) or (3) or s.
 1644 328.15. On receipt of this information, the law enforcement
 1645 agency shall mail a copy of the notice by certified mail, return
 1646 receipt requested, to the owner and to the lienholder, if any,
 1647 except that a law enforcement officer who has issued a citation
 1648 for a violation of s. 376.15 or s. 823.11 to the owner of a
 1649 derelict vessel is not required to mail a copy of the notice by
 1650 certified mail, return receipt requested, to the owner. For a
 1651 derelict vessel or a vessel declared a public nuisance pursuant
 1652 to s. 327.73(1)(aa), the mailed notice must inform the owner or
 1653 responsible party that he or she has a right to a hearing to

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1654 dispute the determination that the vessel is derelict or
 1655 otherwise in violation of the law. If a request for a hearing is
 1656 made, a state agency shall follow the processes as set forth in
 1657 s. 120.569. Local governmental entities shall follow the
 1658 processes set forth in s. 120.569, except that a local judge,
 1659 magistrate, or code enforcement officer may be designated to
 1660 conduct such hearings. If, at the end of 5 days after posting
 1661 the notice in sub-subparagraph 1.a., or at the end of 21 days
 1662 after posting the notice in sub-subparagraph 1.b., and mailing
 1663 such notice, if required, the owner or any person interested in
 1664 the lost or abandoned article or articles described has not
 1665 removed the article or articles from public property or shown
 1666 reasonable cause for failure to do so, and, in the case of a
 1667 derelict vessel or a vessel declared a public nuisance pursuant
 1668 to s. 327.73(1)(aa), has not requested a hearing in accordance
 1669 with this section, the following shall apply:

1670 a. ~~(a)~~ For abandoned property other than a derelict vessel
 1671 or a vessel declared a public nuisance pursuant to s.
 1672 327.73(1)(aa), the law enforcement agency may retain any or all
 1673 of the property for its own use or for use by the state or unit
 1674 of local government, trade such property to another unit of
 1675 local government or state agency, donate the property to a
 1676 charitable organization, sell the property, or notify the
 1677 appropriate refuse removal service.

1678 b. For a derelict vessel or a vessel declared a public
 1679 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
 1680 agency or its designee may:

1681 (I) Remove the vessel from the waters of this state and
 1682 destroy and dispose of the vessel or authorize another

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1683 governmental entity or its designee to do so; or
 1684 (II) Authorize the vessel's use as an artificial reef in
 1685 accordance with s. 379.249 if all necessary federal, state, and
 1686 local authorizations are received.

1687 A law enforcement agency or its designee may also take action as
 1688 described in this sub-subparagraph if, following a hearing
 1689 pursuant to this section, the judge, magistrate, administrative
 1690 law judge, or hearing officer has determined the vessel to be
 1691 derelect as provided in s. 823.11 or otherwise in violation of
 1692 the law in accordance with s. 327.73(1) (aa) and a final order
 1693 has been entered or the case is otherwise closed.

1695 (b) For lost property, the officer shall take custody and
 1696 the agency shall retain custody of the property for 90 days. The
 1697 agency shall publish notice of the intended disposition of the
 1698 property, as provided in this section, during the first 45 days
 1699 of this time period.

1700 1. If the agency elects to retain the property for use by
 1701 the unit of government, donate the property to a charitable
 1702 organization, surrender such property to the finder, sell the
 1703 property, or trade the property to another unit of local
 1704 government or state agency, notice of such election shall be
 1705 given by an advertisement published once a week for 2
 1706 consecutive weeks in a newspaper of general circulation in the
 1707 county where the property was found if the value of the property
 1708 is more than \$100. If the value of the property is \$100 or less,
 1709 notice shall be given by posting a description of the property
 1710 at the law enforcement agency where the property was turned in.
 1711 The notice must be posted for not less than 2 consecutive weeks

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1712 in a public place designated by the law enforcement agency. The
 1713 notice must describe the property in a manner reasonably
 1714 adequate to permit the rightful owner of the property to claim
 1715 it.

1716 2. If the agency elects to sell the property, it must do so
 1717 at public sale by competitive bidding. Notice of the time and
 1718 place of the sale shall be given by an advertisement of the sale
 1719 published once a week for 2 consecutive weeks in a newspaper of
 1720 general circulation in the county where the sale is to be held.
 1721 The notice shall include a statement that the sale shall be
 1722 subject to any and all liens. The sale must be held at the
 1723 nearest suitable place to that where the lost or abandoned
 1724 property is held or stored. The advertisement must include a
 1725 description of the goods and the time and place of the sale. The
 1726 sale may take place no earlier than 10 days after the final
 1727 publication. If there is no newspaper of general circulation in
 1728 the county where the sale is to be held, the advertisement shall
 1729 be posted at the door of the courthouse and at three other
 1730 public places in the county at least 10 days prior to sale.
 1731 Notice of the agency's intended disposition shall describe the
 1732 property in a manner reasonably adequate to permit the rightful
 1733 owner of the property to identify it.

1734 Section 27. Subsections (1), (2), and (3) of section
 1735 823.11, Florida Statutes, are amended to read:

1736 823.11 Derelect vessels; relocation or removal; penalty.—

1737 (1) As used in this section and s. 376.15, the term:

1738 (a) "Commission" means the Fish and Wildlife Conservation
 1739 Commission.

1740 (b) "Derelect vessel" means a vessel, as defined in s.

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1741 327.02, that is ~~left, stored, or abandoned~~:

1742 1. In a wrecked, junked, or substantially dismantled
1743 condition upon any ~~public~~ waters of this state.

1744 a. A vessel is wrecked if it is sunken or sinking; aground
1745 without the ability to extricate itself absent mechanical
1746 assistance; or remaining after a marine casualty, including, but
1747 not limited to, a boating accident, extreme weather, or a fire.

1748 b. A vessel is junked if it has been substantially stripped
1749 of vessel components, if vessel components have substantially
1750 degraded or been destroyed, or if the vessel has been discarded
1751 by the owner or operator. Attaching an outboard motor to a
1752 vessel that is otherwise junked will not cause the vessel to no
1753 longer be junked if such motor is not an effective means of
1754 propulsion as required by s. 327.4107(2)(e) and associated
1755 rules.

1756 c. A vessel is substantially dismantled if at least two of
1757 the three following vessel systems or components are missing,
1758 compromised, incomplete, inoperable, or broken:

- 1759 (I) The steering system;
1760 (II) The propulsion system; or
1761 (III) The exterior hull integrity.

1762 Attaching an outboard motor to a vessel that is otherwise
1763 substantially dismantled will not cause the vessel to no longer
1764 be substantially dismantled if such motor is not an effective
1765 means of propulsion as required by s. 327.4107(2)(e) and
1766 associated rules.

1767 2. At a port in this state without the consent of the
1768 agency having jurisdiction thereof.
1769

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1770 3. Docked, grounded, or beached upon the property of
1771 another without the consent of the owner of the property.

1772 (c) "Gross negligence" means conduct so reckless or wanting
1773 in care that it constitutes a conscious disregard or
1774 indifference to the safety of the property exposed to such
1775 conduct.

1776 (d) "Willful misconduct" means conduct evidencing
1777 carelessness or negligence of such a degree or recurrence as to
1778 manifest culpability, wrongful intent, or evil design or to show
1779 an intentional and substantial disregard of the interests of the
1780 vessel owner.

1781 (2) ~~(a) It is unlawful for~~ A person, firm, or corporation
1782 ~~may not to store, leave, or abandon~~ any derelict vessel upon
1783 waters of ~~in~~ this state. For purposes of this paragraph, the
1784 term "leave" means to allow a vessel to remain occupied or
1785 unoccupied on the waters of this state for more than 24 hours.

1786 (b) Notwithstanding paragraph (a), a person who owns or
1787 operates a vessel that becomes derelict upon the waters of this
1788 state solely as a result of a boating accident that is reported
1789 to law enforcement in accordance with s. 327.301 or otherwise
1790 reported to law enforcement; a hurricane; or another sudden
1791 event outside of his or her control may not be charged with a
1792 violation if:

1793 1. The individual documents for law enforcement the
1794 specific event that led to the vessel being derelict upon the
1795 waters of this state; and

1796 2. The vessel has been removed from the waters of this
1797 state or has been repaired or addressed such that it is no
1798 longer derelict upon the waters of this state:

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1799 a. For a vessel that has become derelict as a result of a
 1800 boating accident or other sudden event outside of his or her
 1801 control, within 7 days after such accident or event; or
 1802 b. Within 45 days after the hurricane has passed over the
 1803 state.
 1804 (c) This subsection does not apply to a vessel that was
 1805 derelict upon the waters of this state before the stated
 1806 accident or event.
 1807 (3) The commission, an officer ~~officers~~ of the commission,
 1808 or a and any law enforcement agency or officer specified in s.
 1809 327.70 may are ~~authorized and empowered to~~ relocate, remove,
 1810 store, destroy, or dispose of or cause to be relocated, ~~or~~
 1811 removed, stored, destroyed, or disposed of a derelict vessel
 1812 from public waters of this state as defined in s. 327.02 if the
 1813 derelict vessel obstructs or threatens to obstruct navigation or
 1814 in any way constitutes a danger to the environment, property, or
 1815 persons. The commission, an officer ~~officers~~ of the commission,
 1816 or any other law enforcement agency or officer acting pursuant
 1817 to under this subsection to relocate, remove, store, destroy,
 1818 dispose of or cause to be relocated, ~~or~~ removed, stored,
 1819 destroyed, or disposed of a derelict vessel from public waters
 1820 of this state shall be held harmless for all damages to the
 1821 derelict vessel resulting from such action ~~relocation or removal~~
 1822 unless the damage results from gross negligence or willful
 1823 misconduct.
 1824 (a) Removal of derelict vessels under this subsection may
 1825 be funded by grants provided in ss. 206.606 and 376.15. The
 1826 commission shall implement a plan for the procurement of any
 1827 available federal disaster funds and use such funds for the

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1828 removal of derelict vessels.
 1829 (b) All costs, including costs owed to a third party,
 1830 incurred by the commission, another ~~or other~~ law enforcement
 1831 agency, or a governmental subdivision, when the governmental
 1832 subdivision has received authorization from a law enforcement
 1833 officer or agency, in the relocation, ~~or~~ removal, storage,
 1834 destruction, or disposal of a derelict vessel are recoverable
 1835 against the vessel owner or the party determined to be legally
 1836 responsible for the vessel being upon the waters of this state
 1837 in a derelict condition. The Department of Legal Affairs shall
 1838 represent the commission in actions to recover such costs. As
 1839 provided in s. 705.103(4), a person who neglects or refuses to
 1840 pay such costs may not be issued a certificate of registration
 1841 for such vessel or for any other vessel or motor vehicle until
 1842 such costs have been paid. A person who has neglected or refused
 1843 to pay all costs of removal, storage, destruction, or disposal
 1844 of a derelict vessel as provided in this section, after having
 1845 been provided written notice via certified mail that such costs
 1846 are owed, and who applies for and is issued a registration for a
 1847 vessel or motor vehicle before such costs have been paid in full
 1848 commits a misdemeanor of the first degree, punishable as
 1849 provided in s. 775.082 or s. 775.083.
 1850 (c) A contractor performing such ~~relocation or removal~~
 1851 activities at the direction of the commission, an officer
 1852 ~~officers~~ of the commission, ~~or~~ a law enforcement agency or
 1853 officer, or a governmental subdivision, when the governmental
 1854 subdivision has received authorization for the relocation or
 1855 removal from a law enforcement officer or agency, pursuant to
 1856 this section must be licensed in accordance with applicable

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1857 United States Coast Guard regulations where required; obtain and
1858 carry in full force and effect a policy from a licensed
1859 insurance carrier in this state to insure against any accident,
1860 loss, injury, property damage, or other casualty caused by or
1861 resulting from the contractor's actions; and be properly
1862 equipped to perform the services to be provided.

1863 Section 28. Except as otherwise expressly provided in this
1864 act, this act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: March 18, 2021

I respectfully request that **Senate Bill #1086**, relating to Operation and Safety of Motor Vehicles and Vessels, be placed on the:

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

A handwritten signature in cursive script that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 12, 2021

I respectfully request that **Senate Bill #1086**, relating to Operation and Safety of Motor Vehicles and Vessels, be placed on the:

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

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

1086

Bill Number (if applicable)

Topic Operation and Safety of Motor Vehicles and Vessels

Amendment Barcode (if applicable)

Name Jessica Crawford

Job Title Legislative Affairs Director

Address 620 S. Meridian Street

Phone 850-487-3795

Street

Tallahassee

FL

32399

Email Jessica.Crawford@myfwc.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Fish and Wildlife Conservation Commission

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 Appropriations

BILL: PCS/SB 1126 (300690)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee Transportation, Tourism, and Economic Development); and Senator Harrell

SUBJECT: Department of Transportation

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Favorable
2.	McAuliffe	Hrdlicka	ATD	Recommend: Fav/CS
3.	McAuliffe	Sadberry	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1126 represents the Florida Department of Transportation's (FDOT) legislative proposals for the 2021 Legislative Session. The bill contains a number of FDOT-related revisions to current law including:

- Increases from \$275 to \$300 million the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds issued to finance or refinance the cost of acquiring real property for state roads or the cost of bridge construction.
- Removes the expiration date for the Legislative Budget Commission (LBC) chair and vice chair's authority to approve amendments to the FDOT's work program that transfer fixed capital outlay appropriations between categories or increase an appropriation category.
- Clarifies that the Department of Revenue is the entity responsible for transferring a portion of documentary stamp tax revenues distributed to the State Treasury and credited to the State Transportation Trust Fund (STTF) from the State Treasury to the General Revenue Fund.
- Revises from October 1 to August 1 the date for metropolitan planning organization (MPO) annual submissions of project priorities to the FDOT districts for purposes of developing the FDOT's tentative work program and MPO transportation improvement programs.
- Removes provisions requiring the FDOT to provide space and video conference capability at each FDOT district office for persons requesting a hearing before the Commercial Motor Vehicle Review Board, instead requiring the FDOT to allow such persons to appear remotely

before the board via communications media technology already authorized by Administration Commission rule.

- Grants the FDOT rulemaking authority for the purpose of implementing statutory provisions relating to airport zoning.
- Revises provisions relating to a notice and hearing the FDOT is required to provide when a transportation project on the State Highway System modifies an existing access to an abutting property owner to provide clarity and improve readability.
- Removes obsolete references to a previously expired general service revenue service charge from specified collected revenue deposited into the STTF.

The extent of any potential fiscal impact to the FDOT resulting from the increased alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Trust Fund bonds is unknown. The remaining revisions are primarily administrative and housekeeping in nature and are expected to present no immediate fiscal impact to state or local revenues.

The bill takes effect July 1, 2021.

II. Present Situation:

For ease of organization and readability, the present situation is discussed below in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

Debt Service Cap on Right-of-Way Acquisition and Bridge Construction Bonds (Section 2)

Present Situation

Section 215.605, F.S., authorizes the issuance of state bonds to finance or refinance the cost of acquiring real property for state roads or to finance or refinance the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, the Legislature must authorize bonds, which must be issued pursuant to the State Bond Act.¹ The proceeds from the sale of issued bonds must be deposited into the Right-of-Way Acquisition and Bridge Construction Trust Fund.²

Section 206.46, F.S., authorizes the FDOT to transfer up to 7 percent of the revenues deposited into the STTF in each fiscal year into the Right-of-Way Acquisition and Bridge Construction Trust Fund to meet outstanding or proposed bond obligations; or, at a minimum, an amount sufficient to pay for the debt service coverage of outstanding bonds.³ The annual transfer amount, however, may not exceed that which is necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million. Thus, debt service may not exceed 7 percent of the revenues deposited into the STTF or \$275 million, whichever is less.

¹ Sections 215.57-215.83, F.S.

² Section 215.605(4), F.S.

³ The transfer is required to be payable primarily from the motor and diesel fuel taxes transferred to the STTF.

The FDOT noted in 2020 that no adjustment has been made to the \$275 million cap since 2007. The FDOT provided information that based on the FDOT's most recent bond sale and Revenue Estimating Conference projections [at that time], the limit on debt service based on the 7-percent-of-revenue threshold would have been \$287 million in Fiscal Year 2019-2020 (based on revenues of \$4.1 billion), growing to \$350 million in Fiscal Year 2028-2029 (based on revenues of \$5 billion). Additionally, the FDOT advised that under the current statutory limit, the \$275 million cap leaves the FDOT with only about \$100 million of available bonding capacity.⁴

Effect of Proposed Changes

Section 2 of the bill amends s. 206.46, F.S., to increase the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds. Thus, under the bill, debt service could not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less.

Work Program Amendments (Section 10)

Present Situation

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.⁵ However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the LBC.

Prior to 2016, if a meeting of the LBC could not be held within 30 days after the FDOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.⁶ In 2016, the Legislature repealed the authorization for LBC chair and vice chair approval if the LBC could not meet.⁷ In 2019, this authorization was reinstated with an expiration date of July 1, 2020.⁸ In 2020, the authorization was reinstated with an expiration date of July 1, 2021.⁹

Effect of Proposed Changes

Section 10 of the bill amends s. 339.135(7)(g), F.S., to remove the expiration of authorization for LBC chair and vice chair approval of the identified amendments to the FDOT's adopted work program, thereby making the provision permanent.

Documentary Stamp Tax/General Revenue Fund Transfer (Section 1)

Present Situation

Chapter 201, F.S., levies an excise tax (documentary stamp tax) on documents such as deeds, stocks and bonds, notes and written obligations to pay money, mortgages, liens, and other evidences of indebtedness. The Florida Department of Revenue (DOR) administers the

⁴ See the FDOT's 2020 Legislative Proposal, *Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap* (on file in the Senate Transportation Committee).

⁵ Section 339.135(7), F.S.

⁶ Section 339.135(7)(g), F.S. (2015).

⁷ Chapter 2016-181, s. 16, Laws of Fla.

⁸ Chapter 2019-116, s. 11, Laws of Fla.

⁹ Chapter 2020-144, s. 93, Laws of Fla.

provisions of that chapter,¹⁰ including provisions governing the collection of documentary stamp taxes, which are distributed each fiscal year to the General Revenue Fund and various other trust funds.

After certain required distributions to the Land Acquisition Trust Fund,¹¹ approximately 24 percent of the remainder of the taxes collected or \$541.75 million, whichever is less, is paid into the State Treasury to the credit of the STTF, \$75 million of which must be transferred to the General Revenue Fund. The remaining amount credited to the STTF must be used to fund certain transportation-related programs.¹² Although current law specifies the DOR as the administering agency of that chapter, the DOR is not expressly identified as the entity responsible for making the \$75 million transfer each fiscal year.

Effect of Proposed Changes

Section 1 of the bill amends s. 201.15(4)(a), F.S., to expressly require the DOR to make the \$75 million transfer each fiscal year from funds credited to the STTF in the State Treasury to the General Revenue Fund.

Metropolitan Planning Organizations Project Priority Submissions to the FDOT (Sections 10 and 11)

Present Situation

The FDOT's adopted work program is the 5-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the 5-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the 5-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs.¹³ Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

With respect to development of the tentative work program, as outlined in s. 339.135(4), F.S., the district work program is developed cooperatively with the various metropolitan planning organizations (MPOs) around the state and must include, to the maximum extent feasible, the project priorities submitted by the MPOs to the FDOT's districts by October 1 of each year. The FDOT and an MPO may agree in writing to vary the submission date.¹⁴

The FDOT advises that during a "normal" work program development cycle, submission of MPO project priorities by October 1 allows sufficient time for development of the tentative work program cycle. However, because the Legislature meets beginning in January in even-numbered

¹⁰ Section 201.11, F.S.

¹¹ Section 201.15(1) and (2), F.S.

¹² Section 201.15(4)(a), F.S. The programs include the New Starts Transit Program, the Small County Outreach Program, the Strategic Intermodal System, and the Transportation Regional Incentive Program.

¹³ Section 339.135(1), F.S.

¹⁴ Section 339.135(4)(c)2., F.S.

years,¹⁵ the tentative work program cycle is “compressed” by two months, creating a need for earlier submission of project information. The FDOT notes that no failure to submit a priority list has occurred, but earlier submission has been provided as a courtesy, rather than a mandate.¹⁶

The MPOs are also required, in cooperation with the state and affected public transportation operators, to develop a transportation improvement program for the area within the jurisdiction of the MPO. Similar to work program development, each MPO is required to submit to the appropriate FDOT district a list of project priorities by October 1 of each year. Again, the FDOT and an MPO may agree in writing to vary the submission date. The MPO-approved lists must be used by the FDOT districts in developing the district work programs.¹⁷

Effect of Proposed Changes

Sections 10 and 11 of the bill, respectively, amend ss. 339.135(4)(c) and 339.175(8)(b), F.S., to revise from October 1 to August 1 the deadline for MPOs to submit their project priority lists for purposes of developing the FDOT’s tentative work program and for purposes of development of MPO transportation improvement programs.

Commercial Motor Vehicle Review Board/Remote Appearance (Section 6)

Present Situation

The Commercial Motor Vehicle Review Board (the Board), established within the FDOT, is composed of three permanent members (the FDOT secretary as chair, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their designees); three members appointed by the Governor (one each from the road construction industry and the trucking industry, and one with a general business or legal background); and one member appointed by the Commissioner of Agriculture from the agriculture industry.¹⁸

The Board is authorized to review any penalty imposed upon any vehicle or person under the provisions of ch. 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations, and the Board may modify, cancel, revoke, or sustain any such penalty.¹⁹ The Board is authorized to hold sessions and conduct proceedings at any place. According to the FDOT’s website, the Board meets physically in Tallahassee.²⁰

Any person against whom a penalty is imposed may apply to the Board for a modification, cancellation, or revocation of the penalty. A written explanation provided within a letter protesting a penalty is acceptable in lieu of physical attendance by a person requesting a hearing before the Board, but attendance “will provide the petitioner the opportunity to respond to

¹⁵ FLA. CONST. art. III, s. 3(b).

¹⁶ See the FDOT’s 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities* (on file in the Senate Transportation Committee).

¹⁷ Section 339.175(8), F.S.

¹⁸ Section 316.545(7)(a) and (b), F.S. See the FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*, for more details on the Board, as well as its 2021 meeting schedule, available at <https://www.fdot.gov/traffic/reviewboard.shtm> (retrieved March 12, 2021).

¹⁹ Section 316.545(4)(c), F.S.

²⁰ Section 316.545(7), F.S.

Review Board inquiries into subjects that the petitioner may have overlooked when drafting his letter of protest.”²¹ Appearance by telephone is not available, but pursuant to the provisions of s. 316.545(7)(f), F.S., the FDOT is required to provide space and video conference capability at each of its seven district offices to enable a person requesting a hearing to appear remotely before the board, provided the requester notifies the Board at least 14 calendar days before the hearing date.²²

By rule of the Administration Commission, agencies are currently authorized to conduct proceedings using communications media technology; *i.e.*, the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.²³

The current requirement for providing space and video conference capability at each of the seven FDOT district offices does not take advantage of the various forms of communications media technology authorized for use in conducting agency proceedings.

Effect of Proposed Changes

Section 6 of the bill amends s. 316.545(7), F.S., to remove the requirement that remote appearance before the Board by a person requesting a hearing must take place at one of the FDOT district offices by means of video conference capability and replace it with authorization for use of communications media technology by any means.

When using communications media technology the FDOT would be required to provide a notice to the requester specifying the address or addresses of all access points, specifically designating those which are in locations normally open to the public; the address of each access point where an interested person may go to attend the proceedings; an address, email address, and telephone number where an interested person may write or call for additional information; and an address, email address, and designated person to whom a person may submit written or other physical evidence which he or she intends to offer into evidence during the proceedings.²⁴

This revision would allow the FDOT to more efficiently conduct proceedings before the Board and reduce the burden on a person requesting a hearing to travel to one of the FDOT district offices to be heard. The FDOT advises any person requesting to appear before the Board at one of the FDOT district offices will continue to be accommodated.²⁵

²¹ FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*.

²² *Id.*

²³ Fla. Admin. Code R. 28-109.

²⁴ *Id.*

²⁵ Telephone conversation between Senate Transportation Committee staff and FDOT staff, February 1, 2021.

Airport Zoning/FDOT Rulemaking (Section 8)

Present Situation

The Legislature in 2016 enacted a substantial re-write of ch. 333, F.S., which contains airport zoning provisions relating to the management of airspace and land use at or near airports.²⁶ Generally, the 2016 re-write:

- Updated statutory definitions and terms in accordance with federal regulations.
- Streamlined the local airport protection zoning process to a simpler permitting model.
- Provided local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repealed duplicative requirements for obtaining a variance.

The FDOT has a long-standing rule that pre-dates the 2016 substantial re-write: Florida Administrative Code Rule Chapter 14-60, “*Airport Licensing, Registration, and Airspace Protection*,” the purpose of which is “to promote safe civil aviation by eliminating hazards; to provide airfield standards for airports; to provide standards for airport marking and lighting; to license and register airports, pursuant to the licensing and registration requirements of Chapter 330, F.S., and to promote flight safety by providing for airspace protection, pursuant to the requirements of Chapter 333, F.S.”²⁷ The provisions of the rule appear to be critical to promotion of safe civil aviation. However, in the midst of the 2016 re-write, authority for the long-standing rule was apparently inadvertently overlooked.

Effect of Proposed Changes

Section 8 of the bill creates s. 333.14, F.S., to provide the FDOT with express authority to adopt rules to implement the provisions of ch. 333, F.S., thereby providing specific authorization for Florida Administrative Code Rule Chapter 14-60.

Transportation Projects/Modifying Access/Abutting Property Owners (Section 9)

Present Situation

Under current law, when the FDOT proposes a project on the State Highway System that will divide a state highway, erect median barriers modifying currently available vehicle turning movements, or have the effect of closing or modifying an existing access to an abutting property owner, the FDOT is required to notify all affected property owners, municipalities, and counties at least 180 days before the design of the project is finalized. The notice must include a written explanation regarding the need for the project and an indication that all affected parties will be given an opportunity to provide comments to the FDOT regarding potential impacts of the change. The FDOT must hold at least one public hearing in the jurisdiction where the project is located to receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community. The FDOT must review all comments from the public hearing and take the comments and any alternatives

²⁶ Chapter 2016-239, Laws of Fla.

²⁷ Fla. Admin. Code R. 14-60.003(1) (2004).

presented by a local government during the hearing into consideration in the final design of the highway project.²⁸

Effect of Proposed Changes

Section 9 of the bill amends s. 335.199, F.S., to make editorial revisions and improve readability. The bill clarifies that the FDOT must provide the required notice at least 180 days before the design phase of the project is completed, rather than finalized. The bill also revises all occurrences of the word “hearing” to “meeting,” to remove any sort of legal connotation, as the required events are not in the nature of any sort of judicial proceeding but are more closely akin to informational “meetings.”

The bill clarifies that the FDOT must hold at least one public meeting *prior to completing* the design phase of the project, so that the FDOT reviews all comments from the public meeting and takes the comments and any alternatives presented by a local government during the meeting into consideration in the *final* design of the project.

Obsolete References to the General Revenue Service Charge (Sections 3, 4, 5, and 7)

Present Situation

Section 215.20(1), F.S., appropriates from revenue deposited into most state trust funds²⁹ an 8 percent service charge, which represents the estimated pro rata share of the cost of general government. All such appropriations are deposited into the General Revenue Fund.

Section 215.211(1), F.S., however, eliminated the service charge beginning July 1, 2000, for taxes distributed under:

- Section 206.606(1), F.S., relating to the distribution of motor and diesel fuel taxes;
- Section 212.0501(6), F.S., relating to taxes on diesel fuel used in self-propelled off-road equipment for business purposes; and
- Section 319.32(5), F.S., relating to the disposition of fees from certificate of title transactions.

Additionally, s. 215.211(2), F.S., eliminated the service charge beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.

Although the service charge on the specified taxes has been eliminated, references to the service charge remain in statute for the described taxes or fees.

Effect of Proposed Changes

Sections 3, 4, 5, and 7, respectively, remove the obsolete references to the general revenue service charge that remain in ss. 206.606(1), 206.608, 212.0501(6), and 319.32(5), F.S.

²⁸ Section 335.199, F.S.

²⁹ Section 215.22, F.S., sets out a list of items and trust funds that are exempt from the service charge, including trust funds administered by the Department of Transportation.

Effective Date (Section 12)

The bill is effective 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 identified.

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

None.

B. Private Sector Impact:

Individuals requesting a hearing before the Commercial Motor Vehicle Review Board who are authorized to appear remotely via communications media technology may experience reduced expenses associated with travel to an FDOT district office to appear.

C. Government Sector Impact:

Currently, the amount transferred by the FDOT into the Right-of-Way Acquisition and Bridge Construction Trust Fund may not exceed 7 percent of the revenues deposited into the STTF, or \$275 million, whichever is less. The bill provides that the amount transferred may not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less. This revision may provide the FDOT with additional bonding capacity. However, the resulting impact of any additional bonding capacity is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 201.15, 206.46, 206.606, 206.608, 212.0501, 316.545, 319.32, 335.199, 339.135, and 339.175.

This bill creates section 333.15 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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 24, 2021:

The committee substitute clarifies that when FDOT submits a work program amendment to the Legislative Budget Commission, but the commission does not consider the amendment within 30 days after submittal, the chair and vice chair of the commission may approve the amendment.

- B. **Amendments:**

None.



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Comm: WD	.	
04/14/2021	.	
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The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Between lines 224 and 225
insert:

Section 6. Paragraph (b) of subsection (1) of section 316.126, Florida Statutes, is amended, and subsection (6) of that section is reenacted, to read:

316.126 Operation of vehicles and actions of pedestrians on approach of an authorized emergency, sanitation, or utility service vehicle.—



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11 (1)

12 (b) If an authorized emergency vehicle displaying any
13 visual signals is parked on the roadside, a sanitation vehicle
14 is performing a task related to the provision of sanitation
15 services on the roadside, a utility service vehicle is
16 performing a task related to the provision of utility services
17 on the roadside, ~~or~~ a wrecker displaying amber rotating or
18 flashing lights is performing a recovery or loading on the
19 roadside, or a road and bridge maintenance or construction
20 vehicle displaying warning lights is on the roadside without
21 advance signs and channelizing devices, the driver of every
22 other vehicle, as soon as it is safe:

23 1. Shall vacate the lane closest to the emergency vehicle,
24 sanitation vehicle, utility service vehicle, ~~or~~ wrecker, or road
25 and bridge maintenance or construction vehicle when driving on
26 an interstate highway or other highway with two or more lanes
27 traveling in the direction of the emergency vehicle, sanitation
28 vehicle, utility service vehicle, ~~or~~ wrecker, or road and bridge
29 maintenance or construction vehicle except when otherwise
30 directed by a law enforcement officer. If such movement cannot
31 be safely accomplished, the driver shall reduce speed as
32 provided in subparagraph 2.

33 2. Shall slow to a speed that is 20 miles per hour less
34 than the posted speed limit when the posted speed limit is 25
35 miles per hour or greater; or travel at 5 miles per hour when
36 the posted speed limit is 20 miles per hour or less, when
37 driving on a two-lane road, except when otherwise directed by a
38 law enforcement officer.

39 (6) A violation of this section is a noncriminal traffic



40 infraction, punishable pursuant to chapter 318 as either a
41 moving violation for infractions of subsection (1) or subsection
42 (3), or as a pedestrian violation for infractions of subsection
43 (2).

44 Section 7. For the purpose of incorporating the amendment
45 made by this act to section 316.126, Florida Statutes, in a
46 reference thereto, paragraph (d) of subsection (2) of section
47 318.18, Florida Statutes, is reenacted to read:

48 318.18 Amount of penalties.—The penalties required for a
49 noncriminal disposition pursuant to s. 318.14 or a criminal
50 offense listed in s. 318.17 are as follows:

51 (2) Thirty dollars for all nonmoving traffic violations
52 and:

53 (d) For all violations of s. 316.126(1)(b), unless
54 otherwise specified.

55
56 ===== T I T L E A M E N D M E N T =====

57 And the title is amended as follows:

58 Delete line 15

59 and insert:

60 moneys; amending s. 316.126, F.S.; requiring drivers
61 to change lanes when approaching a road and bridge
62 maintenance or construction vehicle displaying warning
63 lights on the roadside without advance signs and
64 channelizing devices; reenacting s. 318.18(2)(d),
65 F.S., relating to the amount of certain penalties, to
66 incorporate the amendment made to s. 316.126, F.S., in
67 a reference thereto; amending s. 316.545, F.S.;

68 deleting a



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Between lines 401 and 402
insert:

Section 12. Present subsections (38) through (105) of section 316.003, Florida Statutes, are redesignated as subsections (39) through (106), respectively, a new subsection (38) is added to that section, and present subsection (62) of that section is amended, to read:

316.003 Definitions.—The following words and phrases, when



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11 used in this chapter, shall have the meanings respectively
12 ascribed to them in this section, except where the context
13 otherwise requires:

14 (38) LOW-SPEED AUTONOMOUS DELIVERY VEHICLE.—A fully
15 autonomous vehicle that meets the definition of a low-speed
16 vehicle in 49 C.F.R. s. 571.3.

17 (63)~~(62)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
18 provided in paragraph (85) (b) ~~(84) (b)~~, any privately owned way
19 or place used for vehicular travel by the owner and those having
20 express or implied permission from the owner, but not by other
21 persons.

22 Section 13. Section 316.2122, Florida Statutes, is amended
23 to read:

24 316.2122 Operation of a low-speed vehicle, ~~or~~ or low-speed autonomous delivery vehicle on certain roadways.—
25

26 (1) The operation of a low-speed vehicle as defined in s.
27 320.01 or a mini truck as defined in s. 320.01 on any road is
28 authorized with the following restrictions:

29 (a)~~(1)~~ A low-speed vehicle or mini truck may be operated
30 only on streets where the posted speed limit is 35 miles per
31 hour or less. This does not prohibit a low-speed vehicle or mini
32 truck from crossing a road or street at an intersection where
33 the road or street has a posted speed limit of more than 35
34 miles per hour.

35 (b)~~(2)~~ A low-speed vehicle must be equipped with headlamps,
36 stop lamps, turn signal lamps, taillamps, reflex reflectors,
37 parking brakes, rearview mirrors, windshields, seat belts, and
38 vehicle identification numbers.

39 (c)~~(3)~~ A low-speed vehicle or mini truck must be registered



40 and insured in accordance with s. 320.02 and titled pursuant to
41 chapter 319.

42 (d) ~~(4)~~ Any person operating a low-speed vehicle or mini
43 truck must have in his or her possession a valid driver license.

44 (2) The operation of a low-speed autonomous delivery
45 vehicle on any road is authorized with the following
46 restrictions:

47 (a) A low-speed autonomous delivery vehicle may operate
48 only on streets or roads where the posted speed limit is 35
49 miles per hour or less. This paragraph does not prohibit a low-
50 speed autonomous delivery vehicle from crossing a road or street
51 at an intersection where the road or street has a posted speed
52 limit of more than 35 miles per hour.

53 (b) A low-speed autonomous delivery vehicle may operate on
54 a street or road with a posted speed limit of more than 35 miles
55 per hour, but no more than 45 miles per hour, if:

56 1. The low-speed autonomous delivery vehicle travels no
57 more than 1 continuous mile on such a street or road, except
58 that the vehicle may travel in excess of 1 continuous mile if
59 authorized by the entity with jurisdiction over the street or
60 road;

61 2. The low-speed autonomous delivery vehicle operates
62 exclusively in the right lane, other than for the purpose of
63 completing a turn; and

64 3. On a two-lane street or road where overtaking and
65 passing another vehicle is unsafe because of traffic moving in
66 the opposite direction or because of other unsafe conditions,
67 and five or more vehicles are formed in a line behind the
68 autonomous delivery vehicle, the low-speed autonomous delivery



69 vehicle exits the roadway wherever a sufficient area for a safe
70 turn-out exists, to permit the vehicles following to proceed.

71 (c) A low-speed autonomous delivery vehicle must be
72 equipped with headlamps, stop lamps, turn signal lamps,
73 taillamps, reflex reflectors, and vehicle identification
74 numbers.

75 (d) Federal regulations adopted by the National Highway
76 Traffic Safety Administration shall supersede this subsection
77 when found to be in conflict with this subsection.

78 (e) A low-speed autonomous delivery vehicle must be covered
79 by a policy of automobile insurance which provides the coverage
80 required by s. 627.749(2)(a)1., 2., and 3. The coverage
81 requirements of this paragraph may be satisfied by automobile
82 insurance maintained by the owner of a low-speed autonomous
83 delivery vehicle, the owner of the teleoperation system, the
84 remote human operator, or a combination thereof.

85 ~~(3)-(5)~~ A county or municipality may prohibit the operation
86 of low-speed vehicles or mini trucks on any road under its
87 jurisdiction if the governing body of the county or municipality
88 determines that such prohibition is necessary in the interest of
89 safety.

90 ~~(4)-(6)~~ The Department of Transportation may prohibit the
91 operation of low-speed vehicles or mini trucks on any road under
92 its jurisdiction if it determines that such prohibition is
93 necessary in the interest of safety.

94 Section 14. Present subsection (6) of section 316.215,
95 Florida Statutes, is redesignated as subsection (7), a new
96 subsection (6) is added to that section, and present subsection
97 (6) is republished, to read:



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98 316.215 Scope and effect of regulations.-

99 (6) The provisions of any motor vehicle equipment laws or
100 regulations of this state which relate to or support motor
101 vehicle operation by a human driver but are not relevant for an
102 automated driving system shall not apply to fully autonomous
103 vehicles that are designed to be operated exclusively by the
104 automated driving system for all trips.

105 (7)~~(6)~~ A violation of this section is a noncriminal traffic
106 infraction, punishable as a nonmoving violation as provided in
107 chapter 318.

108 Section 15. Paragraph (a) of subsection (3) of section
109 316.306, Florida Statutes, is amended to read:

110 316.306 School and work zones; prohibition on the use of a
111 wireless communications device in a handheld manner.-

112 (3) (a) 1. A person may not operate a motor vehicle while
113 using a wireless communications device in a handheld manner in a
114 designated school crossing, school zone, or work zone area as
115 defined in s. 316.003 ~~s. 316.003(105)~~. This subparagraph shall
116 only be applicable to work zone areas if construction personnel
117 are present or are operating equipment on the road or
118 immediately adjacent to the work zone area. For the purposes of
119 this paragraph, a motor vehicle that is stationary is not being
120 operated and is not subject to the prohibition in this
121 paragraph.

122 2.a. During the period from October 1, 2019, through
123 December 31, 2019, a law enforcement officer may stop motor
124 vehicles to issue verbal or written warnings to persons who are
125 in violation of subparagraph 1. for the purposes of informing
126 and educating such persons of this section. This sub-



127 subparagraph shall stand repealed on October 1, 2020.

128 b. Effective January 1, 2020, a law enforcement officer may
129 stop motor vehicles and issue citations to persons who are
130 driving while using a wireless communications device in a
131 handheld manner in violation of subparagraph 1.

132 Section 16. Subsection (1) of section 655.960, Florida
133 Statutes, is amended to read:

134 655.960 Definitions; ss. 655.960-655.965.—As used in this
135 section and ss. 655.961-655.965, unless the context otherwise
136 requires:

137 (1) "Access area" means any paved walkway or sidewalk which
138 is within 50 feet of any automated teller machine. The term does
139 not include any street or highway open to the use of the public,
140 as defined in s. 316.003(85) (a) or (b) ~~s. 316.003(84) (a) or (b)~~,
141 including any adjacent sidewalk, as defined in s. 316.003.

142
143 ===== T I T L E A M E N D M E N T =====

144 And the title is amended as follows:

145 Delete line 54

146 and insert:

147 programs; amending s. 316.003, F.S.; defining the term
148 "low-speed autonomous delivery vehicle"; amending s.
149 316.2122, F.S.; authorizing the operation of a low-
150 speed autonomous delivery vehicle on certain streets
151 and roads; providing construction; authorizing the
152 operation of a low-speed autonomous delivery vehicle
153 on streets or roads with a posted speed limit of up to
154 45 miles per hour under specified conditions;
155 providing requirements for low-speed autonomous



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156 delivery vehicles; amending s. 316.215, F.S.;

157 providing that certain fully autonomous vehicles are

158 not subject to certain provisions of law or

159 regulations; amending ss. 316.306 and 655.960, F.S.;

160 conforming cross-references; providing an effective

161 date.



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

Senate Amendment (with title amendment)

Delete line 402

and insert:

Section 12. Present subsections (24) through (105) of section 316.003, Florida Statutes, are redesignated as subsections (25) through (106), respectively, a new subsection (24) is added to that section, and subsection (2) and present subsections (56) and (62) of that section are amended, to read:

316.003 Definitions.—The following words and phrases, when



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11 used in this chapter, shall have the meanings respectively
12 ascribed to them in this section, except where the context
13 otherwise requires:

14 (2) AUTOCYCLE.—A three-wheeled motorcycle that has two
15 wheels in the front and one wheel in the back; is equipped with
16 a roll cage or roll hoops, a seat belt for each occupant,
17 antilock brakes that meet the requirements of Federal Motor
18 Vehicle Safety Standard No. 122, a steering mechanism ~~wheel~~, and
19 seating that does not require the operator to straddle or sit
20 astride it; and is manufactured in accordance with the
21 applicable federal motorcycle safety standards in 49 C.F.R. part
22 571 by a manufacturer registered with the National Highway
23 Traffic Safety Administration.

24 (24) ELECTRIC VERTICAL TAKEOFF AND LANDING AIRCRAFT.—A type
25 of aircraft that uses electric power to hover, take off, and
26 land vertically.

27 (57) ~~(56)~~ PERSONAL DELIVERY DEVICE.—An electrically powered
28 device that:

29 (a) Is operated on sidewalks and crosswalks and intended
30 primarily for transporting property;

31 (b) Has a weight that does not exceed the maximum weight
32 established by Department of Transportation rule ~~weighs less~~
33 ~~than 80 pounds, excluding cargo;~~

34 (c) Has a maximum speed of 10 miles per hour or, if the
35 Department of Transportation establishes by rule a maximum
36 speed, has a speed that does not exceed that maximum; and

37 (d) Is equipped with technology to allow for operation of
38 the device with or without the active control or monitoring of a
39 natural person.



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40
41 A personal delivery device is not considered a vehicle unless
42 expressly defined by law as a vehicle. A mobile carrier is not
43 considered a personal delivery device. The Department of
44 Transportation may adopt rules to implement this subsection.

45 (63) ~~(62)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
46 provided in paragraph (85) (b) ~~(84) (b)~~, any privately owned way
47 or place used for vehicular travel by the owner and those having
48 express or implied permission from the owner, but not by other
49 persons.

50 Section 13. Paragraph (c) of subsection (4) of section
51 334.046, Florida Statutes, is amended to read:

52 334.046 Department mission, goals, and objectives.—

53 (4) At a minimum, the department's goals shall address the
54 following prevailing principles.

55 (c) *Mobility*.—Ensuring a cost-effective, statewide,
56 interconnected transportation system. Improvement of travel
57 choices to ensure mobility includes planning and establishment
58 of infrastructure for innovative technologies, including
59 electric vehicle charging infrastructure.

60 Section 14. Effective upon SB 140 or other similar
61 legislation being enacted in the 2021 Regular Session or an
62 extension thereof and becoming a law, section 339.0802, Florida
63 Statutes, is created to read:

64 339.0802 Allocation of increased license tax revenues from
65 licensure of electric and hybrid vehicles.—Funds that result
66 from increased revenues to the State Transportation Trust Fund
67 derived under s. 320.08001(2) and (3) must be used as set forth
68 in this section, notwithstanding any other provision of law.



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69 Beginning in the 2023-2024 fiscal year, all increased revenues
70 must be used to fund the Electric Vehicle Infrastructure Grant
71 Program created by s. 339.286. This section expires on December
72 31, 2030.

73 Section 15. Section 339.286, Florida Statutes, is created
74 to read:

75 339.286 Electric Vehicle Infrastructure Grant Program.—

76 (1) The department shall establish the Electric Vehicle
77 Infrastructure Grant Program. The purpose of the program is to
78 provide financial assistance to encourage the installation of
79 electric vehicle charging infrastructure.

80 (2) State agencies, public universities, public transit
81 agencies, ports, airports, and local governments, including
82 local housing authorities and libraries, may apply to the
83 department for grants for the purpose of installing publicly
84 available electric vehicle charging infrastructure on public or
85 private property.

86 (3) A grant may be awarded for:

87 (a) Technical assistance for the development and adoption
88 of:

89 1. A local or regional plan that establishes an electric
90 vehicle charging infrastructure;

91 2. Any action plans necessary to address any infrastructure
92 gaps; and

93 3. Steps necessary to complete the infrastructure plan.

94
95 A plan must address actions to deploy the necessary
96 infrastructure in high-density housing areas and low-income to
97 moderate-income areas.



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98 (b) Assistance with the purchase of related equipment and
99 the costs of installation of that equipment to provide electric
100 vehicle charging. Such equipment must be capable of collecting
101 and reporting data, use standard connectors, and be available to
102 the public.

103 (4) (a) An applicant may apply for a grant for both
104 technical assistance and equipment purchase and installation. A
105 grant for technical assistance requires a minimum match of funds
106 from the applicant of 30 percent of the grant award, but such
107 match is not required for an applicant that is located in a
108 fiscally constrained county as described in s. 218.67(1). A
109 grant for equipment purchase and installation requires a minimum
110 match of funds from the applicant in the amount of 60 percent of
111 the total project cost for alternating-current, Level 2 charging
112 infrastructure; 20 percent of the total project cost for direct-
113 current, fast-charging infrastructure; or 20 percent of the
114 total project cost for high-powered charging infrastructure for
115 electric aircraft, including, but not limited to, electric
116 vertical takeoff and landing aircraft, and semi-trucks. The
117 matching funds must be from nonstate resources, but may include
118 private funds provided through a partnership with a private
119 entity or in-kind contributions such as the donation of
120 equipment, services, or land or use of land for establishment of
121 the electric vehicle charging infrastructure. Grant funds may
122 not subsidize the cost for the use of electricity. Twenty
123 percent of the funds available under the grant program must be
124 reserved for applicants or projects in fiscally constrained
125 counties as described in s. 218.67(1). An applicant may partner
126 with a private sector entity to install charging infrastructure



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127 on private property in the same county or local jurisdiction as
128 the applicant.

129 (b) The department shall develop and publish criteria for
130 prioritizing the grant applications and shall maintain a
131 prioritized list of approved grant applications. The prioritized
132 list must include recommended funding levels for each
133 application and, if staged implementation is appropriate, must
134 provide funding requirements for each stage. Grants must be
135 prioritized based on the extent to which the activities of the
136 grant will encourage growth in the use of electric vehicles and
137 increase the availability of charging locations along evacuation
138 routes. A grant for equipment purchase and installation that
139 will immediately and most effectively serve those who currently
140 own or operate electric vehicles may receive priority.

141 (5) The department shall continually review emerging
142 research, policies, and standards related to electric vehicle
143 infrastructure and innovations in the use of electric vehicles.
144 Using such information, the department shall publish best
145 practices for the establishment of electric vehicle charging
146 infrastructure, model infrastructure plan development and
147 components, and other significant information for the
148 implementation and use of electric vehicle charging
149 infrastructure. The department may develop a model plan that
150 state agencies, public universities, public transit agencies,
151 ports, airports, and local governments may use as a guide to
152 establish an electric vehicle charging infrastructure plan.

153 (6) The department shall adopt rules to administer this
154 section.

155 Section 16. Subsection (2) of section 339.287, Florida



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156 Statutes, is amended to read:

157 339.287 Electric vehicle charging stations; infrastructure
158 plan development.—

159 (2) (a) The department shall coordinate, develop, and
160 recommend a master plan and a supplemental master plan for
161 current and future plans for the development of electric vehicle
162 charging station infrastructure along the State Highway System,
163 as defined in s. 334.03(24). The plans must include
164 recommendations for legislation and may include other
165 recommendations as determined by the department.

166 1. The department shall ~~develop the recommended master plan~~
167 ~~and~~ submit the recommended master plan ~~it~~ to the Governor, the
168 President of the Senate, and the Speaker of the House of
169 Representatives by July 1, 2021. ~~The plan must include~~
170 ~~recommendations for legislation and may include other~~
171 ~~recommendations as determined by the department.~~

172 2. The department shall submit the recommended supplemental
173 master plan to the Governor, the President of the Senate, and
174 the Speaker of the House of Representatives by July 1, 2023. The
175 supplemental master plan must address innovations in electric
176 vehicle charging station infrastructure occurring since the
177 submission of the recommended master plan and the development of
178 high-powered charging infrastructure for electric aircraft. The
179 supplemental master plan also must make recommendations related
180 to charging station infrastructure along the State Highway
181 System and at airports, seaports, and other ports in light of
182 these innovations.

183 (b) The department, in consultation with the Public Service
184 Commission and the Office of Energy within the Department of



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185 Agriculture and Consumer Services, and any other public or
186 private entities as necessary or appropriate, shall be primarily
187 responsible for the following goals and objectives in developing
188 the plans ~~plan~~:

189 1. Identifying the types or characteristics of possible
190 locations for electric vehicle charging station infrastructure
191 along the State Highway System to support a supply of electric
192 vehicle charging stations that will:

193 a. Accomplish the goals and objectives of this section;

194 b. Support both short-range and long-range electric vehicle
195 travel;

196 c. Encourage the expansion of electric vehicle use in this
197 state; and

198 d. Adequately serve evacuation routes in this state.

199 2. Identifying any barriers to the use of electric vehicles
200 and electric vehicle charging station infrastructure both for
201 short-range and long-range electric vehicle travel along the
202 State Highway System.

203 3. Identifying an implementation strategy for expanding
204 electric vehicle and charging station infrastructure use in this
205 state.

206 4. Quantifying the loss of revenue to the State
207 Transportation Trust Fund due to the current and projected
208 future use of electric vehicles in this state and summarizing
209 efforts of other states to address such revenue loss.

210 (c) The Public Service Commission, in consultation with the
211 department and the Office of Energy within the Department of
212 Agriculture and Consumer Services, and any other public or
213 private entities as necessary or appropriate, shall be primarily



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214 responsible for the following goals and objectives in developing
215 the plans ~~plan~~:

216 1. Projecting the increase in the use of electric vehicles
217 in this state over the next 20 years and determining how to
218 ensure an adequate supply of reliable electric vehicle charging
219 stations to support and encourage this growth in a manner
220 supporting a competitive market with ample consumer choice.

221 2. Evaluating and comparing the types of electric vehicle
222 charging stations available at present and which may become
223 available in the future, including the technology and
224 infrastructure incorporated in such stations, along with the
225 circumstances within which each type of station and
226 infrastructure is typically used, including fleet charging, for
227 the purpose of identifying any advantages to developing
228 particular types or uses of these stations.

229 3. Considering strategies to develop this supply of
230 charging stations, including, but not limited to, methods of
231 building partnerships with local governments, other state and
232 federal entities, electric utilities, the business community,
233 and the public in support of electric vehicle charging stations.

234 4. Identifying the type of regulatory structure necessary
235 for the delivery of electricity to electric vehicles and
236 charging station infrastructure, including competitive neutral
237 policies and the participation of public utilities in the
238 marketplace.

239 (d) The Public Service Commission, in consultation with the
240 Office of Energy within the Department of Agriculture and
241 Consumer Services, shall review emerging technologies in the
242 electric and alternative vehicle market, including alternative



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243 fuel sources.

244 (e) The department, the Public Service Commission, and the
245 Office of Energy within the Department of Agriculture and
246 Consumer Services may agree to explore other issues deemed
247 necessary or appropriate for purposes of the plans ~~report~~
248 required by ~~in~~ paragraph (a).

249 (f) By December 1, 2021 ~~December 1, 2020~~, the department
250 shall file a second status report with the Governor, the
251 President of the Senate, and the Speaker of the House of
252 Representatives containing any preliminary recommendations,
253 including recommendations for legislation.

254 Section 17. Section 366.94, Florida Statutes, is amended to
255 read:

256 366.94 Electric vehicle charging stations.—

257 (1) The provision of electric vehicle charging to the
258 public by a nonutility is not the retail sale of electricity for
259 the purposes of this chapter. The rates, terms, and conditions
260 of electric vehicle charging services by a nonutility are not
261 subject to regulation under this chapter. This section does not
262 affect the ability of individuals, businesses, or governmental
263 entities to acquire, install, or use an electric vehicle charger
264 for their own vehicles.

265 (2) The Department of Agriculture and Consumer Services
266 shall adopt rules to provide definitions, methods of sale,
267 labeling requirements, and price-posting requirements for
268 electric vehicle charging stations to allow for consistency for
269 consumers and the industry. Rules implemented under this
270 subsection may not require specific methods of sale for electric
271 vehicle charging equipment used in, and electrical vehicle



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272 charging services provided in, this state.

273 (3) (a) It is unlawful for a person to stop, stand, or park
274 a vehicle that is not capable of using an electrical recharging
275 station within any parking space specifically designated for
276 charging an electric vehicle.

277 (b) If a law enforcement officer or parking enforcement
278 specialist finds a motor vehicle in violation of this
279 subsection, the officer or specialist shall charge the operator
280 or other person in charge of the vehicle in violation with a
281 noncriminal traffic infraction, punishable as provided in s.
282 316.008(4) or s. 318.18.

283 Section 18. Paragraph (a) of subsection (3) of section
284 316.306, Florida Statutes, is amended to read:

285 316.306 School and work zones; prohibition on the use of a
286 wireless communications device in a handheld manner.—

287 (3) (a) 1. A person may not operate a motor vehicle while
288 using a wireless communications device in a handheld manner in a
289 designated school crossing, school zone, or work zone area as
290 defined in s. 316.003 ~~s. 316.003(105)~~. This subparagraph shall
291 only be applicable to work zone areas if construction personnel
292 are present or are operating equipment on the road or
293 immediately adjacent to the work zone area. For the purposes of
294 this paragraph, a motor vehicle that is stationary is not being
295 operated and is not subject to the prohibition in this
296 paragraph.

297 2.a. During the period from October 1, 2019, through
298 December 31, 2019, a law enforcement officer may stop motor
299 vehicles to issue verbal or written warnings to persons who are
300 in violation of subparagraph 1. for the purposes of informing



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301 and educating such persons of this section. This sub-
302 subparagraph shall stand repealed on October 1, 2020.

303 b. Effective January 1, 2020, a law enforcement officer may
304 stop motor vehicles and issue citations to persons who are
305 driving while using a wireless communications device in a
306 handheld manner in violation of subparagraph 1.

307 Section 19. Subsection (1) of section 655.960, Florida
308 Statutes, is amended to read:

309 655.960 Definitions; ss. 655.960-655.965.—As used in this
310 section and ss. 655.961-655.965, unless the context otherwise
311 requires:

312 (1) "Access area" means any paved walkway or sidewalk which
313 is within 50 feet of any automated teller machine. The term does
314 not include any street or highway open to the use of the public,
315 as defined in s. 316.003(85)(a) or (b) ~~s. 316.003(84)(a) or (b)~~,
316 including any adjacent sidewalk, as defined in s. 316.003.

317 Section 20. Except as otherwise expressly provided in this
318 act, this act shall take effect July 1, 2021.

319
320 ===== T I T L E A M E N D M E N T =====

321 And the title is amended as follows:

322 Delete line 54

323 and insert:

324 programs; amending s. 316.003, F.S.; defining the term
325 "electric vertical takeoff and landing aircraft";
326 revising definitions; authorizing the Department of
327 Transportation to adopt rules; amending s. 334.046,
328 F.S.; revising the principles relating to mobility
329 which the department's goals are required to address;



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330 creating s. 339.0802, F.S.; requiring that certain
331 funds be used for specified purposes relating to the
332 Electric Vehicle Infrastructure Grant Program
333 beginning in a specified year; providing for future
334 expiration; creating s. 339.286, F.S.; requiring the
335 department to establish the Electric Vehicle
336 Infrastructure Grant Program; providing the purpose of
337 the program; providing for the distribution of grants
338 to certain entities to install electric vehicle
339 charging infrastructure; providing grant requirements;
340 providing requirements for equipment installed using
341 grant funds; requiring the department to develop and
342 publish criteria for the prioritization of grant
343 applications and to maintain a prioritized list of
344 approved applications; requiring the department to
345 continually review emerging research, policies, and
346 standards; requiring the department to publish certain
347 information; authorizing the department to develop a
348 model plan for specified entities; requiring the
349 department to adopt rules; amending s. 339.287, F.S.;
350 requiring the department to coordinate, develop, and
351 recommend a supplemental master plan to address
352 innovations in electric vehicle charging station
353 infrastructure and the development of high-powered
354 charging infrastructure for electric aircraft;
355 requiring the department to submit the plan to the
356 Governor and the Legislature by a specified date;
357 conforming provisions to changes made by the act;
358 requiring the department to file a second status



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359 report with the Governor and the Legislature by a
360 specified date; amending s. 366.94, F.S.; prohibiting
361 certain rules adopted by the Department of Agriculture
362 and Consumer Services from requiring specific methods
363 of sale for electric vehicle charging equipment used
364 and services provided in this state; amending ss.
365 316.306 and 655.960, F.S.; conforming cross-
366 references; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete line 402

and insert:

Section 12. Subsection (4) of section 163.3168, Florida Statutes, is repealed.

Section 13. Paragraph (b) of subsection (1) of section 316.126, Florida Statutes, is amended, and subsection (6) of that section is reenacted, to read:

316.126 Operation of vehicles and actions of pedestrians on



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11 approach of an authorized emergency, sanitation, or utility
12 service vehicle.-

13 (1)

14 (b) If an authorized emergency vehicle displaying any
15 visual signals is parked on the roadside, a sanitation vehicle
16 is performing a task related to the provision of sanitation
17 services on the roadside, a utility service vehicle is
18 performing a task related to the provision of utility services
19 on the roadside, ~~or~~ a wrecker displaying amber rotating or
20 flashing lights is performing a recovery or loading on the
21 roadside, or a road and bridge maintenance or construction
22 vehicle displaying warning lights is on the roadside without
23 advance signs and channelizing devices, the driver of every
24 other vehicle, as soon as it is safe:

25 1. Shall vacate the lane closest to the emergency vehicle,
26 sanitation vehicle, utility service vehicle, ~~or~~ wrecker, or road
27 and bridge maintenance or construction vehicle when driving on
28 an interstate highway or other highway with two or more lanes
29 traveling in the direction of the emergency vehicle, sanitation
30 vehicle, utility service vehicle, ~~or~~ wrecker, or road and bridge
31 maintenance or construction vehicle except when otherwise
32 directed by a law enforcement officer. If such movement cannot
33 be safely accomplished, the driver shall reduce speed as
34 provided in subparagraph 2.

35 2. Shall slow to a speed that is 20 miles per hour less
36 than the posted speed limit when the posted speed limit is 25
37 miles per hour or greater; or travel at 5 miles per hour when
38 the posted speed limit is 20 miles per hour or less, when
39 driving on a two-lane road, except when otherwise directed by a



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40 law enforcement officer.

41 (6) A violation of this section is a noncriminal traffic
42 infraction, punishable pursuant to chapter 318 as either a
43 moving violation for infractions of subsection (1) or subsection
44 (3), or as a pedestrian violation for infractions of subsection
45 (2).

46 Section 14. Subsection (35) of section 334.044, Florida
47 Statutes, is amended to read:

48 334.044 Powers and duties of the department.—The department
49 shall have the following general powers and duties:

50 (35) To provide a road and bridge construction workforce
51 development program, in consultation with affected stakeholders,
52 for construction of projects designated in the department's work
53 program.

54 ~~(a) The workforce development program is intended to~~
55 ~~provide direct economic benefits to communities in which the~~
56 ~~department is constructing infrastructure projects and to~~
57 ~~promote employment opportunities, including within areas of low~~
58 ~~income and high unemployment.~~

59 ~~(b) The department shall merge any of its own existing~~
60 ~~workforce services into the program to create a robust workforce~~
61 ~~development program. The workforce development program must~~
62 ~~serve as a tool to address the construction labor shortage by~~
63 ~~recruiting and developing a group of skilled workers for~~
64 ~~infrastructure projects to increase the likelihood of department~~
65 ~~projects remaining on time and within budget.~~

66 ~~(c) To accomplish these activities, the department may~~
67 ~~administer workforce development contracts with consultants and~~
68 ~~nonprofit entities, such as local community partners, Florida~~



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69 ~~College System institutions, and technical institutions or~~
70 ~~centers. These entities, as specified in a contract with the~~
71 ~~department, shall have the primary purposes of providing all of~~
72 ~~the following:~~

73 ~~1. Workforce recruitment.~~

74 ~~2. A training curriculum for the department's road and~~
75 ~~bridge construction projects which includes both traditional and~~
76 ~~emerging construction methods and skills needed to construct~~
77 ~~multiuse infrastructure and facilities accommodating emerging~~
78 ~~technologies.~~

79 ~~3. Support services to remove barriers to work.~~

80 ~~(d) The department shall develop performance and outcome~~
81 ~~metrics to ensure accountability and to measure the benefits and~~
82 ~~cost-effectiveness of the program. By June 30, 2020, and~~
83 ~~annually thereafter, the department shall prepare and provide a~~
84 ~~report to the Governor, President of Senate, and Speaker of the~~
85 ~~House of Representatives detailing the results of its findings~~
86 ~~and containing any recommendations relating to future program~~
87 ~~refinements.~~

88 Section 15. Section 338.2278, Florida Statutes, is
89 repealed.

90 Section 16. Subsection (1) of section 338.236, Florida
91 Statutes, is amended to read:

92 338.236 Staging areas for emergencies.—The Department of
93 Transportation may plan, design, and construct staging areas to
94 be activated during a declared state of emergency at key
95 geographic locations on the turnpike system. Such staging areas
96 must be used for the staging of emergency supplies, such as
97 water, fuel, generators, vehicles, equipment, and other related



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98 materials, to facilitate the prompt provision of emergency
99 assistance to the public, and to otherwise facilitate emergency
100 response and assistance, including evacuations, deployment of
101 emergency-related supplies and personnel, and restoration of
102 essential services.

103 (1) In selecting a proposed site for a designated staging
104 area under this section, the department, in consultation with
105 the Division of Emergency Management, must consider the extent
106 to which such site:

107 (a) Is located in a geographic area that best facilitates
108 the wide dissemination of emergency-related supplies and
109 equipment;

110 (b) Provides ease of access to major highways and other
111 transportation facilities;

112 (c) Is sufficiently large to accommodate the staging of a
113 significant amount of emergency-related supplies and equipment;

114 (d) Provides space in support of emergency preparedness and
115 evacuation activities, such as fuel reserve capacity;

116 (e) Could be used during nonemergency periods for
117 commercial motor vehicle parking and for other uses; and

118 (f) Is consistent with other state and local emergency
119 management considerations.

120

121 ~~The department must give priority consideration to placement of~~
122 ~~such staging areas in counties with a population of 200,000 or~~
123 ~~fewer, as determined by the most recent official estimate~~
124 ~~pursuant to s. 186.901, in which a multiuse corridor of regional~~
125 ~~economic significance, as provided in s. 338.2278, is located.~~

126 Section 17. Subsection (2) of section 339.0801, Florida



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127 Statutes, is amended to read:

128 339.0801 Allocation of increased revenues derived from
129 amendments to s. 319.32(5) (a) by ch. 2012-128.—Funds that result
130 from increased revenues to the State Transportation Trust Fund
131 derived from the amendments to s. 319.32(5) (a) made by this act
132 must be used annually, first as set forth in subsection (1) and
133 then as set forth in subsections (2)-(5), notwithstanding any
134 other provision of law:

135 (2)~~(a)~~ Beginning in the 2013-2014 fiscal year and annually
136 for up to 30 years thereafter ~~For each of the 2019-2020, 2020-~~
137 ~~2021, and 2021-2022 fiscal years,~~ \$35 million shall be
138 transferred to Florida's Turnpike Enterprise, to be used in
139 accordance with Florida Turnpike Enterprise Law, to the maximum
140 extent feasible for feeder roads, structures, interchanges,
141 appurtenances, and other rights to create or facilitate access
142 to the existing turnpike system.

143 ~~(b) Beginning with the 2022-2023 fiscal year and annually~~
144 ~~thereafter, \$35 million shall be transferred to Florida's~~
145 ~~Turnpike Enterprise, to be used in accordance with s. 338.2278,~~
146 ~~with preference to feeder roads, interchanges, and appurtenances~~
147 ~~that create or facilitate multiuse corridor access and~~
148 ~~connectivity. Of those funds, and to the maximum extent~~
149 ~~feasible, up to \$5 million annually may be used for projects~~
150 ~~that assist in the development of broadband infrastructure~~
151 ~~within or adjacent to a multiuse corridor. The department shall~~
152 ~~give priority consideration to broadband infrastructure projects~~
153 ~~located in any area designated as a rural area of opportunity~~
154 ~~under s. 288.0656 and adjacent to a multiuse corridor.~~

155 Section 18. Effective July 1, 2023, section 339.0801,



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156 Florida Statutes, as amended by this act, is amended to read:

157 339.0801 Allocation of increased revenues derived from
158 amendments to s. 319.32(5) (a) by ch. 2012-128.—Funds that result
159 from increased revenues to the State Transportation Trust Fund
160 derived from the amendments to s. 319.32(5) (a) made by this act
161 must be used annually, first as set forth in subsection (1) and
162 then as set forth in subsections (2)-(4) ~~(2)-(5)~~,
163 notwithstanding any other provision of law:

164 (1) (a) Beginning in the 2013-2014 fiscal year and annually
165 for 30 years thereafter, \$10 million shall be for the purpose of
166 funding any seaport project identified in the adopted work
167 program of the Department of Transportation, to be known as the
168 Seaport Investment Program.

169 (b) The revenues may be assigned, pledged, or set aside as
170 a trust for the payment of principal or interest on revenue
171 bonds, or other forms of indebtedness issued by an individual
172 port or appropriate local government having jurisdiction
173 thereof, or collectively by interlocal agreement among any of
174 the ports, or used to purchase credit support to permit such
175 borrowings. Alternatively, revenue bonds shall be issued by the
176 Division of Bond Finance at the request of the Department of
177 Transportation under the State Bond Act and shall be secured by
178 such revenues as are provided in this subsection.

179 (c) Revenue bonds or other indebtedness issued hereunder
180 are not a general obligation of the state and are secured solely
181 by a first lien on the revenues distributed under this
182 subsection.

183 (d) The state covenants with holders of the revenue bonds
184 or other instruments of indebtedness issued pursuant to this



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185 subsection that it will not repeal this subsection; nor take any
186 other action, including but not limited to amending this
187 subsection, that will materially and adversely affect the rights
188 of such holders so long as revenue bonds or other indebtedness
189 authorized by this subsection are outstanding.

190 (e) The proceeds of any revenue bonds or other
191 indebtedness, after payment of costs of issuance and
192 establishment of any required reserves, shall be invested in
193 projects approved by the Department of Transportation and
194 included in the department's adopted work program, by amendment
195 if necessary. As required under s. 11(f), Art. VII of the State
196 Constitution, the Legislature approves projects included in the
197 department's adopted work program, including any projects added
198 to the work program by amendment under s. 339.135(7).

199 (f) Any revenues that are not used for the payment of bonds
200 as authorized by this subsection may be used for purposes
201 authorized under the Florida Seaport Transportation and Economic
202 Development Program. This revenue source is in addition to any
203 amounts provided for and appropriated in accordance with ss.
204 311.07 and 320.20(3) and (4).

205 ~~(2) Beginning in the 2013-2014 fiscal year and annually for~~
206 ~~up to 30 years thereafter, \$35 million shall be transferred to~~
207 ~~Florida's Turnpike Enterprise, to be used in accordance with~~
208 ~~Florida Turnpike Enterprise Law, to the maximum extent feasible~~
209 ~~for feeder roads, structures, interchanges, appurtenances, and~~
210 ~~other rights to create or facilitate access to the existing~~
211 ~~turnpike system.~~

212 (2)~~(3)~~ Beginning in the 2013-2014 fiscal year and annually
213 thereafter, \$10 million shall be transferred to the



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214 Transportation Disadvantaged Trust Fund, to be used as specified
215 in s. 427.0159.

216 (3)~~(4)~~ Beginning in the 2013-2014 fiscal year and annually
217 thereafter, \$10 million shall be allocated to the Small County
218 Outreach Program to be used as specified in s. 339.2818. These
219 funds are in addition to the funds provided for the program
220 pursuant to s. 201.15(4)(a)2.

221 (4)~~(5)~~ After the distributions required pursuant to
222 subsections (1)-(3) ~~(1)-(4)~~, the remaining funds shall be used
223 annually for transportation projects within this state for
224 existing or planned strategic transportation projects which
225 connect major markets within this state or between this state
226 and other states, which focus on job creation, and which
227 increase this state's viability in the national and global
228 markets.

229 (5)~~(6)~~ Pursuant to s. 339.135(7), the department shall
230 amend the work program to add the projects provided for in this
231 section.

232 Section 19. Section 339.0803, Florida Statutes, is created
233 to read:

234 339.0803 Allocation of increased revenues derived from
235 amendments to s. 320.08 by chapter 2019-43, Laws of Florida.-
236 Beginning in the 2021-2022 fiscal year and each fiscal year
237 thereafter, funds that result from increased revenues to the
238 State Transportation Trust Fund derived from the amendments to
239 s. 320.08 made by chapter 2019-43, Laws of Florida, and
240 deposited into the fund pursuant to s. 320.20(5)(a) must be used
241 to fund arterial highway projects identified by the department
242 in accordance with s. 339.65 and may be used for projects as



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243 specified in ss. 339.66 and 339.67. For purposes of the funding
244 provided in this section, the department shall prioritize use of
245 existing facilities or portions thereof when upgrading arterial
246 highways to limited or controlled access facilities. However,
247 this section does not preclude use of the funding for projects
248 that enhance the capacity of an arterial highway. The funds
249 allocated as provided in this section shall be in addition to
250 any other statutory funding allocations provided by law.

251 Section 20. Section 339.1373, Florida Statutes, is
252 repealed.

253 Section 21. Section 339.66, Florida Statutes, is created to
254 read:

255 339.66 Upgrade of arterial highways with controlled access
256 facilities.-

257 (1) The Legislature finds that the provision and
258 maintenance of safe, reliable, and predictably free-flowing
259 facilities to support the movement of people and freight and to
260 enhance hurricane evacuation efficiency is important. It is in
261 the best interest of the state to plan now for population growth
262 and technology changes while prudently making timely
263 improvements to address demand.

264 (2) The department, in coordination with the Florida
265 Turnpike Enterprise, shall evaluate existing roadways or
266 portions thereof for development of specific controlled access
267 facilities and include such projects as identified in the work
268 program.

269 (3) The department may upgrade roadways with targeted
270 improvements, such as adding new tolled or nontolled limited
271 access alignments to manage congestion points and retrofitting



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272 existing roadway with a series of electronically tolled or
273 nontolled grade separations that provide an alternative to a
274 signalized intersection for through traffic. Such improvements
275 must be made with the goal of enhancing the economic prosperity
276 and preserving the character of the communities impacted by such
277 improvements.

278 (a) The department may not reduce any nontolled general use
279 lanes of an existing facility.

280 (b) The department shall maintain existing access points to
281 the roadway provided by designated streets, graded roads, or
282 driveways.

283 (c) Upon application or as otherwise agreed to by the
284 department, after construction is completed, property owners
285 with parcels of land having no existing access shall have the
286 right to one access point, and property owners having more than
287 1 mile of roadway frontage shall be allowed one access point for
288 each mile owned.

289 (d) Any tolling points must be located such that a
290 nontolled alternative exists for local traffic.

291 (4) Any tolled facilities are approved turnpike projects
292 that are part of the turnpike system. A controlled-access
293 portion of a roadway constructed pursuant to this section is
294 considered a Strategic Intermodal System facility.

295 (5) Any existing applicable requirements relating to
296 department projects shall apply to projects undertaken by the
297 department pursuant to this section. The department shall take
298 into consideration the guidance and recommendations of any
299 previous studies or reports relevant to the projects authorized
300 by this section and ss. 339.67 and 339.68, including, but not



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301 limited to, the task force reports prepared pursuant to chapter
302 2019-43, Laws of Florida.

303 (6) Any existing applicable requirements relating to
304 turnpike projects apply to projects undertaken by the Turnpike
305 Enterprise pursuant to this section. The Turnpike Enterprise
306 shall take into consideration the guidance and recommendations
307 of any previous studies or reports relevant to the projects
308 authorized by this section and ss. 339.67 and 339.68, including,
309 but not limited to, the task force reports prepared pursuant to
310 chapter 2019-43, Laws of Florida, and with respect to any
311 extension of the Florida Turnpike from its northerly terminus in
312 Wildwood.

313 (7) The department shall consider innovative concepts to
314 combine right-of-way acquisition with the acquisition of lands
315 or easements to facilitate environmental mitigation or
316 ecosystem, wildlife habitat, or water quality protection or
317 restoration.

318 (8) (a) Decisions on matters such as configuration, project
319 alignment, and interchange locations must be determined in
320 accordance with applicable department rules, policies, and
321 procedures.

322 (b) To the greatest extent practicable, roadway alignments,
323 project alignment, and interchange locations shall be designed
324 so that project rights-of-way are not located within
325 conservation lands acquired under the Florida Preservation 2000
326 Act established in s. 259.101 and the Florida Forever Act
327 established in s. 259.105.

328 (9) Subject to applicability of existing requirements as
329 provided in subsections (5) and (6), projects may be funded



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330 through turnpike revenue bonds or right-of-way acquisition and
331 bridge construction bonds or financing by the Florida Department
332 of Transportation Financing Corporation; by advances from the
333 State Transportation Trust Fund; with funds obtained through the
334 creation of public-private partnerships; or any combination
335 thereof. The department also may accept donations of land for
336 use as transportation rights-of-way or to secure or use
337 transportation rights-of-way for such projects in accordance
338 with s. 337.2505. To the extent legally available, any toll
339 revenues from the turnpike system not required for payment of
340 principal, interest, reserves, or other required deposits for
341 bonds; costs of operations and maintenance; other contractual
342 obligations; or system improvement project costs must be used to
343 repay advances received from the State Transportation Trust
344 Fund.

345 (10) Project construction is not eligible for funding until
346 completion of 30 percent of the design phase, except for
347 projects that are under construction or for which project
348 alignment has been determined.

349 (11) In accordance with ss. 337.276, 338.227, and 339.0809,
350 the Division of Bond Finance may issue, on behalf of the
351 department, right-of-way acquisition and bridge construction
352 bonds, turnpike revenue bonds, and Florida Department of
353 Transportation Financing Corporation bonds to finance projects
354 as provided in the State Bond Act.

355 Section 22. Section 339.67, Florida Statutes, is created to
356 read:

357 339.67 U.S. 19 controlled access facilities.—The department
358 shall develop and include in the work program the construction



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359 of controlled access facilities as necessary to achieve free
360 flow of traffic on U.S. 19, beginning at the terminus of the
361 Suncoast Parkway 2 Phase 3, north predominantly along U.S. 19 to
362 a logical terminus on Interstate 10 in Madison County. This
363 Strategic Intermodal System facility shall be developed using
364 existing roadway, or portions thereof, to ensure the free flow
365 of traffic along the roadway by improvements such as limited
366 access alignments to manage congestion points and retrofitting
367 existing roadway with a series of grade separations that provide
368 an alternative to a signalized intersection for through traffic.
369 To the maximum extent feasible, the facilities shall be
370 developed no later than December 31, 2035.

371 Section 23. Section 339.68, Florida Statutes, is created to
372 read:

373 339.68 Arterial rural highway projects.—The department
374 shall identify and include in the work program projects to
375 increase capacity by widening existing two-lane arterial rural
376 roads to four lanes. To be included in a work program project,
377 the road must be classified as an arterial rural road, and truck
378 traffic using the road must amount to at least 15 percent of all
379 such traffic, as determined by the department. The department
380 shall fund at least \$20 million annually for such projects.

381 Section 24. For the purpose of incorporating the amendment
382 made by this act to section 316.126, Florida Statutes, in a
383 reference thereto, paragraph (d) of subsection (2) of section
384 318.18, Florida Statutes, is reenacted to read:

385 318.18 Amount of penalties.—The penalties required for a
386 noncriminal disposition pursuant to s. 318.14 or a criminal
387 offense listed in s. 318.17 are as follows:



388 (2) Thirty dollars for all nonmoving traffic violations
389 and:

390 (d) For all violations of s. 316.126(1)(b), unless
391 otherwise specified.

392 Section 25. The Legislature finds that the extension of the
393 Florida Turnpike from its northerly terminus in Wildwood to a
394 logical and appropriate terminus as determined by the Department
395 of Transportation is in the strategic interest of the state. The
396 department shall commence the project development and
397 environmental phase of the extension and shall consider project
398 configuration, alignment, cost, and schedule. The department
399 shall prepare a report summarizing the status of the project
400 development and environmental phase and, by December 31, 2022,
401 submit the report to the Governor, the President of the Senate,
402 and the Speaker of the House of Representatives.

403 Section 26. Except as otherwise expressly provided in this
404 act, this act shall take effect July 1, 2021.

405
406 ===== T I T L E A M E N D M E N T =====

407 And the title is amended as follows:

408 Delete line 54

409 and insert:

410 programs; repealing s. 163.3168(4), F.S., relating to
411 applications for funding for technical assistance
412 relating to areas in and around a proposed multiuse
413 corridor interchange; amending s. 316.126, F.S.;

414 requiring drivers to change lanes when approaching a
415 road and bridge maintenance or construction vehicle
416 displaying warning lights on the roadside without



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417 advance signs and channelizing devices; amending s.
418 334.044, F.S.; revising the powers and duties of the
419 Department of Transportation relating to the workforce
420 development program; repealing s. 338.2278, F.S.,
421 relating to the Multi-use Corridors of Regional
422 Economic Significance Program; amending s. 338.236,
423 F.S.; deleting a requirement for the department to
424 give priority consideration to placement of staging
425 areas in certain counties; amending s. 339.0801, F.S.;
426 requiring that \$35 million transferred to Florida's
427 Turnpike Enterprise be used for a specified purpose
428 beginning in a specified fiscal year and annually for
429 up to 30 years thereafter; conforming provisions to
430 changes made by the act; amending s. 339.0801, F.S.;
431 deleting a requirement for a specified amount of funds
432 to be transferred to Florida's Turnpike Enterprise for
433 a specified purpose; creating s. 339.0803, F.S.;
434 requiring that certain increased revenues be used to
435 fund specified projects beginning in a specified
436 fiscal year and annually thereafter; authorizing such
437 revenues to be used for certain projects; requiring
438 the department to prioritize the use of certain
439 facilities when upgrading arterial highways; providing
440 construction; providing that such funding is in
441 addition to other statutory funding allocations;
442 repealing s. 339.1373, F.S., relating to funding of
443 the Multi-use Corridors of Regional Economic
444 Significance Program; creating s. 339.66, F.S.;
445 providing legislative findings; requiring the



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446 department, in coordination with the Florida Turnpike
447 Enterprise, to evaluate certain roadways for
448 development of specific controlled access facilities
449 and to include such projects in the work program;
450 authorizing the department to upgrade roadways with
451 targeted improvements; prohibiting the department from
452 reducing nontolled general use lanes of an existing
453 facility; requiring the department to maintain
454 existing access points; providing for access points
455 for certain property owners; specifying the location
456 of tolling points and requiring a nontolled
457 alternative for local traffic; requiring any new
458 alignments to be established with a specified goal;
459 providing that any tolled facilities are approved
460 turnpike projects and part of the turnpike system;
461 designating a controlled-access portion of a specified
462 roadway a Strategic Intermodal System facility;
463 providing for applicability of certain requirements;
464 requiring the department and Turnpike Enterprise to
465 take into consideration guidance and recommendations
466 of certain studies and reports; requiring certain
467 decisions to be determined in accordance with
468 applicable department rules, policies, and procedures;
469 requiring, to the greatest extent practicable, that
470 roadway alignments, project alignment, and interchange
471 locations be designed as specified; providing for
472 funding sources; providing that project construction
473 is not eligible for funding until completion of 30
474 percent of the project design phase, with exceptions;



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475 authorizing the Division of Bond Finance to issue
476 specified bonds on behalf of the department to finance
477 certain projects; creating s. 339.67, F.S.; requiring
478 the department to develop and include construction of
479 controlled access facilities in the work program of a
480 certain facility; requiring the facility to be
481 developed using existing roadway or portions thereof;
482 requiring the facilities to be developed no later than
483 a specified date to the maximum extent feasible;
484 creating s. 339.68, F.S.; requiring the department to
485 identify and include in the work program projects to
486 increase capacity by widening existing two-lane
487 arterial rural roads to four lanes; providing
488 requirements for roads to be included in work program
489 projects; requiring the department to annually fund at
490 least a specified amount for such projects; reenacting
491 s. 318.18(2)(d), F.S., relating to the amount of
492 certain penalties, to incorporate the amendment made
493 to s. 316.126, F.S., in a reference thereto; providing
494 legislative findings; requiring the department to
495 commence the project development and environmental
496 phase of an extension of the Florida Turnpike;
497 requiring the department to prepare a specified report
498 and to submit the report to the Governor and
499 Legislature by a specified date; providing effective
500 dates.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to the Department of Transportation;
amending s. 201.15, F.S.; clarifying that the
Department of Revenue is responsible for a certain
transfer from the State Treasury to the General
Revenue Fund of a portion of documentary stamp tax
distributions credited to the State Transportation
Trust Fund; amending s. 206.46, F.S.; revising a
limitation on an annual transfer from the State
Transportation Trust Fund to the Right-of-Way
Acquisition and Bridge Construction Trust Fund;
amending ss. 206.606, 206.608, and 212.0501, F.S.;
removing a requirement for the deduction of certain
service charges before the distribution of certain
moneys; amending s. 316.545, F.S.; deleting a
requirement that the department provide space and
video conference capability at each of the
department's district offices as an alternative to
physical appearance by a person requesting a hearing
before the Commercial Motor Vehicle Review Board
within the department; requiring the department to
allow a person requesting a hearing to appear remotely
via communications media technology authorized by a
specified rule; amending s. 319.32, F.S.; removing a
requirement for the deduction of certain service
charges before depositing fees for a certificate of



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title into the State Transportation Trust Fund;
creating s. 333.15, F.S.; requiring the department to
adopt rules to implement ch. 333, relating to airport
zoning; amending s. 335.199, F.S.; requiring the
department, when proposing any project on the State
Highway System which will close or modify an existing
access to an abutting property owner, to provide
notice to affected property owners, municipalities,
and counties at least 180 days before the design phase
of the project is completed; requiring the department
to hold at least one public meeting before completing
the design phase of the project; making a technical
change; amending s. 339.135, F.S.; revising the date
by which a metropolitan planning organization must
annually submit project priorities to the appropriate
department district for purposes of developing
department district work programs; removing the
expiration of provisions relating to approval of
department work program amendments when a meeting of
the Legislative Budget Commission cannot be held
within a specified timeframe; amending s. 339.175,
F.S.; revising the date by which a metropolitan
planning organization must annually submit a list of
project priorities to the appropriate department
district for purposes of developing department
district work programs and developing metropolitan
planning organization transportation improvement
programs; providing an effective date.



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

57
58 Section 1. Paragraph (a) of subsection (4) of section
59 201.15, Florida Statutes, is amended to read:

60 201.15 Distribution of taxes collected.—All taxes collected
61 under this chapter are hereby pledged and shall be first made
62 available to make payments when due on bonds issued pursuant to
63 s. 215.618 or s. 215.619, or any other bonds authorized to be
64 issued on a parity basis with such bonds. Such pledge and
65 availability for the payment of these bonds shall have priority
66 over any requirement for the payment of service charges or costs
67 of collection and enforcement under this section. All taxes
68 collected under this chapter, except taxes distributed to the
69 Land Acquisition Trust Fund pursuant to subsections (1) and (2),
70 are subject to the service charge imposed in s. 215.20(1).
71 Before distribution pursuant to this section, the Department of
72 Revenue shall deduct amounts necessary to pay the costs of the
73 collection and enforcement of the tax levied by this chapter.
74 The costs and service charge may not be levied against any
75 portion of taxes pledged to debt service on bonds to the extent
76 that the costs and service charge are required to pay any
77 amounts relating to the bonds. All of the costs of the
78 collection and enforcement of the tax levied by this chapter and
79 the service charge shall be available and transferred to the
80 extent necessary to pay debt service and any other amounts
81 payable with respect to bonds authorized before January 1, 2017,
82 secured by revenues distributed pursuant to this section. All
83 taxes remaining after deduction of costs shall be distributed as
84 follows:



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85 (4) After the required distributions to the Land
86 Acquisition Trust Fund pursuant to subsections (1) and (2) and
87 deduction of the service charge imposed pursuant to s.
88 215.20(1), the remainder shall be distributed as follows:
89 (a) The lesser of 24.18442 percent of the remainder or
90 \$541.75 million in each fiscal year shall be paid into the State
91 Treasury to the credit of the State Transportation Trust Fund.
92 Of such funds, \$75 million for each fiscal year shall be
93 transferred by the Department of Revenue to the General Revenue
94 Fund. Notwithstanding any other law, the remaining amount
95 credited to the State Transportation Trust Fund shall be used
96 for:
97 1. Capital funding for the New Starts Transit Program,
98 authorized by Title 49, U.S.C. s. 5309 and specified in s.
99 341.051, in the amount of 10 percent of the funds;
100 2. The Small County Outreach Program specified in s.
101 339.2818, in the amount of 10 percent of the funds;
102 3. The Strategic Intermodal System specified in ss. 339.61,
103 339.62, 339.63, and 339.64, in the amount of 75 percent of the
104 funds after deduction of the payments required pursuant to
105 subparagraphs 1. and 2.; and
106 4. The Transportation Regional Incentive Program specified
107 in s. 339.2819, in the amount of 25 percent of the funds after
108 deduction of the payments required pursuant to subparagraphs 1.
109 and 2. The first \$60 million of the funds allocated pursuant to
110 this subparagraph shall be allocated annually to the Florida
111 Rail Enterprise for the purposes established in s. 341.303(5).
112 Section 2. Subsection (2) of section 206.46, Florida
113 Statutes, is amended to read:



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114 206.46 State Transportation Trust Fund.—
115 (2) Notwithstanding any other ~~provisions of law~~, from the
116 revenues deposited into the State Transportation Trust Fund a
117 maximum of 7 percent in each fiscal year shall be transferred
118 into the Right-of-Way Acquisition and Bridge Construction Trust
119 Fund created in s. 215.605, as needed to meet the requirements
120 of the documents authorizing the bonds issued or proposed to be
121 issued under ss. 215.605 and 337.276 or at a minimum amount
122 sufficient to pay for the debt service coverage requirements of
123 outstanding bonds. Notwithstanding the 7 percent annual transfer
124 authorized in this subsection, the annual amount transferred
125 under this subsection ~~may shall~~ not exceed an amount necessary
126 to provide the required debt service coverage levels for a
127 maximum debt service not to exceed \$350 ~~\$275~~ million. Such
128 transfer shall be payable primarily from the motor and diesel
129 fuel taxes transferred to the State Transportation Trust Fund
130 from the Fuel Tax Collection Trust Fund.

131 Section 3. Subsection (1) of section 206.606, Florida
132 Statutes, is amended to read:

133 206.606 Distribution of certain proceeds.—

134 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
135 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
136 Fund. Such moneys, after deducting ~~the service charges imposed~~
137 ~~by s. 215.20~~, the refunds granted pursuant to s. 206.41, and the
138 administrative costs incurred by the department in collecting,
139 administering, enforcing, and distributing the tax, which
140 administrative costs may not exceed 2 percent of collections,
141 shall be distributed monthly to the State Transportation Trust
142 Fund, except that:



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143 (a) \$6.30 million shall be transferred to the Fish and
144 Wildlife Conservation Commission in each fiscal year and
145 deposited in the Invasive Plant Control Trust Fund to be used
146 for aquatic plant management, including nonchemical control of
147 aquatic weeds, research into nonchemical controls, and
148 enforcement activities. The commission shall allocate at least
149 \$1 million of such funds to the eradication of melaleuca.

150 (b) Annually, \$2.5 million shall be transferred to the
151 State Game Trust Fund in the Fish and Wildlife Conservation
152 Commission and used for recreational boating activities and
153 freshwater fisheries management and research. The transfers must
154 be made in equal monthly amounts beginning on July 1 of each
155 fiscal year. The commission shall annually determine where unmet
156 needs exist for boating-related activities, and may fund such
157 activities in counties where, due to the number of vessel
158 registrations, sufficient financial resources are unavailable.

159 1. A minimum of \$1.25 million shall be used to fund local
160 projects to provide recreational channel marking and other
161 uniform waterway markers, public boat ramps, lifts, and hoists,
162 marine railways, and other public launching facilities, derelict
163 vessel removal, and other local boating-related activities. In
164 funding the projects, the commission shall give priority
165 consideration to:

166 a. Unmet needs in counties having populations of 100,000 or
167 less ~~fewer~~.

168 b. Unmet needs in coastal counties having a high level of
169 boating-related activities from individuals residing in other
170 counties.

171 2. The remaining \$1.25 million may be used for recreational



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172 boating activities and freshwater fisheries management and
173 research.

174 3. The commission may adopt rules to administer a Florida
175 Boating Improvement Program.

176
177 The commission shall prepare and make available on its Internet
178 website an annual report outlining the status of its Florida
179 Boating Improvement Program, including the projects funded, and
180 a list of counties whose needs are unmet due to insufficient
181 financial resources from vessel registration fees.

182 (c) 0.65 percent of moneys collected pursuant to s.
183 206.41(1)(g) shall be transferred to the Agricultural Emergency
184 Eradication Trust Fund.

185 (d) \$13.4 million in fiscal year 2007-2008 and each fiscal
186 year thereafter of the moneys attributable to the sale of motor
187 and diesel fuel at marinas shall be transferred from the Fuel
188 Tax Collection Trust Fund to the Marine Resources Conservation
189 Trust Fund in the Fish and Wildlife Conservation Commission.

190 Section 4. Section 206.608, Florida Statutes, is amended to
191 read:

192 206.608 State Comprehensive Enhanced Transportation System
193 Tax; deposit of proceeds; distribution.—Moneys received pursuant
194 to ss. 206.41(1)(f) and 206.87(1)(d) shall be deposited in the
195 Fuel Tax Collection Trust Fund, and, after deducting ~~the service~~
196 ~~charge imposed in chapter 215 and~~ administrative costs incurred
197 by the department in collecting, administering, enforcing, and
198 distributing the tax, which administrative costs may not exceed
199 2 percent of collections, shall be distributed as follows:

200 (1) 0.65 percent of the proceeds of the tax levied pursuant



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201 to s. 206.41(1)(f) shall be transferred to the Agricultural
202 Emergency Eradication Trust Fund.

203 (2) The remaining proceeds of the tax levied pursuant to s.
204 206.41(1)(f) and all of the proceeds from the tax imposed by s.
205 206.87(1)(d) shall be transferred into the State Transportation
206 Trust Fund, and may be used only for projects in the adopted
207 work program in the district in which the tax proceeds are
208 collected and, to the maximum extent feasible, such moneys shall
209 be programmed for use in the county where collected. However, no
210 revenue from the taxes imposed pursuant to ss. 206.41(1)(f) and
211 206.87(1)(d) in a county shall be expended unless the projects
212 funded with such revenues have been included in the work program
213 adopted pursuant to s. 339.135.

214 Section 5. Subsection (6) of section 212.0501, Florida
215 Statutes, is amended to read:

216 212.0501 Tax on diesel fuel for business purposes;
217 purchase, storage, and use.—

218 (6) All taxes required to be paid on fuel used in self-
219 propelled off-road equipment shall be deposited in the Fuel Tax
220 Collection Trust Fund, to be distributed, ~~after deduction of the~~
221 ~~general revenue service charge pursuant to s. 215.20,~~ to the
222 State Transportation Trust Fund. The department shall, each
223 month, make a transfer, from general revenue collections, equal
224 to such use tax reported on dealers' sales and use tax returns.

225 Section 6. Paragraph (f) of subsection (7) of section
226 316.545, Florida Statutes, is amended to read:

227 316.545 Weight and load unlawful; special fuel and motor
228 fuel tax enforcement; inspection; penalty; review.—

229 (7) There is created within the Department of



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230 Transportation the Commercial Motor Vehicle Review Board,
231 consisting of three permanent members who shall be the Secretary
232 of Transportation, the executive director of the Department of
233 Highway Safety and Motor Vehicles, and the Commissioner of
234 Agriculture, or their authorized representatives, and four
235 additional members appointed pursuant to paragraph (b), which
236 may review any penalty imposed upon any vehicle or person under
237 the provisions of this chapter relating to weights imposed on
238 the highways by the axles and wheels of motor vehicles, to
239 special fuel and motor fuel tax compliance, or to violations of
240 safety regulations.

241 (f) The review board may hold sessions and conduct
242 proceedings at any place within the state. As an alternative to
243 physical appearance, ~~and in addition to any other method of~~
244 ~~appearance authorized by rule,~~ the Department of Transportation
245 shall allow provide space and video conference capability at
246 ~~each district office to enable~~ a person requesting a hearing to
247 appear remotely before the board via communications media
248 technology as authorized by chapter 28-109, Florida
249 Administrative Code, regardless of the physical location of the
250 board proceeding.

251 Section 7. Subsection (5) of section 319.32, Florida
252 Statutes, is amended to read:

253 319.32 Fees; service charges; disposition.-

254 (5) (a) Forty-seven dollars of each fee collected, except
255 for fees charged on a certificate of title for a motor vehicle
256 for hire registered under s. 320.08(6), for each applicable
257 original certificate of title and each applicable duplicate copy
258 of a certificate of title, ~~after deducting the service charges~~



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259 ~~imposed by s. 215.20,~~ shall be deposited into the State
260 Transportation Trust Fund. Deposits to the State Transportation
261 Trust Fund pursuant to this paragraph may not exceed \$200
262 million in any fiscal year, and any collections in excess of
263 that amount during the fiscal year shall be paid into the
264 General Revenue Fund.

265 (b) All fees collected pursuant to subsection (3) shall be
266 paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of
267 each fee, except for fees charged on a certificate of title for
268 a motor vehicle for hire registered under s. 320.08(6), for each
269 applicable original certificate of title and each applicable
270 duplicate copy of a certificate of title, ~~after deducting the~~
271 ~~service charges imposed by s. 215.20,~~ shall be deposited into
272 the State Transportation Trust Fund. All other fees collected by
273 the department under this chapter shall be paid into the General
274 Revenue Fund.

275 Section 8. Section 333.15, Florida Statutes, is created to
276 read:

277 333.15 Rulemaking authority.-The department shall adopt
278 rules pursuant to ss. 120.536(1) and 120.54 to implement this
279 chapter.

280 Section 9. Subsections (1), (3), and (4) of section
281 335.199, Florida Statutes, are amended to read:

282 335.199 Transportation projects modifying access to
283 adjacent property.-

284 (1) Whenever the Department of Transportation proposes any
285 project on the State Highway System which will divide a state
286 highway, erect median barriers modifying currently available
287 vehicle turning movements, or have the effect of closing or



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288 modifying an existing access to an abutting property owner, the
289 department shall notify all affected property owners,
290 municipalities, and counties at least 180 days before the design
291 phase of the project is completed ~~finalized~~. The department's
292 notice shall provide a written explanation regarding the need
293 for the project and indicate that all affected parties will be
294 given an opportunity to provide comments to the department
295 regarding potential impacts of the change.

296 (3) The department shall hold at least one public meeting
297 before completing the design phase of the project ~~hearing~~ in the
298 jurisdiction where the project is located and receive public
299 input to determine how the project will affect access to
300 businesses and the potential economic impact of the project on
301 the local business community.

302 (4) The department must review all comments from the public
303 meeting ~~hearing~~ and take the comments and any alternatives
304 presented by a local government under subsection (2) into
305 consideration in the final design of the highway project.

306 Section 10. Paragraph (c) of subsection (4) and paragraph
307 (g) of subsection (7) of section 339.135, Florida Statutes, are
308 amended to read:

309 339.135 Work program; legislative budget request;
310 definitions; preparation, adoption, execution, and amendment.—

311 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

312 (c)1. For purposes of this section, the board of county
313 commissioners shall serve as the metropolitan planning
314 organization in those counties which are not located in a
315 metropolitan planning organization and shall be involved in the
316 development of the district work program to the same extent as a



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317 metropolitan planning organization.

318 2. The district work program shall be developed
319 cooperatively from the outset with the various metropolitan
320 planning organizations of the state and include, to the maximum
321 extent feasible, the project priorities of metropolitan planning
322 organizations which have been submitted to the district by
323 August 1 ~~October 1~~ of each year pursuant to s. 339.175(8)(b);
324 however, the department and a metropolitan planning organization
325 may, in writing, cooperatively agree to vary this submittal
326 date. To assist the metropolitan planning organizations in
327 developing their lists of project priorities, the district shall
328 disclose to each metropolitan planning organization any
329 anticipated changes in the allocation or programming of state
330 and federal funds which may affect the inclusion of metropolitan
331 planning organization project priorities in the district work
332 program.

333 3. ~~Before~~ Prior to submittal of the district work program
334 to the central office, the district shall provide the affected
335 metropolitan planning organization with written justification
336 for any project proposed to be rescheduled or deleted from the
337 district work program which project is part of the metropolitan
338 planning organization's transportation improvement program and
339 is contained in the last 4 years of the previous adopted work
340 program. By no later than 14 days after submittal of the
341 district work program to the central office, the affected
342 metropolitan planning organization may file an objection to such
343 rescheduling or deletion. When an objection is filed with the
344 secretary, the rescheduling or deletion may not be included in
345 the district work program unless the inclusion of such



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346 rescheduling or deletion is specifically approved by the
347 secretary. The Florida Transportation Commission shall include
348 such objections in its evaluation of the tentative work program
349 only when the secretary has approved the rescheduling or
350 deletion.

351 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

352 (g)1. Any work program amendment which also requires the
353 transfer of fixed capital outlay appropriations between
354 categories within the department or the increase of an
355 appropriation category is subject to the approval of the
356 Legislative Budget Commission.

357 2. If the department submits an amendment to a meeting of
358 the Legislative Budget Commission and the commission does not
359 meet or consider the amendment ~~cannot be held~~ within 30 days
360 after its submittal the department submits an amendment to the
361 ~~Legislative Budget Commission~~, the chair and vice chair of the
362 Legislative Budget Commission may authorize such amendment to be
363 approved pursuant to s. 216.177. ~~This subparagraph expires July~~
364 ~~1, 2021.~~

365 Section 11. Paragraph (b) of subsection (8) of section
366 339.175, Florida Statutes, is amended to read:

367 339.175 Metropolitan planning organization.—

368 (8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall,
369 in cooperation with the state and affected public transportation
370 operators, develop a transportation improvement program for the
371 area within the jurisdiction of the M.P.O. In the development of
372 the transportation improvement program, each M.P.O. must provide
373 the public, affected public agencies, representatives of
374 transportation agency employees, freight shippers, providers of



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375 freight transportation services, private providers of
376 transportation, representatives of users of public transit, and
377 other interested parties with a reasonable opportunity to
378 comment on the proposed transportation improvement program.

379 (b) Each M.P.O. annually shall prepare a list of project
380 priorities and shall submit the list to the appropriate district
381 of the department by August 1 ~~October 1~~ of each year; however,
382 the department and a metropolitan planning organization may, in
383 writing, agree to vary this submittal date. Where more than one
384 M.P.O. exists in an urbanized area, the M.P.O.'s shall
385 coordinate in the development of regionally significant project
386 priorities. The list of project priorities must be formally
387 reviewed by the technical and citizens' advisory committees, and
388 approved by the M.P.O., before it is transmitted to the
389 district. The approved list of project priorities must be used
390 by the district in developing the district work program and must
391 be used by the M.P.O. in developing its transportation
392 improvement program. The annual list of project priorities must
393 be based upon project selection criteria that, at a minimum,
394 consider the following:

- 395 1. The approved M.P.O. long-range transportation plan;
- 396 2. The Strategic Intermodal System Plan developed under s.
397 339.64.
- 398 3. The priorities developed pursuant to s. 339.2819(4).
- 399 4. The results of the transportation management systems;
- 400 and
- 401 5. The M.P.O.'s public-involvement procedures.
- 402 Section 12. 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 Appropriations

BILL: CS/SB 1126

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Senator Harrell

SUBJECT: Department of Transportation

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1126 represents the Florida Department of Transportation's (FDOT) legislative proposals for the 2021 Legislative Session. The bill contains a number of FDOT-related revisions to current law including:

- Adds road and bridge maintenance or construction vehicles to the list of vehicles subject to the Move Over Law.
- Increases from \$275 to \$300 million the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds issued to finance or refinance the cost of acquiring real property for state roads or the cost of bridge construction.
- Removes the expiration date for the Legislative Budget Commission (LBC) chair and vice chair's authority to approve amendments to the FDOT's work program that transfer fixed capital outlay appropriations between categories or increase an appropriation category.
- Clarifies that the Department of Revenue is the entity responsible for transferring a portion of documentary stamp tax revenues distributed to the State Treasury and credited to the State Transportation Trust Fund (STTF) from the State Treasury to the General Revenue Fund.
- Revises from October 1 to August 1 the date for metropolitan planning organization (MPO) annual submissions of project priorities to the FDOT districts for purposes of developing the FDOT's tentative work program and MPO transportation improvement programs.
- Removes provisions requiring the FDOT to provide space and video conference capability at each FDOT district office for persons requesting a hearing before the Commercial Motor

Vehicle Review Board, instead requiring the FDOT to allow such persons to appear remotely before the board via communications media technology already authorized by Administration Commission rule.

- Grants the FDOT rulemaking authority for the purpose of implementing statutory provisions relating to airport zoning.
- Revises provisions relating to a notice and hearing the FDOT is required to provide when a transportation project on the State Highway System modifies an existing access to an abutting property owner to provide clarity and improve readability.
- Removes obsolete references to a previously expired general service revenue service charge from specified collected revenue deposited into the STTF.

The bill repeals the Multi-use Corridors of Regional Economic Significance (M-CORES) program and related provisions and instead creates programs related to arterial highway projects. More specifically, the bill:

- Authorizes the FDOT to upgrade existing arterial roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting roadways with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic.
- Directs the FDOT to develop by December 31, 2035, and include in the work program construction of controlled access facilities to achieve free flow of traffic on U.S. 19 and requires the facility to be developed using existing or portions of existing roadway by specified improvements.
- Directs the FDOT to identify and include in the work program projects to widen certain two-lane arterial rural roads serving high volumes of truck traffic to four lanes.
- Directs the FDOT to begin the project development and environmental phase for a project to extend the Florida Turnpike from its current terminus in Wildwood to a terminus as determined by the FDOT, and to submit a summary report by December 31, 2022.

The revenue redirected to the STTF as a result of the 2019 M-CORES legislation is retained in the STTF and is dedicated for purposes of funding the authorized controlled access facility projects and widening projects on arterial rural highways. Additionally, beginning July 1, 2023, the distribution of \$35 million to the FTE for feeder roads and related projects is discontinued; such funds will remain in the STTF to support statewide transportation priorities.

The bill is expected to have a minimal fiscal impact to the STTF, as it does not change the amount of revenue distributed to the STTF, but it does revise the authorized uses of such funding. The extent of any potential fiscal impact to the FDOT resulting from the increased alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Trust Fund bonds is unknown. The remaining revisions are primarily administrative and housekeeping in nature and are expected to present no immediate fiscal impact to state or local revenues.

The bill takes effect July 1, 2021, except as otherwise expressly provided.

II. Present Situation:

For ease of organization and readability, the present situation is discussed below in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

M-CORES Program (Section 13)

Present Situation

Section 338.2278, F.S., establishes the M-CORES Program within the FDOT. If projects in the corridors are determined to be economically and environmentally feasible and are consistent to the maximum extent feasible with the appropriate approved local government comprehensive plans, the projects will be included in the FDOT's tentative work program. Funding for M-CORES projects through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof is authorized. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

The 2019 legislation redirected motor vehicle license tax revenues from the General Revenue Fund taxes to the STTF, with transfers from STTF to the General Revenue Fund in Fiscal Years 2019-2020 and 2020-21.¹ Beginning Fiscal Year 2021-2022 and thereafter, the General Revenue Fund receives no further transfers, and the estimated \$132 million is retained in the STTF.

The redirected motor vehicle license tax proceeds are directed to the M-CORES program; as additional funding for the SCRAP, the SCOP, and the Transportation Disadvantaged Trust Fund (TDTF);² and to the FDOT's workforce development program, as revised by the law. These funds are in addition to any other statutory funding allocations provided by law.

For the 2019-2020 fiscal year and annually thereafter, from the amounts retained in the STTF, the SCRAP, the SCOP, and the TDTF receive \$10 million annually each and the workforce development program receives \$2.5 million annually ending in the 2021-2022 fiscal year.

The funds allocated to the TDTF must be used to award competitive grants to community transportation coordinators and transportation network companies to provide cost-effective, door-to-door, on-demand, and scheduled transportation services (services that increase access to job training, employment, health care, and other life-sustaining services; that enhance regional connectivity and cross-county mobility; or that reduce difficulty in connecting to transportation hubs and from hubs to final destinations).

Effect of Proposed Changes

Section 13 of the bill repeals s. 338.2278, F.S., related to the M-CORES program and the motor vehicle license tax proceeds directed to other programs. Beginning in Fiscal Year 2021-2022, the annual allocation to the M-CORES program, the additional annual allocations over current

¹ The transfer in Fiscal Year 2019-2020 was \$65.7 million and the transfer for Fiscal Year 2020-2021 is estimated to be \$38.6 million.

² The Transportation Disadvantaged Program established in Part I of ch. 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The Commission for the Transportation Disadvantaged (CTD) is authorized to use moneys in the TDTF to subsidize a portion of a transportation disadvantaged person's non-sponsored (for example, not paid for by Medicaid) transportation costs.

statutory funding for the SCRAP, the SCOP, and the TDTF, as well as the last year of funding for workforce development are repealed.

As discussed below, however, the increased revenues derived from redirecting to the STTF portions of motor vehicle license taxes remain in the STTF under the bill.

Conforming Revisions (Sections 1, 11, 14, 15, and 19)

Effect of Proposed Changes

Section 11 amends s. 334.044(35), F.S., to remove the M-CORES-related revisions enacted in 2019 with respect to workforce development, including authorization for the FDOT to enter into contracts with consultants and non-profit entities for the provisions of workforce recruitment, training curriculum, and support services, and a requirement for a report the FDOT has already completed. Current funding for the program would expire on July 1, 2021, instead of continuing through the end of the 2021-2022 fiscal year. The FDOT's authorization for the workforce development program is not repealed. The FDOT may continue administration of the program to the extent that future funding resources are available.

Section 1 repeals s. 163.3168(4), F.S., to remove an M-CORES-related provision relating to local applications for technical assistance from the Department of Economic Opportunity (DEO). This provision currently requires the DEO to give preference to a county with a population of 200,000 or less, and to a municipality located within such a county, for assistance in determining whether the area in and around a proposed M-CORES interchange contains appropriate land uses and natural resource protections and for aid in developing or amending a local government's comprehensive plan to provide for such uses, protections, and intended benefits under the M-CORES program.

Section 14 repeals an M-CORES-related provision contained in s. 338.236, F.S., relating to staging areas to be activated during a declared state of emergency on the turnpike system. That section currently requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less and in which an M-CORES corridor is located.

Section 15 amends s. 339.0801(2), F.S., to remove an M-CORES-related allocation and restore that subsection as it existed prior to enactment of the M-CORES program. This subsection currently provides \$35 million in annual funding to the FTE to be used in accordance with turnpike requirements and to the maximum extent feasible for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system, and beginning in Fiscal Year 2022-2023 the funds must be used for similar access to M-CORES corridors.³

This statute is also amended under Section 16 of the bill at a future date.

Section 19 repeals s. 339.1373, F.S., relating to M-CORES specific financing and planning requirements of the FDOT.

³ The \$35 million is from increased revenues to the STTF due to changes enacted in 2012.

Arterial Highway Projects (Sections 16, 17, 21, 22, 23, and 25)

Present Situation

The FDOT routinely manages and improves arterial roads to increase capacity and facilitate traffic throughput, while at the same time achieving the paramount goal of improving safety. The FDOT and the FTE are experienced in retrofitting transportation facilities with grade separations and adding new alignments for the same purposes.

An example of upgrades to existing arterial highways to maximize operational efficiency and safety is implementation of controlled access facilities. The FDOT's Access Control Classification System and Access Management Standards for roads on the State Highway System employs seven classes of controlled access facilities, beginning with Class 1 (limited access facilities providing for high speed and high volume traffic movements serving interstate, interregional, and intercity highways but which do not provide direct property connections).

According to the FDOT rule,

Access Classes 2 through 7 consist of controlled access facilities and are arranged from the most restrictive (Access Class 2) to the least restrictive (Access Class 7) class based on development. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3 and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6 and 7). The access management standards for each access class are further determined by the posted speed limit.⁴

The rule appears to provide the FDOT the flexibility, based on engineering decisions, to employ the most appropriate type of upgrade to an existing arterial highway given its characteristics and the particular goal of a given project, such as congestion management.

Effect of Proposed Changes

Section 21 creates s. 339.66, F.S., relating to upgrading arterial highways with controlled access facilities. The bill sets forth Legislative findings that provision and maintenance of safe, reliable, and predictably free-flowing facilities to support the movement of people and freight and to enhance hurricane evacuation efficiency is important; and that planning now for population growth and technology changes while prudently making timely improvements to address demand is in the best interest of the state.

The bill directs the FDOT, in coordination with the FTE, to evaluate existing or portions of existing roadways for development of specific controlled access facilities and include such projects as identified in the work program. The FDOT is authorized to upgrade roadways with

⁴ Rule 14-97.003, F.A.C. The rule implements the FDOT's statutory duties with respect to regulation of access to the State Highway System, access permitting, and access management standards in ss. 335.182, 335.184, and 335.188, F.S.

targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting existing roadway with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic. Such improvements must enhance the economic prosperity and preserve the character of impacted communities.

The FDOT may *not* reduce any non-tolled general use lanes of an existing facility and *must*:

- Maintain existing access points to the roadway provided by designated streets, graded roads, or driveways, avoiding community impact.
- After construction is completed, provide property owners of land with no existing access the right to one access point and provide owners with more than one mile of roadway frontage along the facility with one access point for each mile owned.
- Locate any tolling points so that a non-tolled alternative exists for local traffic.

Under the bill, any portions of a controlled access facility to be tolled are approved turnpike projects that are part of the turnpike system, and a controlled-access portion of a roadway constructed under the new section of law is considered a SIS facility. All existing applicable requirements relating to FDOT or turnpike projects, including environmental review, also apply to any projects undertaken to upgrade the arterial roadways with controlled access facilities. Further, the FDOT and FTE must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects, including previous task force reports.⁵

The bill also requires the FDOT to consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate environmental mitigation or ecosystem, wildlife habitat, or water quality protection or restoration. Further, to the greatest extent practical, the FDOT must design roadway alignments, project alignment, and any interchange locations so that project rights-of-way are not located within conservation lands acquired under the Florida Preservation 2000 Act⁶ and the Florida Forever Act.⁷

Lastly, the bill authorizes project funding through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof, as applicable. However, project construction is not eligible for funding until completion of 30 percent of the design phase, except for projects that are under construction or for which project alignment has been determined. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

To the extent legally available, any toll revenues from the turnpike system not required for payment of principal, interest, reserves, and other required deposits for bonds; costs of operations and maintenance; other contractual obligations; or system improvement project costs must be used to repay to the STTF advances made from that fund. In accordance with existing authority, the Division of Bond finance is authorized to issue right-of-way and bridge construction bonds,

⁵ The bill also applies this requirement to ss. 339.67 and 339.68, F.S., created by the bill related to relating to U.S. 19 controlled access facilities and relating to U.S. 19 controlled access facilities, respectively.

⁶ Section 259.101, F.S.

⁷ Section 259.105, F.S.

turnpike revenue bonds, and FDOT financing corporation bonds to finance controlled access facilities as provided in the State Bond Act.

Section 22 creates s. 339.67, F.S., relating to U.S. 19 controlled access facilities. The bill directs the FDOT to develop and include in the work program construction of controlled access facilities necessary to achieve free flow of traffic on U.S. 19, beginning at the terminus of the Suncoast Parkway 2 Phase 3 north predominantly along U.S. 19 to a logical terminus on I-10 in Madison County. The bill deems the project as a SIS facility, which must be developed using existing or portions of existing roadway to ensure the free flow of traffic by improvements. The FDOT must develop the project no later than December 31, 2035.

Section 23 creates s. 339.68, F.S., relating to arterial rural highway projects. The bill directs the FDOT to identify and include in the work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes. To be included in a program project, the road must be classified as an arterial rural road and truck traffic using the road must amount to at least 15 percent of all such traffic, as determined by the FDOT. The bill directs the FDOT to fund at least \$20 million annually for such projects.

Section 25 directs the FDOT to begin the PD&E phase of the extension of the Florida Turnpike from its northerly terminus in Wildwood to a logical and appropriate terminus determined by the FDOT. FDOT is required to submit a status report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the result of the PD&E phase, including consideration of project configuration, alignment, cost, and schedule, by December 31, 2022. The bill does not authorize construction of the extension.

Section 16, effective July 1, 2023, amends s. 339.0801, F.S., to repeal the annual transfer from the STTF to the Turnpike Enterprise of the \$35 million for feeder roads, etc. In effect, the annual \$35 million will remain in the STTF to be used annually for existing or planned strategic transportation projects, as required under current law.

Section 17 creates s. 339.0803, F.S., to allocate the increased motor vehicle license tax revenues to the STTF from the 2019 M-CORES law. The funds must be used to fund arterial highway projects identified by the FDOT under s. 339.65, F.S., relating to the SIS, and may be used for controlled access facility projects specified in ss. 339.66 and 339.67, F.S., created by the bill. The FDOT must prioritize use of existing facilities when upgrading arterial highways to limited or controlled access facilities, but the FDOT is not precluded from use of such funding for projects that enhance the capacity of an arterial highway. These funds are in addition to any other statutorily required funding allocations.

Move Over Law (Section 7)

Present Situation

Under Florida's Move Over Law, if an emergency vehicle, a sanitation vehicle, a utility service vehicle, or a wrecker is working along the side of the road, every other driver must vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce his or her speed to a speed that is 20 miles per hour (MPH) less than the posted speed limit when

the posted speed limit is 25 MPH or greater; or travel at 5 MPH when the posted speed limit is 20 MPH miles per hour or less when driving on a two-lane road.⁸ The purpose of the Move Over Law is to protect workers stopped along the road performing their jobs.

A violation of the Move Over Law is a noncriminal traffic infraction, punishable as a moving violation.⁹ The statutory base fine for a moving violation is \$60, but with additional fees assessed by the state and local governments, the total fine increases to \$158.¹⁰

Effect of Proposed Changes

Section 7 of the bill amends s. 316.126, F.S., to add road and bridge maintenance or construction vehicles displaying warning lights and operating on the roadside without advance signs and channelizing devices (such as traffic cones or barricades) to the list of vehicles subject to the Move Over Law. This will require drivers to move over to a different lane or decrease their speed when road and bridge maintenance or construction vehicles are displaying warning lights on the roadside.

Section 24 of the bill reenacts s. 318.18, F.S., to incorporate these changes.

Debt Service Cap on Right-of-Way Acquisition and Bridge Construction Bonds (Section 3)

Present Situation

Section 215.605, F.S., authorizes the issuance of state bonds to finance or refinance the cost of acquiring real property for state roads or to finance or refinance the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, the Legislature must authorize bonds, which must be issued pursuant to the State Bond Act.¹¹ The proceeds from the sale of issued bonds must be deposited into the Right-of-Way Acquisition and Bridge Construction Trust Fund.¹²

Section 206.46, F.S., authorizes the FDOT to transfer up to 7 percent of the revenues deposited into the STTF in each fiscal year into the Right-of-Way Acquisition and Bridge Construction Trust Fund to meet outstanding or proposed bond obligations; or, at a minimum, an amount sufficient to pay for the debt service coverage of outstanding bonds.¹³ The annual transfer amount, however, may not exceed that which is necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million. Thus, debt service may not exceed 7 percent of the revenues deposited into the STTF or \$275 million, whichever is less.

The FDOT noted in 2020 that no adjustment has been made to the \$275 million cap since 2007. The FDOT provided information that based on the FDOT's most recent bond sale and Revenue

⁸ Section 316.126(1)(b), F.S.

⁹ Section 316.126(6), F.S.

¹⁰ Florida Court Clerks and Comptrollers Association, *2020 Distribution of Court Related Filing Fees, Service Charges, and Fines – Final, Corrected*, p. 39 available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf (last visited April 14, 2021).

¹¹ Sections 215.57-215.83, F.S.

¹² Section 215.605(4), F.S.

¹³ The transfer is required to be payable primarily from the motor and diesel fuel taxes transferred to the STTF.

Estimating Conference projections [at that time], the limit on debt service based on the 7-percent-of-revenue threshold would have been \$287 million in Fiscal Year 2019-2020 (based on revenues of \$4.1 billion), growing to \$350 million in Fiscal Year 2028-2029 (based on revenues of \$5 billion). Additionally, the FDOT advised that under the current statutory limit, the \$275 million cap leaves the FDOT with only about \$100 million of available bonding capacity.¹⁴

Effect of Proposed Changes

Section 3 of the bill amends s. 206.46, F.S., to increase the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds. Thus, under the bill, debt service could not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less.

Work Program Amendments (Section 18)

Present Situation

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.¹⁵ However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the LBC.

Prior to 2016, if a meeting of the LBC could not be held within 30 days after the FDOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.¹⁶ In 2016, the Legislature repealed the authorization for LBC chair and vice chair approval if the LBC could not meet.¹⁷ In 2019, this authorization was reinstated with an expiration date of July 1, 2020.¹⁸ In 2020, the authorization was reinstated with an expiration date of July 1, 2021.¹⁹

Effect of Proposed Changes

Section 18 of the bill amends s. 339.135(7)(g), F.S., to remove the expiration of authorization for LBC chair and vice chair approval of the identified amendments to the FDOT's adopted work program, thereby making the provision permanent.

Documentary Stamp Tax/General Revenue Fund Transfer (Section 2)

Present Situation

Chapter 201, F.S., levies an excise tax (documentary stamp tax) on documents such as deeds, stocks and bonds, notes and written obligations to pay money, mortgages, liens, and other evidences of indebtedness. The Florida Department of Revenue (DOR) administers the provisions of that chapter,²⁰ including provisions governing the collection of documentary stamp

¹⁴ See the FDOT's 2020 Legislative Proposal, *Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap* (on file in the Senate Transportation Committee).

¹⁵ Section 339.135(7), F.S.

¹⁶ Section 339.135(7)(g), F.S. (2015).

¹⁷ Chapter 2016-181, s. 16, Laws of Fla.

¹⁸ Chapter 2019-116, s. 11, Laws of Fla.

¹⁹ Chapter 2020-144, s. 93, Laws of Fla.

²⁰ Section 201.11, F.S.

taxes, which are distributed each fiscal year to the General Revenue Fund and various other trust funds.

After certain required distributions to the Land Acquisition Trust Fund,²¹ approximately 24 percent of the remainder of the taxes collected or \$541.75 million, whichever is less, is paid into the State Treasury to the credit of the STTF, \$75 million of which must be transferred to the General Revenue Fund. The remaining amount credited to the STTF must be used to fund certain transportation-related programs.²² Although current law specifies the DOR as the administering agency of that chapter, the DOR is not expressly identified as the entity responsible for making the \$75 million transfer each fiscal year.

Effect of Proposed Changes

Section 2 of the bill amends s. 201.15(4)(a), F.S., to expressly require the DOR to make the \$75 million transfer each fiscal year from funds credited to the STTF in the State Treasury to the General Revenue Fund.

Metropolitan Planning Organizations Project Priority Submissions to the FDOT (Sections 18 and 20)

Present Situation

The FDOT's adopted work program is the 5-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the 5-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the 5-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs.²³ Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

With respect to development of the tentative work program, as outlined in s. 339.135(4), F.S., the district work program is developed cooperatively with the various metropolitan planning organizations (MPOs) around the state and must include, to the maximum extent feasible, the project priorities submitted by the MPOs to the FDOT's districts by October 1 of each year. The FDOT and an MPO may agree in writing to vary the submission date.²⁴

The FDOT advises that during a "normal" work program development cycle, submission of MPO project priorities by October 1 allows sufficient time for development of the tentative work program cycle. However, because the Legislature meets beginning in January in even-numbered years,²⁵ the tentative work program cycle is "compressed" by two months, creating a need for

²¹ Section 201.15(1) and (2), F.S.

²² Section 201.15(4)(a), F.S. The programs include the New Starts Transit Program, the Small County Outreach Program, the Strategic Intermodal System, and the Transportation Regional Incentive Program.

²³ Section 339.135(1), F.S.

²⁴ Section 339.135(4)(c)2., F.S.

²⁵ FLA. CONST. art. III, s. 3(b).

earlier submission of project information. The FDOT notes that no failure to submit a priority list has occurred, but earlier submission has been provided as a courtesy, rather than a mandate.²⁶

The MPOs are also required, in cooperation with the state and affected public transportation operators, to develop a transportation improvement program for the area within the jurisdiction of the MPO. Similar to work program development, each MPO is required to submit to the appropriate FDOT district a list of project priorities by October 1 of each year. Again, the FDOT and an MPO may agree in writing to vary the submission date. The MPO-approved lists must be used by the FDOT districts in developing the district work programs.²⁷

Effect of Proposed Changes

Sections 18 and 20 of the bill, respectively, amend ss. 339.135(4)(c) and 339.175(8)(b), F.S., to revise from October 1 to August 1 the deadline for MPOs to submit their project priority lists for purposes of developing the FDOT's tentative work program and for purposes of development of MPO transportation improvement programs.

Commercial Motor Vehicle Review Board/Remote Appearance (Section 8)

Present Situation

The Commercial Motor Vehicle Review Board (the Board), established within the FDOT, is composed of three permanent members (the FDOT secretary as chair, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their designees); three members appointed by the Governor (one each from the road construction industry and the trucking industry, and one with a general business or legal background); and one member appointed by the Commissioner of Agriculture from the agriculture industry.²⁸

The Board is authorized to review any penalty imposed upon any vehicle or person under the provisions of ch. 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations, and the Board may modify, cancel, revoke, or sustain any such penalty.²⁹ The Board is authorized to hold sessions and conduct proceedings at any place. According to the FDOT's website, the Board meets physically in Tallahassee.³⁰

Any person against whom a penalty is imposed may apply to the Board for a modification, cancellation, or revocation of the penalty. A written explanation provided within a letter protesting a penalty is acceptable in lieu of physical attendance by a person requesting a hearing before the Board, but attendance "will provide the petitioner the opportunity to respond to Review Board inquiries into subjects that the petitioner may have overlooked when drafting his

²⁶ See the FDOT's 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities* (on file in the Senate Transportation Committee).

²⁷ Section 339.175(8), F.S.

²⁸ Section 316.545(7)(a) and (b), F.S. See the FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*, for more details on the Board, as well as its 2021 meeting schedule, available at <https://www.fdot.gov/traffic/reviewboard.shtm> (retrieved March 12, 2021).

²⁹ Section 316.545(4)(c), F.S.

³⁰ Section 316.545(7), F.S.

letter of protest.”³¹ Appearance by telephone is not available, but pursuant to the provisions of s. 316.545(7)(f), F.S., the FDOT is required to provide space and video conference capability at each of its seven district offices to enable a person requesting a hearing to appear remotely before the board, provided the requester notifies the Board at least 14 calendar days before the hearing date.³²

By rule of the Administration Commission, agencies are currently authorized to conduct proceedings using communications media technology; *i.e.*, the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.³³

The current requirement for providing space and video conference capability at each of the seven FDOT district offices does not take advantage of the various forms of communications media technology authorized for use in conducting agency proceedings.

Effect of Proposed Changes

Section 8 of the bill amends s. 316.545(7), F.S., to remove the requirement that remote appearance before the Board by a person requesting a hearing must take place at one of the FDOT district offices by means of video conference capability and replace it with authorization for use of communications media technology by any means.

When using communications media technology the FDOT would be required to provide a notice to the requester specifying the address or addresses of all access points, specifically designating those which are in locations normally open to the public; the address of each access point where an interested person may go to attend the proceedings; an address, email address, and telephone number where an interested person may write or call for additional information; and an address, email address, and designated person to whom a person may submit written or other physical evidence which he or she intends to offer into evidence during the proceedings.³⁴

This revision would allow the FDOT to more efficiently conduct proceedings before the Board and reduce the burden on a person requesting a hearing to travel to one of the FDOT district offices to be heard. The FDOT advises any person requesting to appear before the Board at one of the FDOT district offices will continue to be accommodated.³⁵

Airport Zoning/FDOT Rulemaking (Section 10)

Present Situation

The Legislature in 2016 enacted a substantial re-write of ch. 333, F.S., which contains airport zoning provisions relating to the management of airspace and land use at or near airports.³⁶ Generally, the 2016 re-write:

³¹ FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*.

³² *Id.*

³³ Fla. Admin. Code R. 28-109.

³⁴ *Id.*

³⁵ Telephone conversation between Senate Transportation Committee staff and FDOT staff, February 1, 2021.

³⁶ Chapter 2016-239, Laws of Fla.

- Updated statutory definitions and terms in accordance with federal regulations.
- Streamlined the local airport protection zoning process to a simpler permitting model.
- Provided local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repealed duplicative requirements for obtaining a variance.

The FDOT has a long-standing rule that pre-dates the 2016 substantial re-write: Florida Administrative Code Rule Chapter 14-60, “*Airport Licensing, Registration, and Airspace Protection*,” the purpose of which is “to promote safe civil aviation by eliminating hazards; to provide airfield standards for airports; to provide standards for airport marking and lighting; to license and register airports, pursuant to the licensing and registration requirements of Chapter 330, F.S., and to promote flight safety by providing for airspace protection, pursuant to the requirements of Chapter 333, F.S.”³⁷ The provisions of the rule appear to be critical to promotion of safe civil aviation. However, in the midst of the 2016 re-write, authority for the long-standing rule was apparently inadvertently overlooked.

Effect of Proposed Changes

Section 10 of the bill creates s. 333.15, F.S., to provide the FDOT with express authority to adopt rules to implement the provisions of ch. 333, F.S., thereby providing specific authorization for Florida Administrative Code Rule Chapter 14-60.

Transportation Projects/Modifying Access/Abutting Property Owners (Section 12)

Present Situation

Under current law, when the FDOT proposes a project on the State Highway System that will divide a state highway, erect median barriers modifying currently available vehicle turning movements, or have the effect of closing or modifying an existing access to an abutting property owner, the FDOT is required to notify all affected property owners, municipalities, and counties at least 180 days before the design of the project is finalized. The notice must include a written explanation regarding the need for the project and an indication that all affected parties will be given an opportunity to provide comments to the FDOT regarding potential impacts of the change. The FDOT must hold at least one public hearing in the jurisdiction where the project is located to receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community. The FDOT must review all comments from the public hearing and take the comments and any alternatives presented by a local government during the hearing into consideration in the final design of the highway project.³⁸

Effect of Proposed Changes

Section 12 of the bill amends s. 335.199, F.S., to make editorial revisions and improve readability. The bill clarifies that the FDOT must provide the required notice at least 180 days before the design phase of the project is completed, rather than finalized. The bill also revises all occurrences of the word “hearing” to “meeting,” to remove any sort of legal connotation, as the

³⁷ Fla. Admin. Code R. 14-60.003(1) (2004).

³⁸ Section 335.199, F.S.

required events are not in the nature of any sort of judicial proceeding but are more closely akin to informational “meetings.”

The bill clarifies that the FDOT must hold at least one public meeting *prior to completing* the design phase of the project, so that the FDOT reviews all comments from the public meeting and takes the comments and any alternatives presented by a local government during the meeting into consideration in the *final* design of the project.

Obsolete References to the General Revenue Service Charge (Sections 4, 5, 6, and 9)

Present Situation

Section 215.20(1), F.S., appropriates from revenue deposited into most state trust funds³⁹ an 8 percent service charge, which represents the estimated pro rata share of the cost of general government. All such appropriations are deposited into the General Revenue Fund.

Section 215.211(1), F.S., however, eliminated the service charge beginning July 1, 2000, for taxes distributed under:

- Section 206.606(1), F.S., relating to the distribution of motor and diesel fuel taxes;
- Section 212.0501(6), F.S., relating to taxes on diesel fuel used in self-propelled off-road equipment for business purposes; and
- Section 319.32(5), F.S., relating to the disposition of fees from certificate of title transactions.

Additionally, s. 215.211(2), F.S., eliminated the service charge beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.

Although the service charge on the specified taxes has been eliminated, references to the service charge remain in statute for the described taxes or fees.

Effect of Proposed Changes

Sections 4, 5, 6, and 9, respectively, remove the obsolete references to the general revenue service charge that remain in ss. 206.606(1), 206.608, 212.0501(6), and 319.32(5), F.S.

Effective Date (Section 26)

Except as otherwise provided, the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁹ Section 215.22, F.S., sets out a list of items and trust funds that are exempt from the service charge, including trust funds administered by the Department of Transportation.

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:

Individuals requesting a hearing before the Commercial Motor Vehicle Review Board who are authorized to appear remotely via communications media technology may experience reduced expenses associated with travel to an FDOT district office to appear.

C. Government Sector Impact:

Currently, the amount transferred by the FDOT into the Right-of-Way Acquisition and Bridge Construction Trust Fund may not exceed 7 percent of the revenues deposited into the STTF, or \$275 million, whichever is less. The bill provides that the amount transferred may not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less. This revision may provide the FDOT with additional bonding capacity. However, the resulting impact of any additional bonding capacity is unknown.

The M-CORES portions of the bill do not change the amount of revenue distributed to the STTF. The bill repeals the funding for the M-CORES program, the workforce development program, and the additional funds dedicated to the SCRAP, the SCOP, and the TDTF. Instead, these revenues will be used for arterial roads in the SIS.

The bill repeals the future change in use of \$35 million of funds transferred to the FTE to conform to the repeal of the M-CORES law, and on July 1, 2023, the bill repeals the transfer of those funds to the FTE. Instead, the funds will be retained in the STTF. Any impact to FTE programming is reduced by the delayed effective date of the elimination of the transfer.

The impact to the 5-year Work Program is expected to be minimal. The funds remain in the STTF for use by the FDOT on arterial roads in the SIS. The bill does require the FDOT to incorporate into the work program projects related to upgrade of existing facilities with controlled access roads and expansion of certain two-lane arterial rural roadways.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3168, 201.15, 206.46, 206.606, 206.608, 212.0501, 316.545, 319.32, 334.044, 335.199, 339.135, 338,236, 339.0801, and 339.175.

This bill creates the following sections of the Florida Statutes: 333.15, 339.0803, 339.66, 339.67, and 339.68.

The bill creates an undesignated section of Florida law.

This bill repeals the following sections of the Florida Statutes: 338.2278 and 339.1373.

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 Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that when FDOT submits a work program amendment to the Legislative Budget Commission, but the commission does not consider the amendment within 30 days after submittal, the chair and vice chair of the commission may approve the amendment.
- Adds road and bridge maintenance or construction vehicles to the list of vehicles subject to the Move Over Law.
- Repeals statutes and provisions related to the Multi-use Corridors of Regional Economic Significance program and redirects the funding to the Strategic Intermodal System. Additionally, beginning July 1, 2023, the committee substitute discontinues a distribution from the STTF to the FTE for feeder roads.
- Authorizes the FDOT to upgrade existing arterial roadways with targeted improvements.

- Directs the FDOT to develop by December 31, 2035, and include in the work program construction of controlled access facilities to achieve free flow of traffic on U.S. 19.
- Directs the FDOT to identify and include in the work program projects to widen certain two lane arterial rural roads serving high volumes of truck traffic to four lanes.
- Directs the FDOT to begin the project development and environmental phase for a project to extend the Florida Turnpike from its current terminus in Wildwood to a terminus as determined by the FDOT.

B. Amendments:

None.

By Senator Harrell

25-01671A-21

20211126__

1 A bill to be entitled
 2 An act relating to the Department of Transportation;
 3 amending s. 201.15, F.S.; clarifying that the
 4 Department of Revenue is responsible for a certain
 5 transfer from the State Treasury to the General
 6 Revenue Fund of a portion of documentary stamp tax
 7 distributions credited to the State Transportation
 8 Trust Fund; amending s. 206.46, F.S.; revising a
 9 limitation on an annual transfer from the State
 10 Transportation Trust Fund to the Right-of-Way
 11 Acquisition and Bridge Construction Trust Fund;
 12 amending ss. 206.606, 206.608, and 212.0501, F.S.;
 13 removing a requirement for the deduction of certain
 14 service charges before the distribution of certain
 15 moneys; amending s. 316.545, F.S.; deleting a
 16 requirement that the department provide space and
 17 video conference capability at each of the
 18 department's district offices as an alternative to
 19 physical appearance by a person requesting a hearing
 20 before the Commercial Motor Vehicle Review Board
 21 within the department; requiring the department to
 22 allow a person requesting a hearing to appear remotely
 23 via communications media technology authorized by a
 24 specified rule; amending s. 319.32, F.S.; removing a
 25 requirement for the deduction of certain service
 26 charges before depositing fees for a certificate of
 27 title into the State Transportation Trust Fund;
 28 creating s. 333.15, F.S.; requiring the department to
 29 adopt rules to implement ch. 333, relating to airport

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30 zoning; amending s. 335.199, F.S.; requiring the
 31 department, when proposing any project on the State
 32 Highway System which will close or modify an existing
 33 access to an abutting property owner, to provide
 34 notice to affected property owners, municipalities,
 35 and counties at least 180 days before the design phase
 36 of the project is completed; requiring the department
 37 to hold at least one public meeting before completing
 38 the design phase of the project; making a technical
 39 change; amending s. 339.135, F.S.; revising the date
 40 by which a metropolitan planning organization must
 41 annually submit project priorities to the appropriate
 42 department district for purposes of developing
 43 department district work programs; removing the
 44 expiration of provisions relating to approval of
 45 department work program amendments when a meeting of
 46 the Legislative Budget Commission cannot be held
 47 within a specified timeframe; amending s. 339.175,
 48 F.S.; revising the date by which a metropolitan
 49 planning organization must annually submit a list of
 50 project priorities to the appropriate department
 51 district for purposes of developing department
 52 district work programs and developing metropolitan
 53 planning organization transportation improvement
 54 programs; providing an effective date.

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

58 Section 1. Paragraph (a) of subsection (4) of section

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59 201.15, Florida Statutes, is amended to read:

60 201.15 Distribution of taxes collected.—All taxes collected
61 under this chapter are hereby pledged and shall be first made
62 available to make payments when due on bonds issued pursuant to
63 s. 215.618 or s. 215.619, or any other bonds authorized to be
64 issued on a parity basis with such bonds. Such pledge and
65 availability for the payment of these bonds shall have priority
66 over any requirement for the payment of service charges or costs
67 of collection and enforcement under this section. All taxes
68 collected under this chapter, except taxes distributed to the
69 Land Acquisition Trust Fund pursuant to subsections (1) and (2),
70 are subject to the service charge imposed in s. 215.20(1).
71 Before distribution pursuant to this section, the Department of
72 Revenue shall deduct amounts necessary to pay the costs of the
73 collection and enforcement of the tax levied by this chapter.
74 The costs and service charge may not be levied against any
75 portion of taxes pledged to debt service on bonds to the extent
76 that the costs and service charge are required to pay any
77 amounts relating to the bonds. All of the costs of the
78 collection and enforcement of the tax levied by this chapter and
79 the service charge shall be available and transferred to the
80 extent necessary to pay debt service and any other amounts
81 payable with respect to bonds authorized before January 1, 2017,
82 secured by revenues distributed pursuant to this section. All
83 taxes remaining after deduction of costs shall be distributed as
84 follows:

85 (4) After the required distributions to the Land
86 Acquisition Trust Fund pursuant to subsections (1) and (2) and
87 deduction of the service charge imposed pursuant to s.

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88 215.20(1), the remainder shall be distributed as follows:

89 (a) The lesser of 24.18442 percent of the remainder or
90 \$541.75 million in each fiscal year shall be paid into the State
91 Treasury to the credit of the State Transportation Trust Fund.
92 Of such funds, \$75 million for each fiscal year shall be
93 transferred by the Department of Revenue to the General Revenue
94 Fund. Notwithstanding any other law, the remaining amount
95 credited to the State Transportation Trust Fund shall be used
96 for:

- 97 1. Capital funding for the New Starts Transit Program,
98 authorized by Title 49, U.S.C. s. 5309 and specified in s.
99 341.051, in the amount of 10 percent of the funds;
 - 100 2. The Small County Outreach Program specified in s.
101 339.2818, in the amount of 10 percent of the funds;
 - 102 3. The Strategic Intermodal System specified in ss. 339.61,
103 339.62, 339.63, and 339.64, in the amount of 75 percent of the
104 funds after deduction of the payments required pursuant to
105 subparagraphs 1. and 2.; and
 - 106 4. The Transportation Regional Incentive Program specified
107 in s. 339.2819, in the amount of 25 percent of the funds after
108 deduction of the payments required pursuant to subparagraphs 1.
109 and 2. The first \$60 million of the funds allocated pursuant to
110 this subparagraph shall be allocated annually to the Florida
111 Rail Enterprise for the purposes established in s. 341.303(5).
- 112 Section 2. Subsection (2) of section 206.46, Florida
113 Statutes, is amended to read:
114 206.46 State Transportation Trust Fund.—
115 (2) Notwithstanding any other ~~provisions of~~ law, from the
116 revenues deposited into the State Transportation Trust Fund a

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117 maximum of 7 percent in each fiscal year shall be transferred
 118 into the Right-of-Way Acquisition and Bridge Construction Trust
 119 Fund created in s. 215.605, as needed to meet the requirements
 120 of the documents authorizing the bonds issued or proposed to be
 121 issued under ss. 215.605 and 337.276 or at a minimum amount
 122 sufficient to pay for the debt service coverage requirements of
 123 outstanding bonds. Notwithstanding the 7 percent annual transfer
 124 authorized in this subsection, the annual amount transferred
 125 under this subsection ~~may shall~~ not exceed an amount necessary
 126 to provide the required debt service coverage levels for a
 127 maximum debt service not to exceed \$350 ~~\$275~~ million. Such
 128 transfer shall be payable primarily from the motor and diesel
 129 fuel taxes transferred to the State Transportation Trust Fund
 130 from the Fuel Tax Collection Trust Fund.

131 Section 3. Subsection (1) of section 206.606, Florida
 132 Statutes, is amended to read:

133 206.606 Distribution of certain proceeds.—

134 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
 135 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust
 136 Fund. Such moneys, after deducting ~~the service charges imposed~~
 137 ~~by s. 215.20~~, the refunds granted pursuant to s. 206.41, and the
 138 administrative costs incurred by the department in collecting,
 139 administering, enforcing, and distributing the tax, which
 140 administrative costs may not exceed 2 percent of collections,
 141 shall be distributed monthly to the State Transportation Trust
 142 Fund, except that:

143 (a) \$6.30 million shall be transferred to the Fish and
 144 Wildlife Conservation Commission in each fiscal year and
 145 deposited in the Invasive Plant Control Trust Fund to be used

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146 for aquatic plant management, including nonchemical control of
 147 aquatic weeds, research into nonchemical controls, and
 148 enforcement activities. The commission shall allocate at least
 149 \$1 million of such funds to the eradication of melaleuca.

150 (b) Annually, \$2.5 million shall be transferred to the
 151 State Game Trust Fund in the Fish and Wildlife Conservation
 152 Commission and used for recreational boating activities and
 153 freshwater fisheries management and research. The transfers must
 154 be made in equal monthly amounts beginning on July 1 of each
 155 fiscal year. The commission shall annually determine where unmet
 156 needs exist for boating-related activities, and may fund such
 157 activities in counties where, due to the number of vessel
 158 registrations, sufficient financial resources are unavailable.

159 1. A minimum of \$1.25 million shall be used to fund local
 160 projects to provide recreational channel marking and other
 161 uniform waterway markers, public boat ramps, lifts, and hoists,
 162 marine railways, and other public launching facilities, derelict
 163 vessel removal, and other local boating-related activities. In
 164 funding the projects, the commission shall give priority
 165 consideration to:

166 a. Unmet needs in counties having populations of 100,000 or
 167 less ~~fewer~~.

168 b. Unmet needs in coastal counties having a high level of
 169 boating-related activities from individuals residing in other
 170 counties.

171 2. The remaining \$1.25 million may be used for recreational
 172 boating activities and freshwater fisheries management and
 173 research.

174 3. The commission may adopt rules to administer a Florida

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175 Boating Improvement Program.

176

177 The commission shall prepare and make available on its Internet
178 website an annual report outlining the status of its Florida
179 Boating Improvement Program, including the projects funded, and
180 a list of counties whose needs are unmet due to insufficient
181 financial resources from vessel registration fees.

182 (c) 0.65 percent of moneys collected pursuant to s.
183 206.41(1)(g) shall be transferred to the Agricultural Emergency
184 Eradication Trust Fund.

185 (d) \$13.4 million in fiscal year 2007-2008 and each fiscal
186 year thereafter of the moneys attributable to the sale of motor
187 and diesel fuel at marinas shall be transferred from the Fuel
188 Tax Collection Trust Fund to the Marine Resources Conservation
189 Trust Fund in the Fish and Wildlife Conservation Commission.

190 Section 4. Section 206.608, Florida Statutes, is amended to
191 read:

192 206.608 State Comprehensive Enhanced Transportation System
193 Tax; deposit of proceeds; distribution.—Moneys received pursuant
194 to ss. 206.41(1)(f) and 206.87(1)(d) shall be deposited in the
195 Fuel Tax Collection Trust Fund, and, after deducting ~~the service~~
196 ~~charge imposed in chapter 215 and~~ administrative costs incurred
197 by the department in collecting, administering, enforcing, and
198 distributing the tax, which administrative costs may not exceed
199 2 percent of collections, shall be distributed as follows:

200 (1) 0.65 percent of the proceeds of the tax levied pursuant
201 to s. 206.41(1)(f) shall be transferred to the Agricultural
202 Emergency Eradication Trust Fund.

203 (2) The remaining proceeds of the tax levied pursuant to s.

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204 206.41(1)(f) and all of the proceeds from the tax imposed by s.
205 206.87(1)(d) shall be transferred into the State Transportation
206 Trust Fund, and may be used only for projects in the adopted
207 work program in the district in which the tax proceeds are
208 collected and, to the maximum extent feasible, such moneys shall
209 be programmed for use in the county where collected. However, no
210 revenue from the taxes imposed pursuant to ss. 206.41(1)(f) and
211 206.87(1)(d) in a county shall be expended unless the projects
212 funded with such revenues have been included in the work program
213 adopted pursuant to s. 339.135.

214 Section 5. Subsection (6) of section 212.0501, Florida
215 Statutes, is amended to read:

216 212.0501 Tax on diesel fuel for business purposes;
217 purchase, storage, and use.—

218 (6) All taxes required to be paid on fuel used in self-
219 propelled off-road equipment shall be deposited in the Fuel Tax
220 Collection Trust Fund, to be distributed, ~~after deduction of the~~
221 ~~general revenue service charge pursuant to s. 215.20,~~ to the
222 State Transportation Trust Fund. The department shall, each
223 month, make a transfer, from general revenue collections, equal
224 to such use tax reported on dealers' sales and use tax returns.

225 Section 6. Paragraph (f) of subsection (7) of section
226 316.545, Florida Statutes, is amended to read:

227 316.545 Weight and load unlawful; special fuel and motor
228 fuel tax enforcement; inspection; penalty; review.—

229 (7) There is created within the Department of
230 Transportation the Commercial Motor Vehicle Review Board,
231 consisting of three permanent members who shall be the Secretary
232 of Transportation, the executive director of the Department of

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233 Highway Safety and Motor Vehicles, and the Commissioner of
 234 Agriculture, or their authorized representatives, and four
 235 additional members appointed pursuant to paragraph (b), which
 236 may review any penalty imposed upon any vehicle or person under
 237 the provisions of this chapter relating to weights imposed on
 238 the highways by the axles and wheels of motor vehicles, to
 239 special fuel and motor fuel tax compliance, or to violations of
 240 safety regulations.

241 (f) The review board may hold sessions and conduct
 242 proceedings at any place within the state. As an alternative to
 243 physical appearance, ~~and in addition to any other method of~~
 244 ~~appearance authorized by rule,~~ the Department of Transportation
 245 shall ~~allow provide space and video conference capability at~~
 246 ~~each district office to enable~~ a person requesting a hearing to
 247 appear remotely before the board via communications media
 248 technology as authorized by chapter 28-109, Florida
 249 Administrative Code, regardless of the physical location of the
 250 board proceeding.

251 Section 7. Subsection (5) of section 319.32, Florida
 252 Statutes, is amended to read:

253 319.32 Fees; service charges; disposition.—

254 (5) (a) Forty-seven dollars of each fee collected, except
 255 for fees charged on a certificate of title for a motor vehicle
 256 for hire registered under s. 320.08(6), for each applicable
 257 original certificate of title and each applicable duplicate copy
 258 of a certificate of title, ~~after deducting the service charges~~
 259 ~~imposed by s. 215.20,~~ shall be deposited into the State
 260 Transportation Trust Fund. Deposits to the State Transportation
 261 Trust Fund pursuant to this paragraph may not exceed \$200

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262 million in any fiscal year, and any collections in excess of
 263 that amount during the fiscal year shall be paid into the
 264 General Revenue Fund.

265 (b) All fees collected pursuant to subsection (3) shall be
 266 paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of
 267 each fee, except for fees charged on a certificate of title for
 268 a motor vehicle for hire registered under s. 320.08(6), for each
 269 applicable original certificate of title and each applicable
 270 duplicate copy of a certificate of title, ~~after deducting the~~
 271 ~~service charges imposed by s. 215.20,~~ shall be deposited into
 272 the State Transportation Trust Fund. All other fees collected by
 273 the department under this chapter shall be paid into the General
 274 Revenue Fund.

275 Section 8. Section 333.15, Florida Statutes, is created to
 276 read:

277 333.15 Rulemaking authority.—The department shall adopt
 278 rules pursuant to ss. 120.536(1) and 120.54 to implement this
 279 chapter.

280 Section 9. Subsections (1), (3), and (4) of section
 281 335.199, Florida Statutes, are amended to read:

282 335.199 Transportation projects modifying access to
 283 adjacent property.—

284 (1) Whenever the Department of Transportation proposes any
 285 project on the State Highway System which will divide a state
 286 highway, erect median barriers modifying currently available
 287 vehicle turning movements, or have the effect of closing or
 288 modifying an existing access to an abutting property owner, the
 289 department shall notify all affected property owners,
 290 municipalities, and counties at least 180 days before the design

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291 phase of the project is completed ~~finalized~~. The department's
 292 notice shall provide a written explanation regarding the need
 293 for the project and indicate that all affected parties will be
 294 given an opportunity to provide comments to the department
 295 regarding potential impacts of the change.

296 (3) The department shall hold at least one public meeting
 297 before completing the design phase of the project ~~hearing~~ in the
 298 jurisdiction where the project is located and receive public
 299 input to determine how the project will affect access to
 300 businesses and the potential economic impact of the project on
 301 the local business community.

302 (4) The department must review all comments from the public
 303 meeting hearing and take the comments and any alternatives
 304 presented by a local government under subsection (2) into
 305 consideration in the final design of the highway project.

306 Section 10. Paragraph (c) of subsection (4) and paragraph
 307 (g) of subsection (7) of section 339.135, Florida Statutes, are
 308 amended to read:

309 339.135 Work program; legislative budget request;
 310 definitions; preparation, adoption, execution, and amendment.—

311 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

312 (c)1. For purposes of this section, the board of county
 313 commissioners shall serve as the metropolitan planning
 314 organization in those counties which are not located in a
 315 metropolitan planning organization and shall be involved in the
 316 development of the district work program to the same extent as a
 317 metropolitan planning organization.

318 2. The district work program shall be developed
 319 cooperatively from the outset with the various metropolitan

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320 planning organizations of the state and include, to the maximum
 321 extent feasible, the project priorities of metropolitan planning
 322 organizations which have been submitted to the district by
 323 August 1 ~~October 1~~ of each year pursuant to s. 339.175(8)(b);
 324 however, the department and a metropolitan planning organization
 325 may, in writing, cooperatively agree to vary this submittal
 326 date. To assist the metropolitan planning organizations in
 327 developing their lists of project priorities, the district shall
 328 disclose to each metropolitan planning organization any
 329 anticipated changes in the allocation or programming of state
 330 and federal funds which may affect the inclusion of metropolitan
 331 planning organization project priorities in the district work
 332 program.

333 3. Before ~~Prior to~~ submittal of the district work program
 334 to the central office, the district shall provide the affected
 335 metropolitan planning organization with written justification
 336 for any project proposed to be rescheduled or deleted from the
 337 district work program which project is part of the metropolitan
 338 planning organization's transportation improvement program and
 339 is contained in the last 4 years of the previous adopted work
 340 program. By no later than 14 days after submittal of the
 341 district work program to the central office, the affected
 342 metropolitan planning organization may file an objection to such
 343 rescheduling or deletion. When an objection is filed with the
 344 secretary, the rescheduling or deletion may not be included in
 345 the district work program unless the inclusion of such
 346 rescheduling or deletion is specifically approved by the
 347 secretary. The Florida Transportation Commission shall include
 348 such objections in its evaluation of the tentative work program

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349 only when the secretary has approved the rescheduling or
350 deletion.

351 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

352 (g)1. Any work program amendment which also requires the
353 transfer of fixed capital outlay appropriations between
354 categories within the department or the increase of an
355 appropriation category is subject to the approval of the
356 Legislative Budget Commission.

357 2. If a meeting of the Legislative Budget Commission cannot
358 be held within 30 days after the department submits an amendment
359 to the Legislative Budget Commission, the chair and vice chair
360 of the Legislative Budget Commission may authorize such
361 amendment to be approved pursuant to s. 216.177. ~~This~~
362 ~~subparagraph expires July 1, 2021.~~

363 Section 11. Paragraph (b) of subsection (8) of section
364 339.175, Florida Statutes, is amended to read:

365 339.175 Metropolitan planning organization.—

366 (8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall,
367 in cooperation with the state and affected public transportation
368 operators, develop a transportation improvement program for the
369 area within the jurisdiction of the M.P.O. In the development of
370 the transportation improvement program, each M.P.O. must provide
371 the public, affected public agencies, representatives of
372 transportation agency employees, freight shippers, providers of
373 freight transportation services, private providers of
374 transportation, representatives of users of public transit, and
375 other interested parties with a reasonable opportunity to
376 comment on the proposed transportation improvement program.

377 (b) Each M.P.O. annually shall prepare a list of project

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378 priorities and shall submit the list to the appropriate district
379 of the department by August 1 ~~October 1~~ of each year; however,
380 the department and a metropolitan planning organization may, in
381 writing, agree to vary this submittal date. Where more than one
382 M.P.O. exists in an urbanized area, the M.P.O.'s shall
383 coordinate in the development of regionally significant project
384 priorities. The list of project priorities must be formally
385 reviewed by the technical and citizens' advisory committees, and
386 approved by the M.P.O., before it is transmitted to the
387 district. The approved list of project priorities must be used
388 by the district in developing the district work program and must
389 be used by the M.P.O. in developing its transportation
390 improvement program. The annual list of project priorities must
391 be based upon project selection criteria that, at a minimum,
392 consider the following:

- 393 1. The approved M.P.O. long-range transportation plan;
- 394 2. The Strategic Intermodal System Plan developed under s.
395 339.64.
- 396 3. The priorities developed pursuant to s. 339.2819(4).
- 397 4. The results of the transportation management systems;
- 398 and
- 399 5. The M.P.O.'s public-involvement procedures.
- 400 Section 12. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:
Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 18, 2021

Senator Gainer, Chair
Appropriations Subcommittee on Transportation, Tourism and Economic Development
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Gainer,

I respectfully request that **SB 1126 – Department of Transportation** be placed on the next available agenda for the Transportation, Tourism and Economic Development Appropriations Committee Meeting.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Jennifer Hrdlicka, Staff Director
Robert Fourqorean, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 24, 2021

Senator Kelli Stargel
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Stargel,

I respectfully request that **SB 1126 – Department of Transportation** be placed on the next available agenda for the Appropriations Committee Meeting. SB 1126 has passed unanimously its previous two Committee references.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

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 Appropriations

BILL: CS/CS/SB 1146

INTRODUCER: Appropriations Committee; Community Affairs Committee; and Senator Brodeur and others

SUBJECT: Florida Building Code

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1146 amends the Florida Building Codes Act adding several new provisions. Specifically, the bill:

- Allows a substantially affected person to petition the Florida Building Commission (commission) for a non-binding advisory opinion on whether a local government regulation is an improper amendment to the Florida Building Code (building code), and establishes a process for such.
- Allows the commission to issue an “errata to the code” to correct demonstrated errors in provisions contained within the building code.
- Requires the commission to adopt rules for approving product evaluation entities in addition to the ones already listed and approved in current law.
- Prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.
- Expressly authorizes local governments and school districts to use a private provider to provide building code inspection services for public works projects and improvements to any building or structure.
- Provides that a municipality, county, or special district may not use preliminary maps issued by the Federal Emergency Management Agency for any law, ordinance, rule, or other measure that has the effect of imposing land use changes.

The bill makes several changes to current law pertaining to private building inspectors, known as “private providers” by:

- Expressly authorizing private providers to conduct virtual building inspections.
- Allowing private provides to submit various inspection forms, records, and reports electronically to local building departments and utilize electronic signatures.
- Allowing private providers to conduct “single-trade inspections,” as defined in the bill.
- Creating a “qualified private provider” registration process and providing that a qualified private provider, as defined in the bill, does not need to include information other than the services to be performed in their written notice to the local building official that a private provider has been contracted to perform inspections.
- Authorizing a private provider to conduct emergency inspection services without first notifying the local building official.

The bill also allows the owner of an onsite sewage treatment and disposal system, or the owner’s contractor, to select a private provider to provide certain inspection services of such systems in lieu of the Department of Health.

Finally, the bill prohibits the Department of Health from requiring assisted living facilities to comply with rules relating to swimming pool lifeguards.

The bill may have an indeterminate negative fiscal impact. *See* Part V, Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

The Florida Building Code and Florida Building Commission

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida’s minimum standards were met. Local governments could choose from four separate model codes. The state’s role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida’s system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission’s recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (building code), and that first edition replaced all

¹ Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 15, 2021).

local codes on March 1, 2002.² The current edition of the building code is the seventh edition, which is referred to as the 2020 Building Code.³

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (act). The purpose and intent of the act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The building code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The main purpose of the building code is to regulate new construction or proposed modifications to existing structures in order to give the occupants the highest level of safety and the least amount of defects.⁵

The Florida Building Commission

The Florida Building Commission (commission) was statutorily created to implement the building code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the building code.⁶

The commission reviews several International Codes published by the International Code Council, the National Electric Code (NEC), and other nationally adopted model codes to determine if the building code needs to be updated and adopts an updated building code every three years.⁷

The commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.⁸ TACs are made up of commission members and other parties who advise the commission on declaratory statements, proposed amendments, and any other areas of interest of the commission.⁹

Local Enforcement of the Florida Building Code

The Legislature has provided local governments with the power to inspect all buildings, structures, and facilities within their jurisdiction to protect the public’s health, safety, and welfare.¹⁰

² *Id.*; Department of Business and Professional Regulation (DBPR), *Building Code Information System*, <https://floridabuilding.org/c/default.aspx#> (last visited Feb. 15, 2021).

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Feb. 26, 2021).

⁴ *See* s. 553.72(1), F.S.

⁵ Florida Building Commission, *Advanced Florida Building Code Principals*, http://www.floridabuilding.org/Upload/Courses_trp/421-2-MATERIAL-Adv%20FL%20Bldg%20Code%20-%20Course%20PDF%20version%207.0.pdf (last visited Feb. 26, 2021).

⁶ Sections 553.73, and 553.74, F.S.

⁷ *Id.*

⁸ DBPR, *Florida Building Code Online*, https://www.floridabuilding.org/c/c_commission.aspx (last visited Feb. 26, 2021).

⁹ Section 553.73(3), F.S.; Fla. Admin. Code R. 61G20-2.001.

¹⁰ Section 553.72, F.S.

Every local government must enforce the building code and issue building permits.¹¹ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons that may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹²

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹³ A building official is a local government employee or a person contracted by a local government who supervises building code activities, including plan review, enforcement, and inspection to ensure work complies with the building code.¹⁴

Amendments to the Building Code

The commission and local governments may adopt technical and administrative amendments to the building code. A technical amendment to the building code is an alteration to the prescriptive requirements or reference standards for construction. An administrative amendment is an addition or alteration of the code enforcement requirements of the building code.¹⁵ All amendments adopted by the commission require a 75 percent supermajority vote of approval.¹⁶

The commission may approve technical amendments to the building code once each year for statewide or regional application upon a finding that the amendment:¹⁷

- Is needed in order to accommodate the specific needs of the state;
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public;
- Strengthens or improves the building code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction;
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities; and
- Does not degrade the effectiveness of the building code.

In order to adopt a technical amendment to the building code, the commission must meet the following requirements:¹⁸

- The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by a TAC;
- The proposed amendment includes a fiscal impact statement that documents the costs and benefits of the proposed amendment;

¹¹ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹² See Sections 125.56(4)(a) and 553.79(1), F.S.

¹³ Section 202 of the Building Code, Sixth Edition.

¹⁴ Section 468.603(2), F.S.

¹⁵ Section 553.73, F.S.; Fla. Admin. Code R. 61G20-2.002.

¹⁶ Fla. Admin. Code R. 61G20-2.002(13).

¹⁷ Section 553.73(9), F.S.

¹⁸ Section 553.73(3) and (9), F.S.

- In order for a TAC to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the TAC meeting and at least half of the regular members must be present in order to conduct a meeting;
- After TAC consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for at least 45 days before any consideration by the commission; and
- A proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with ch. 120, F.S.

Adopted amendments to the foundation codes must be clearly marked in printed versions of the building code so the fact that the provisions are Florida-specific amendments to the foundation codes is readily apparent.¹⁹

However, for certain amendments the commission may adopt amendments at any time and only has to follow the rule adopting procedures in ch. 120, F.S. The commission may adopt amendments using the rule adoption procedure to address the following:²⁰

- Conflicts within the updated building code;
- Conflicts between the updated building code and the Florida Fire Prevention Code;
- Unintended results from the integration of previously adopted Florida-specific amendments with the model code;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law;
- Adoption of an updated edition of the NEC if the commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare; or
- Enhancement of the construction requirements relating to wind resistance or the prevention of water intrusion.

Local Amendments to the Building Code

Local governments may adopt amendments to the building code that are more stringent than the building code that are limited to the local government's jurisdiction. Amendments by local governments expire upon the adoption of the newest edition of the building code, and, thus, the local government would need to go through the amendment process every three years in order to maintain a local amendment to the building code.²¹

Current law allows local governments to adopt technical amendments to the building code every six months if:²²

- The local government's governing body holds a public hearing to discuss the amendment, which has been advertised in a newspaper of general circulation at least 10 days before the meeting;

¹⁹ Section 553.73(7), F.S.

²⁰ Section 553.73(8), F.S.; Fla. Admin. Code R. 61G20-2.002(2).

²¹ Section 553.73(4), F.S.

²² *Id.*

- Following the hearing, the governing body determines that an amendment is needed to address a local need that is not addressed by the building code;
- The amendment is no more stringent than necessary to address the local need;
- The local amendment is not discriminatory against materials, products, or construction techniques of demonstrated capabilities;
- The local amendment does not introduce a new subject that is not addressed by the building code;
- The local amendment includes a fiscal impact statement, which documents the costs and benefits of the amendment including the impact to local government, property and building owners, industry, and the cost of compliance; and
- The local government sends the amendment to the commission.

A technical amendment adopted by a local government takes effect 30 days after the commission receives the amendment and publishes the amendment on its website.²³

The commission may review local amendments and issue nonbinding recommendations to local governments about whether the local government complied with the requirements to adopt an amendment. If the commission decides to review a local amendment, it must send the amendment to the applicable TAC for review.²⁴

The TAC must then make a recommendation to the commission about whether the local amendment complies with the requirements of current law. The commission must provide the nonbinding recommendation to the local government within 30 days of adopting the recommendation.²⁵

Each county and municipality that adopts technical amendments to the building code must establish a countywide compliance review board by interlocal agreement. The compliance review board reviews any amendment adopted by a local government in its county that is challenged by a substantially affected party in order to determine if the amendment has been adopted in accordance with the requirements of current law.²⁶

A local government or the substantially affected party may appeal the compliance review board's decision to the commission within 14 days of the board's decision. The commission must refer the appeal to the Division of Administrative Hearings for a hearing by an administrative law judge. The administrative law judge must hold a hearing within 30 days of being assigned the appeal, and must enter a recommended order within 30 days of the conclusion of the hearing.²⁷

The commission must enter a final order within 30 days after the administrative law judge issues a recommended order. In proceedings before a compliance review board or the commission, the

²³ Section 553.73(4), F.S.; Fla. Admin. Code R. 61G20-2.003.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 553.73(4), F.S.

²⁷ *Id.*

local government has the burden to prove an amendment has been adopted in accordance with the requirements of current law.²⁸

Interpretations of the Building Code

The commission may issue declaratory statements regarding interpretations of the Florida Building Code, review local building officials' interpretation of the building code, and give binding interpretations of the building code.²⁹

A substantially affected person, state agency, or a local government may petition the commission in writing for a declaratory statement relating to interpretations of the building code, or the enforcement or administration of the building code by local governments. The commission must issue a declaratory statement or deny a petition within 90 days of receiving the petition. Declaratory statements are binding upon all jurisdictions and are subject to judicial review by a district court of appeal.³⁰

A substantially affected person may also petition the commission to review a local building official's interpretation of the building code. A substantially affected person includes an owner or builder subject to a decision of the local building official or an association of owners or builders having members who are subject to a decision of the local building official.³¹

A substantially affected person may petition the commission to review a local building official's interpretation of the building code if:³²

- The substantially affected person has appealed the building official's interpretation to the local board of appeals, if such board exists;
- The substantially affected person files a written petition to the commission on a form adopted by the commission which contains:
 - The name and address of the local government and the local building official;
 - The name, address, and phone number of the substantially affected person, and an explanation of how they are substantially affected by the building official's interpretation;
 - A statement of the provisions of the building code that are being interpreted, the building official's interpretation of those sections, and the substantially affected person's interpretation of those sections; and
 - The local building official's response.
- The substantially affected person has given the petition to the local building official and at least five days for the building official to respond.

Upon receiving a written petition to review a local building official's interpretation of the building code, the commission must provide copies to a panel, and publish the petition and the local building official's response on the commission's website and allow for comments to be posted by interested parties. The panel must have seven members made up of five building

²⁸ *Id.*

²⁹ Section 553.775, F.S.

³⁰ Sections 553.775(3), 120.565, and 120.68, F.S.

³¹ Section 553.775(3), F.S.

³² *Id.*

officials, an architect, and an engineer. The commission must coordinate with the Building Officials Association of Florida³³ to designate the panel.³⁴

The panel must conduct proceedings necessary to issue a determination, and consider the written petition, the local building official's response, and any comments posted on the commission's website. The panel must issue a determination within 21 days of the petition being filed with the commission. The determination is binding upon all parties and all jurisdictions in Florida.³⁵ The determination must be published on the commission's website and the Florida Administrative Register.³⁶

A party may appeal the panel's determination by filing an appeal with the commission within 30 days of the panel's determination. The commission must conduct a hearing in accordance with the Administrative Procedure Act. The burden of proof in the hearing is on the party appealing the panel's determination. The commission's ruling is subject to judicial review by a district court of appeal.³⁷

Virtual Building Inspections

As a result of COVID-19, many building departments in Florida began performing virtual inspections in order to prevent a shut down and to protect building department staff, contractors, and property owners. Virtual inspections allow a building official or inspector to perform an inspection without having to be physically present at the jobsite. They also allow building departments to continue operating during the COVID-19 pandemic, which allows contractors to keep working.³⁸

Virtual inspections can range from roofing inspections, windows and doors inspections, to A/C change outs depending on the jurisdiction. Virtual inspections can be more efficient than in-person inspections by reducing jobsite travel time, allowing contractors to immediately request an inspection once they finish work, and allowing the contractor to remain on the jobsite.³⁹

³³ The Building Officials Association of Florida is the largest community of building officials, building inspectors, plans examiners, and building code compliance professionals in the state. Its goal is to ensure the health, safety, and welfare of the public through safe building practices by equipping building professions through education, advocacy, leadership, and code development. Building Officials Association of Florida, *About BOAF*, <https://boaf.net/page/About> (last visited Jan. 8, 2020).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*; The Florida Administrative Register is a daily publication which gives the public current information about the status of proposed rules, notice of agency public meetings, workshops and hearings, and anything else required by law. Florida Administrative Code & Florida Administrative Register, *FL Rules FAQ*, <https://www.flrules.org/Help/newHelp.asp#FAW> (last visited Jan. 15, 2020).

³⁷ Sections 553.775(3) and 120.68, F.S.

³⁸ Monica Casey, Tallahassee creates virtual building inspections to save jobs and keep social distancing, WCTV.tv (Apr. 8, 2020) <https://www.wctv.tv/content/news/Tallahassee-creates-virtual-building-inspections-to-save-jobs-and-keep-social-distancing-569485561.html> (last visited Apr. 5, 2021).

³⁹ Miami Beach, Modified Procedures for Building Code Inspections During COVID-19 Emergency Period, <https://www.miamibeachfl.gov/wp-content/uploads/2020/05/Virtual-inspections-procedures-2.pdf> (last visited Apr. 5, 2021); Boca Raton, Virtual Inspections, <https://myboca.us/1846/Virtual-Inspections> (last visited Apr. 5, 2021).

Current law does not specifically prohibit building departments from performing virtual inspections, but it also does not specifically allow building departments to perform virtual inspections.

Product Evaluation and Approval

Current law requires the commission to develop and implement an approval of products for statewide use. The commission has created a product approval system for products and systems that makeup the building envelope and structural frame of a building.⁴⁰ The commission approves the products in several categories for statewide use.⁴¹

To obtain state approval, a manufacturer must demonstrate that a product complies with the applicable standards and provisions of the building code by submitting one of the following reports:

- A certification mark or listing of an approved certification agency;
- A test report from an approved testing laboratory;
- A product evaluation report developed, signed, and sealed by a Florida licensed engineer or architect; or
- A product evaluation report from one of the following evaluation entities:
 - The National Evaluation Service;
 - The International Association of Plumbing and Mechanical Officials Evaluation Service;
 - The International Code Council Evaluation Services;
 - Underwriters Laboratories, LLC;
 - The International Conference of Building Officials;
 - SBCCI Public Safety Testing and Evaluation Services, Inc.;
 - Intertek Testing Services NA, Inc.; or
 - The Miami-Dade County Building Code Compliance Office Product Control Division.⁴²

Currently, the commission has authority to approve an entity as an approved testing laboratory or a certification agency if it meets the commission's rules.⁴³ However, the commission does not have authority to approve an entity as an evaluation entity. In order to be approved as an evaluation entity, the entity must be added to the list of approved evaluation entities in current law by the Legislature.

Required Information in Building Permit Application

To obtain a permit, an applicant must complete an application for the proposed work on a form furnished by the government entity. The form must include the following information:⁴⁴

- The name and address of the owner of the property;
- The name and address of the contractor;

⁴⁰ Section 553.842(1), F.S.; Fla. Admin. Code R. 61G20-3.001.

⁴¹ Fla. Admin. Code R. 61G20-3.001. The categories considered by this rule are panel walls, exterior doors, roofing products, skylights, windows, shutters, structural components, and impact protective systems.

⁴² Section 553.842, F.S.; DBPR, Product Evaluation Entity List, https://www.floridabuilding.org/pr/pr_org_lst.aspx (last visited Mar. 29, 2021).

⁴³ Fla. Admin. Code R. 61G20-3.008.

⁴⁴ Section 713.135(5) and (6), F.S.

- A description sufficient to identify the property to be improved, including the property's address and legal description;
- The name and address of the bonding company, if any;
- The name and address of the architect/engineer, if any;
- The name and address of the mortgage company, if any; and
- The number or identifying symbol assigned to the building permit by the issuing authority.

In addition to the information that must be in the application, a government entity may require any additional information be included in the application.⁴⁵

Private Providers

Any construction work that requires a building permit also requires plans and inspections by a local building official to ensure the work complies with the building code. The building code requires certain building, electrical, plumbing, mechanical, and gas inspections. In addition to required inspections, a local building official may require other inspections of any work to ensure it complies with the building code.⁴⁶

In 2002, the Legislature created s. 553.791, F.S., allowing contractors and property owners to hire licensed building code administrators, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.

Private providers are able to approve building plans and perform building code inspections as long as the plans approval and inspections are within the scope of the provider's license. Licensed building inspectors and plans examiners may perform inspections for additions and alterations that are limited to 1,000 square feet or less in residential buildings.

A building official is entitled to audit a private provider to ensure the private provider has reviewed the building plans and is performing the required inspections. A building official may not audit a private provider more than four times in a month unless the building official determines the condition of a building constitutes an immediate threat to public safety and welfare. A building official may also issue a stop work order at any time if he or she determines any condition of the construction poses an immediate threat to public safety and welfare.⁴⁷

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.⁴⁸ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where

⁴⁵ *Id.*

⁴⁶ Sections 107, 110.1, and 110.3 of the Building Code, Sixth Edition.

⁴⁷ Sections 553.791(1), (13), and (18), F.S.

⁴⁸ Department of Health (DOH), *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 31, 2021); Environmental Protection Agency (EPA), *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Mar. 31, 2021).

anaerobic bacteria breakdown the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁴⁹

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.⁵⁰ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁵¹ For example, in rural areas and low-density developments, central sewer systems are not cost-effective.

Permitting and official inspection of OSTDSs is administered by the Environmental Health Section of the Department of Health (DOH) in each county.⁵² The section permits, regulates, and inspects the construction of new systems, repairs and modifications to existing systems, existing system approvals, and abandonments of systems.⁵³ Much like other construction projects, installation, repair, alteration, modification, abandonment, and replacement of OSTDSs requires a permit.⁵⁴ Before an OSTDS is covered with earth, put into service, or repaired, the county DOH must inspect the system for compliance with statutory requirements and the DOH rules.⁵⁵ Chapter 2020-150, L.O.F., provides effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the Department of Environmental Protection (DEP).

Assisted Living Facilities

An assisted living facility is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁵⁶ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁵⁷ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.⁵⁸

Assisted living facilities are licensed and regulated by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S., Florida Administrative Code Rule 59A-36. In addition to a standard license, an assisted living facility

⁴⁹ *Id.*

⁵⁰ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 24, 2021).

⁵¹ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Mar. 24, 2021). The report begins on page 56 of the PDF.

⁵² DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Apr. 12, 2021).

⁵³ *Id.*

⁵⁴ Fla. Admin. Code R. 64E-6.003(1).

⁵⁵ Fla. Admin. Code R. 64E-6.003.

⁵⁶ Section 429.02(5), F.S. An assisted living facility does not include an adult family-care home or a non-transient public lodging establishment.

⁵⁷ Section 429.02(16), F.S.

⁵⁸ Section 429.02(1), F.S.

may have one or more specialty licenses that allow the assisted living facility to provide additional care. These specialty licenses include limited nursing services,⁵⁹ limited mental health services, and extended congregate care services.⁶⁰

Current law requires rules governing assisted living facilities to promote a safe and sanitary environment that is residential and non-institutional in design or nature.⁶¹ Current law also requires that rules set requirements for and maintenance of facilities relating to plumbing, heating, cooling, lighting, ventilation, living space, and other housing conditions that are not in conflict with ch. 553, F.S., governing building construction standards. Current law also requires the AHCA to develop key quality-of-care standards for assisted living facilities with input from the State Long-Term Care Ombudsman Council and representatives of provider groups for incorporation into its rules.⁶² Rules must also address moratoriums, classification of deficiencies, the levying of penalties and the use of income from fees and fines.⁶³

Public Pools

The DOH is responsible for the oversight and regulation of water quality and safety of public swimming pools in Florida under ch. 514, F.S. In order to operate or continue to operate a public swimming pool, a valid operating permit from the DOH must be obtained. If the DOH determines that the public swimming pool is, or is reasonably expected to be, operated in compliance with state laws and rules, the DOH will issue a permit. However, if it is determined that the pool is not in compliance with state laws and rules, the application for a permit will be denied. The DOH is authorized to establish a schedule of fees for plan approval and permitting.⁶⁴ Operating permits must be renewed annually and may be transferred from one name or owner to another.⁶⁵

A public swimming pool includes “a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee, and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.”⁶⁶

All public pools must be equipped with the following safety features:⁶⁷

⁵⁹ Section 429.07(3)(c), F.S. Limited nursing services include acts that may be performed by a person licensed as a nurse but are not complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints (s. 429.02(13), F.S.).

⁶⁰ Section 429.07(3)(b), F.S. Extended congregate care facilities provide services to an individual that would otherwise be ineligible for continued care in an assisted living facility. The primary purpose is to allow a resident the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency as they become more impaired.

⁶¹ Section 429.41(1), F.S.

⁶² Section 429.41(5), F.S. The Agency for Health Care Administration (AHCA) reviews the key quality-of-care standards for compliance during an abbreviated biennial licensure inspection (s. 429.41(5), F.S.).

⁶³ Section 429.41(1)(f), F.S.

⁶⁴ Section 514.033, F.S.

⁶⁵ Section 514.031(2) and (3), F.S.

⁶⁶ *Id.*

⁶⁷ Fla. Admin. Code R. 64E-9.008(3) and (7).

- Safety drain outlet cover(s)/grate(s) and allowable secondary anti-entrapment devices;⁶⁸
- A shepherd’s hook securely attached to a one piece pole not less than 16 feet in length. Pools over 50 feet in length shall have a shepherd’s hook on each of the longer sides of the pool⁶⁹;
- At least one 18-inch diameter lifesaving ring with sufficient rope attached to reach all parts of the pool from the pool deck. Pools over 50 feet in length shall have a lifesaving ring on each of the longer sides of the pool;
- Safety equipment shall be mounted in a conspicuous place and be readily available for use; and
- Lighting if the pool is used during nighttime.

Lifeguards

A “lifeguard” is a person responsible for the safety of the users of a public swimming pool. Lifeguards are not required at a public pool unless the pool has a water slide plunge pool or the pool is a water activity pool with climbable structures.⁷⁰

However, anyone working as a lifeguard at a public swimming pool must be certified in lifeguarding, first aid, and cardiopulmonary resuscitation by the American Red Cross, the Y.M.C.A., or other nationally recognized aquatic training programs.⁷¹

Pools in Assisted Living Facilities

Current law gives the DOH the authority to adopt rules necessary to protect the health and safety of residents, staff, and patrons of group care facilities.⁷² The DOH’s rules require a group care facility, with a pool, to provide direct supervision by an adult employee when in use or when the area is occupied by minors and other residents that cannot swim. The adult employee providing supervision must have completed a community water safety course by the American Red Cross, Y.M.C.A., or other approved aquatic training program.⁷³

Group care facilities include public or private schools, assisted living facilities, adult family-care homes, adult day care centers, short-term residential treatment centers, residential treatment facilities, home for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, or boarding schools.⁷⁴

On July 6, 2018, the DOH opened up its rules relating to group care facilities, including the rule relating to pools in group care facilities, in order to update the rules by incorporating technical changes for consistency with changes in industry standards, reduce surplus language, and increase clarity. On March 11, 2020, the DOH held a workshop to receive comments on the

⁶⁸ Federal law requires public pools and spas to have a drain cover and a secondary anti-entrapment device in order to avoid suction entrapment. 15 U.S.C. s. 106.

⁶⁹ Spa pools under 200 square feet of surface area, and interactive water features or wading pools with two feet or less of water depth are exempt from the requirement to have shepherd’s hook and lifesaving ring requirement. *Id.*

⁷⁰ Section 514.071, F.S.; Fla. Admin. Code R. 64E-9.008(2).

⁷¹ *Id.*

⁷² *Id.*

⁷³ Fla. Admin. Code R. 64E-12.011(3).

⁷⁴ Section 381.006(16), F.S.

possible rule updates.⁷⁵ The proposed rule requires assisted living facilities with pools, spas, or open water hazards to implement and maintain a written policy pertaining to the use of water safety barriers, water safety devices and equipment, and cardiopulmonary resuscitation. The policy must be available for review by the DOH.⁷⁶

The proposed rule provides that if an assisted living facility has a pool, spa, or open water hazard that is not considered a public swimming pool, the facility must have direct supervision by an adult employee when in use or when the area is occupied by minors and other residents or visitors that cannot swim. The individual responsible for supervision during water activities or near water hazards must be knowledgeable of:⁷⁷

- The written policy;
- The correct use of water safety devices and equipment;
- The correct use of any water safety barriers; and
- Cardiopulmonary resuscitation procedures.

The proposed rule also provides that an assisted living facility with a pool or spa that is not considered a public swimming pool, must have a residential swimming pool barrier that meets the standards of the building code, and be equipped with water safety devices including a shepherd's hook not less than 16 feet in length and an 18-inch diameter lifesaving ring.⁷⁸

Federal Emergency Management Agency Flood Maps

The Federal Emergency Management Agency (FEMA) is an agency within the United States Department of Homeland Security. The FEMA coordinates responses to disasters within the United States. The FEMA provides resources and assistance to local and state authorities when a disaster overwhelms local response capacities.

The FEMA is responsible for various services related to flood insurance, floodplain management, and flood mapping. The FEMA provides flood hazard and risk data products to help set insurance rates for the National Flood Insurance Program (NFIP) and help guide local and state governments' flood mitigation actions.

The National Flood Insurance Program

The NFIP is a program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968. The NFIP aims to share the risk of flood losses through flood insurance and reduce flood damage by restricting development within floodplains. The program enables property owners in participating communities to purchase insurance protection, administered by the government, against flooding losses. Participation in the NFIP is limited to

⁷⁵ DOH, *Group Care Facilities*, <http://www.floridahealth.gov/environmental-health/group-care-facilities/index.html> (last visited Feb. 25, 2021). Department of State, History of Rule 64E-12.011 since Jan. 6, 2006, Florida Administrative Code and Florida Administrative Register <https://www.flrules.org/gateway/RuleNo.asp?title=COMMUNITY%20BASED%20RESIDENTIAL%20FACILITIES&ID=64E-12.011> (last visited Feb. 25, 2021).

⁷⁶ Email from Andrew Love, Legislative Planning Director, DOH, FW: Violations at pool inspections Re: Pool Bills - Exemption for HOAs HB 463/SB 902 (Feb. 26, 2021).

⁷⁷ *Id.*

⁷⁸ *Id.*

communities that adopt adequate land use and control measures with effective enforcement provisions to reduce flood damages by restricting development in areas exposed to flooding.⁷⁹

Flood Insurance Rate Maps

The NFIP insurance rates are correlated with the unique flooding risks of a geographic area. To facilitate the allocation of insurance rates, the FEMA prepares flood insurance rate maps (FIRM). A FIRM is an official map of a community within the United States that displays the floodplains, more explicitly particular hazard areas and risk premium zones, as delineated by the FEMA.⁸⁰

FIRMs display areas that fall within the 100-year flood boundary, special flood hazard areas, and insurance risk zones. FIRMs are used to set insurance rates against the risk of flood and whether buildings are insurable at all against flood. Furthermore, towns and municipalities use FIRMs for local land use policy and zoning.⁸¹

Local Government Flood Map Adoption Process

For local governments and individual homeowners to acquire property insurance and participation in the NFIP, local governments must officially adopt FIRMs by providing for such via ordinance. Local governments must also adopt updates and revisions to FIRMs made by the FEMA. Generally, the adoption process involves the FEMA issuing preliminary flood maps, a period for community review and appeal, the FEMA issuing a letter of determination, and local governments updating ordinances to reflect flood map changes. The process for adopting FIRMs is described in more detail below.⁸²

Preliminary Flood Insurance Rate Maps

The FEMA prepares preliminary flood hazard data to provide the public an early look at their home or community's projected risk to flood hazards. Preliminary data may include new or revised FIRMs. Under the FEMA's Risk Mapping, Assessment, and Planning program, the FEMA with communities and other local stakeholders engage in a discovery process to obtain a comprehensive picture of the community's flooding issues, flood risk, and potential flood mitigation activities. This analysis may also include a review of more restrictive floodplain management criteria. Information obtained during the discovery process helps the FEMA prepare preliminary FIRMs.⁸³

⁷⁹ FEMA, *Flood Insurance*, available at: <https://www.fema.gov/flood-insurance> (last visited April 16, 2021).

⁸⁰ FEMA, *Flood Insurance Rate Map (FIRM)*, available at: <https://www.fema.gov/glossary/flood-insurance-rate-map-firm> (last visited April 16, 2021).

⁸¹ *Id.*

⁸² See generally *Adoption of Flood Insurance Rate Maps by Participating Communities*, FEMA 495 January 2019, available at: https://www.fema.gov/sites/default/files/2020-07/fema_adoption-flood-insurance-rate-maps-participating-communities_bulletin.pdf (last visited April 16, 2021).

⁸³ FEMA, *Flood Map Products*, available at: <https://www.fema.gov/flood-maps/products-tools/products#gis> (last visited April 16, 2021).

Local Government Flood Map Adoption Process

Next, the FEMA provides copies of a preliminary FIRM report for community review and holds meetings with various state and local officials involved in the study. The FEMA may also hold public meetings to introduce and discuss the preliminary FIRM and FIS report with community members.⁸⁴

90-day Communities Appeals Period

After the Consultation Coordination Officer (CCO) meeting, the FEMA initiates a 90-day period for communities to submit appeals about the new or modified flood hazard information shown on the FIRM. Before the appeal period is initiated, the FEMA will publish a notice of proposed flood hazard determinations in the Federal Register, notify the community's Chief Executive Officer, and publish information at least twice in a local newspaper. The appeal period provides community officials and people who own or lease property in the community an opportunity to submit scientific or technical information if they believe the flood hazard determinations are scientifically or technically incorrect.⁸⁵

Letter of Final Determination

Following the 90-day appeal period, the FEMA resolves all appeals and finalizes the changes to the FIRM and FIS report. The FEMA then sends each affected community a Letter of Final Determination (LFD), which establishes the final flood hazard data and the effective date of the new FIRM and FIS report for the community.⁸⁶

Six-month Community Adoption Period

The LFD also initiates the six-month period during which each community must adopt or amend its floodplain management regulations to reference the date and title of the new FIRM report. The FIRM and FIS report become effective at the end of the six months. At that time, flood insurance rates will be based on the new flood data, and the community will apply any floodplain management ordinances related to the new mapping. Federally insured or regulated lenders will also use the newly effective FIRM to determine if flood insurance is required as a condition of a loan.⁸⁷

Community Land Use Regulation Changes

Each time the FEMA provides a community with new or revised flood hazard data, the local government must either adopt new floodplain management regulations to incorporate the data into in a code of ordinances or amend the existing ones to reference the new FIRM report. Many communities have legally valid automatic adoption clauses to incorporate updated FIRM map reference sections.⁸⁸

⁸⁴ See generally Adoption of Flood Insurance Rate Maps by Participating Communities, FEMA 495 January 2019, available at: https://www.fema.gov/sites/default/files/2020-07/fema_adoption-flood-insurance-rate-maps-participating-communities_bulletin.pdf (last visited April 16, 2021).

⁸⁵ *Id.* at 3.

⁸⁶ *Id.* at 4.

⁸⁷ *Id.*

⁸⁸ *Id.* at 5.

If a new type of flood hazard data is added to a community's FIRM, local officials may need to enact an ordinance to meet additional requirements. This ordinance enactment could be needed when the FEMA upgrades a flood zone without Base Flood Elevations (BFEs), indicates a new Special Flood Hazard Area (SFHA), or designates a coastal high hazard area.⁸⁹

Consequences for Failing to Adopt Appropriate Floodplain Management Regulations

If a community does not adopt or amend floodplain management regulations after six months, the community will be suspended from the NFIP. Suspension from the NFIP will have the following consequences:

- Property owners are prevented from purchasing NFIP flood insurance policies, and existing policies will not be renewed.
- Federal grants or loans for development will not be available in identified flood hazard areas.
- Federal disaster assistance will not be provided to permanently repair insurable buildings in identified flood hazard areas for damage caused by a flood.
- Federal mortgage insurance or loan guarantees, such as those written by the Federal Housing Administration and the Department of Veteran Affairs, will not be provided in identified flood hazard areas.

Federally insured or regulated lending institutions, such as banks and credit unions, can make conventional loans for insurable buildings in flood hazard areas of non-participating communities.⁹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 381.0065, F.S., to allow the owner of an onsite sewage treatment and disposal system (OSTDS), or the owner's contractor, to select a private provider to provide official inspection services of such systems in lieu of the Department of Health (DOH).⁹¹ This authorization is substantially similar to the provisions governing private building inspectors in ch. 553, F.S.

An owner or contractor using a private provider must notify the DOH two days prior to the first inspection of their intention to use a private provider. This notification must include the private provider's business information, professional license or certification number, and qualification statements or resumes. It must also include an acknowledgement form with prescribed language stating the owner's rights and liabilities to the DOH. An owner or contractor who changes the listed private providers must also update the notice given to the DOH.

The DOH must reduce permit fees based on savings to the DOH due to a private provider providing the inspection services.

⁸⁹ See generally Adoption of Flood Insurance Rate Maps by Participating Communities, FEMA 495 January 2019, available at: https://www.fema.gov/sites/default/files/2020-07/fema_adoption-flood-insurance-rate-maps-participating-communities_bulletin.pdf (last visited April 16, 2021).

⁹⁰ *Id.* at 5 – 6.

⁹¹ Chapter 2020-150, Laws of Fla., provides effective July 1, 2021, the regulation of OSTDSs relating to the Onsite Sewage Program in the DOH is transferred by a type two transfer to the Department of Environmental Protection (DEP).

The OSTDS inspection services may be performed only by a private provider, a duly authorized representative of a private provider, or a person who is:

- Certified as an environmental health professional⁹² by the DOH under s. 381.0101, F.S.;
- A master septic contractor⁹³ licensed by the Department of Business and Professional Regulations pursuant to ch. 489, F.S.;
- A professional engineer who has passed all three parts of the Onsite Sewage Treatment and Disposal System (OSTDS) Accelerated Certification Training⁹⁴; or
- A person working as staff under such an engineer, who has also passed all three parts of the OSTDS Accelerated Certification Training.

The DOH may audit the performance of OSTDS inspection services by private providers. Such an audit cannot occur more than four times per month unless the DOH determines that an inspected and passed OSTDS should not have passed. Audits may not delay work following a passed inspection.

Section 2 amends s. 514.0115, F.S., to prohibit the DOH from requiring assisted living facilities with pools to comply with the DOH rules relating to swimming pool lifeguards.

Section 3 amends s. 553.73, F.S., to provide that a substantially affected person⁹⁵ may petition the Florida Building Commission (commission) for a non-binding advisory opinion for any local government⁹⁶ regulation, law, ordinance, policy, amendment, or land use or zoning provision (regulation) that the person believes is a technical amendment to the Florida Building Code (building code) and was not adopted in accordance with the process for adopting local amendments to the building code.

The commission must issue a non-binding advisory opinion stating whether a local government regulation is a technical amendment to the building code if the substantially affected person submits a petition to the commission. The petition must also be submitted to the local government's general counsel or administrator by certified mail, return receipt requested. The

⁹² "Environmental health professional" means a person who is employed or assigned the responsibility for assessing the environmental health or sanitary conditions, as defined by the department, within a building, on an individual's property, or within the community at large, and who has the knowledge, skills, and abilities to carry out these tasks. Environmental health professionals may be either field, supervisory, or administrative staff members. Section 381.0101(1)(d), F.S.

⁹³ "Master septic tank contractor" means a septic tank contractor whose services are unlimited in the septic tank trade who has had at least three years' experience as a Florida-registered septic tank contractor or a certified plumbing contractor who has provided septic tank contracting services for at least three years and who has the experience, knowledge, and skills to install, maintain, repair, close repairs of, and alter all types of onsite sewage treatment and disposal systems, to design onsite sewage treatment and disposal systems, where not prohibited by law, to perform and submit soil evaluations, when determined to meet site-evaluation expertise established by rule, and to use materials and items used in the installation and maintenance of all types of onsite sewage treatment and disposal systems. Section 489.551(2), F.S.

⁹⁴ The Onsite Sewage Treatment and Disposal System (OSTDS) Accelerated Certification Training program, administered by the DOH, provides five days of training on OSTDSs and results in a special certification. The program is available to private individuals, septic tank contractors, licensed plumbers, professional engineers, and staff working under professional engineers. DOH, *Accelerated Environmental Health Professional Certification and Master Septic Tank Contractor Training Participation and Examination Guide*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/training/documents/act-part-n-exam-guide1-12-2021.pdf> (last visited Apr. 1, 2021).

⁹⁵ A "substantially affected person" includes an owner or builder subject to the local government's regulation or an association of owners or builders who have members who are subject to the regulation.

⁹⁶ A "local government" means a county, municipality, special district, or political subdivision of the state.

local government may respond within 14 days, and send a copy of its response to the commission. The petition must be made using a form adopted by the commission that contains at a minimum:

- The name of the local government that enacted the regulation;
- The name and address of the local government's general counsel;
- The name, address, and phone number of the substantially affected person;
- An explanation of how the person is substantially affected by the local government's regulation; and
- A statement of why the regulation is a technical amendment to the building code, and which provisions of the building code are amended by the regulation, if any.

Upon receiving a petition to review a local government's regulation, the commission must publish the petition and the local government's response on the building code information system and allow for comments to be posted by interested parties.

The commission must consider the petition, the local government's response, any comments posted on the commission's website, and any recommendation provided by a Technical Advisory Committee. The commission must issue a non-binding advisory opinion stating whether the local government's regulation is a technical amendment to the building code within 30 days of receiving the petition. The commission must also publish the non-binding advisory opinion on its website and the Florida Administrative Register.

This section further provides that the commission may also issue an "errata to the code" to correct demonstrated errors in provisions contained with the building code. An "errata to the code" means a list of errors on current and previous editions of the building code. The determination of such errors and the issuance of an "errata to the code" must be approved by a 75 percent supermajority vote of the commission.

Finally, under the bill, a municipality, county, or special district may not use preliminary maps issued by the Federal Emergency Management Agency (FEMA) for any law, ordinance, rule, or other measure that has the effect of imposing land use changes. Under this provision, the named local government entities may have to provide that land use changes based on a preliminary FEMA map are not effective until the FEMA map becomes effective, and is no longer considered preliminary.

Section 5 amends s. 553.79, F.S., to prohibit a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.

Section 6 amends s. 553.791, F.S., to allow private providers to conduct inspection services either virtually or in person.

This section revises the statutory provision regarding reduction of fees for utilizing private providers to expressly require local jurisdictions to reduce the permit fee by the amount of cost savings realized by the local enforcement agency based on a flat fee, percentage, or other reasonable means.

This section further allows electronic signatures to be used on several forms submitted by private providers to building code officials. “Electronic signature” is defined to mean any letters, characters, or symbols manifested by electronic or similar means which are executed or adopted by a party with an intent to authenticate a writing or record. Inspection records and affidavits attesting that plans have been reviewed for compliance may be signed physically or electronically. Such an affidavit may also be electronically submitted.

When a noncomplying item related to the building code or permitted documents is found at a work site, a deficiency notice must be posted at the job site by the private provider, the provider’s representative, or the building department. The bill allows such deficiency notice to be electronically posted, in the alternative to physically posting at the jobsite

This section provides that if equipment replacements and repairs must be performed in an emergency situation, subject to the emergency permitting provisions of the building code, a private provider may perform emergency inspection services without first notifying the local building official. The building code provides that where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.⁹⁷ A private provider must conduct the inspection within three business days after being contacted to conduct an emergency inspection and must submit the inspection report to the local building official within one day after the inspection is completed.

This section defines “single-trade inspections” as any inspection focused on a single construction trade, such as plumbing, mechanical, or electrical, and provides specific examples of single-trade work. The section expressly provides that private providers are allowed to perform single-trade inspections within the disciplines covered by that person’s licensure or certification.

If an owner or contractor makes changes to the listed private providers or services to be conducted by private providers, they must update the notice of work to be performed within one business day. The bill amends the timing to allow, in the alternative, such notice to be updated two business days before the next scheduled inspection.

Further, the bill defines “qualified private providers” as those private providers who have previously performed plans review and inspection services in the local jurisdiction and has registered with the local enforcing agency by providing the local building official with the provider’s:

- Name, firm, address, telephone number, and email address;
- Professional license or certification number, qualification statements, or resumes; and
- A certificate of insurance, if required by the local building official.

This information must be submitted on an annual basis to maintain qualifying status, and must be updated within 10 business days after any change. The local jurisdiction is required to keep a registry of active qualified private providers separate from the jurisdiction’s private provider and duly authorized representative licensure registration system authorized by 553.791(16)(b), F.S.

⁹⁷ Section 105.2.1, Florida Building Code (7th ed.) 2020.

Qualified private providers are not required to re-provide the information listed above to the local building code administrator with each notice of work to be performed as otherwise required by s. 553.971(4), F.S.

Finally, this section expressly authorizes local governments and school districts to use a private provider to provide building code inspection services for public works projects and improvements to any building or structure.

Section 7 amends s. 553.842, F.S., to require the commission to adopt rules for approving evaluation entities in addition to the ones already approved and listed in current law.

Sections 4, 8, and 9 correct statutory references to conform to changes made by the bill.

Section 10 provides the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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

The bill may implicate this constitutional restriction, to the extent that local governments are required to expend funds to procure or enhance technology infrastructure to accommodate electronic submission and posting of certain inspection materials and records by private providers.

However, Article VII, s. 18(d) of the State Constitution provides that the mandate requirements do not apply to laws having an insignificant impact,⁹⁸ which for Fiscal Year 2020-2021 is forecast at \$2.2 million.⁹⁹ The fiscal impact of this bill is indeterminate. If the total cost of this legislation is less than \$2.2 million, then the mandate requirements do not apply. If costs imposed by the bill are determined to exceed \$2.2 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of

⁹⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 10, 2021).

⁹⁹ Based on the Florida Demographic Estimating Conference's Nov. 13, 2020 population forecast for 2021 of 21,893,919. The conference packet is available at: <http://edr.state.fl.us/content/conferences/population/demographicsummary.pdf> (last visited March 10, 2021).

important state interest and meets one of the exceptions specified in State Constitution (e.g., enactment by vote of two-thirds of the membership of each house).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

This bill may implicate the constitutional single subject rule. Article III, s. 6 of the Florida Constitution imposes a single subject restriction on laws enacted by the Legislature: “Every law shall embrace but one subject and matter properly connected therewith...” The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise and fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal so long as the matters included in the enactment have a natural or logical connection.

The title of the bill is “An act relating to the Florida Building Code.” However, section one of the bill relates to the inspection of onsite sewage treatment and disposal systems, and section two relates to the Department of Health’s lifeguard standards for pools serving assisted living facilities, which may not properly connect to the Florida Building Code.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Allowing the use of private providers to inspect onsite sewage treatment and disposal systems (OSTDSs) may increase efficiencies and lower costs for OSTDS owners. Additionally, persons qualified to be a private provider under the bill will be able to offer official inspection services, increasing business opportunities.

Private providers generally will also have increased opportunities for emergency inspections, virtual inspections, and electronic submission and signature efficiencies, which will have a positive effect. To the extent that the clarification regarding fee reduction alters a local government's fee calculations, consumers utilizing private providers may experience an indeterminate impact.

Prohibiting local governments from requiring contracts between owners and builders as a condition to apply or obtain a building permit may have a positive impact by preventing certain proprietary information from becoming public.

C. Government Sector Impact:

Allowing the use of private providers to inspect OSTDSs may save government funds by lightening the burden on inspections performed by the government; however, each inspection performed by a private provider reduces the revenue received by the governmental entity that would have done the inspection. The Department of Health is currently responsible for performing these inspections; however, effective July 1, 2021, the Onsite Sewage Program will transfer to the Department of Environmental Protection.

According to Department of Business and Professional Regulation (DBPR), applicants for certification as product evaluation entities will be required to pay an initial application fee and renewals fees. The DBPR estimates no more than 75 new entities will apply for certification and estimates receiving no more than \$45,000 in new application fees and \$15,000 annually in renewal fees for such applicants.¹⁰⁰

The Florida Building Commission may see an increased workload related to establishing a process for accepting petitions from affected persons, issuing non-binding advisory opinions. According to the DBPR, the technology contractor for the Florida Building Commission (commission) estimates updating the Building Code information system to implement the nonbinding advisory opinion process will cost approximately \$60,000.¹⁰¹

The provision allowing the commission to adopt an "errata to the code" is not anticipated to have a significant impact on the commission's processes.¹⁰²

Local governments may need to expend funds to procure or enhance electronic infrastructure to accommodate electronic submission and posting of certain inspection materials and records by private providers.

Local building code administrators may incur costs, most likely insignificant, related to the provision requiring maintenance of a registry of "qualified private providers."

¹⁰⁰ See Department of Business and Professional Regulation, *HB 401 Bill Analysis*, p. 5, (Feb. 24, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

¹⁰¹ *Id.*

¹⁰² Email from the Legislative Affairs Coordinator, Department of Business and Professional Regulation, HB 401 Provision, (Mar. 30, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 1 provides that certain onsite sewage treatment and disposal system inspections may be performed by a “private provider” or a representative thereof. “Private provider” is not defined in ch. 381, F.S., and the operation of the term in the bill is unclear. An amendment may be necessary to more clearly define the professional licensing standards and requirements of a private provider.

The provision in section 3 of the bill pertaining to land use changes and preliminary FEMA flood maps (lines 428-431) would be more appropriately placed within part II of ch. 163, F.S., pertaining to land development regulations. Additionally, this provision should specifically reference “*Flood Insurance Rate Map* issued by the Federal Emergency Management Agency,” as opposed to a general reference to FEMA maps.

Current law does not expressly authorize building inspections performed by local building departments to be conducted virtually. Section 6 provides express authorization for private building inspectors, “private providers,” to conduct building inspections virtually. The sponsor may consider addressing this inconsistency.

Section 6 provides that private providers may electronically post certain documents “through the use of a website or other form of electronic communication used to transmit or display information.” The bill is silent as to whether this capability must be authorized by the local building code administrator, or whether such website must be provided by the local building code administrator, as opposed to each private provider creating their own method of posting.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0065, 514.0115, 553.73, 553.77, 553.79, 553.791, 553.842, 125.01, and 125.56.

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 April 15, 2021:

The committee substitute makes several changes to current law pertaining to private providers to allow private providers to conduct virtual inspections, perform single-trade inspections, submit certain inspection documentation and reports electronically, conduct emergency inspection services, and register as a “qualified private provider” with a local government.

The CS also provides that a municipality, county, or special district may not use preliminary maps issued by Federal Emergency Management Agency (FEMA) for any measure that imposes land use changes.

CS by Community Affairs on March 30, 2021:

The CS incorporates the provisions allowing an owner of an onsite sewage treatment and disposal system, or the owner's contractor, to select a private provider to provide certain inspection services of such systems in lieu of the Department of Health. It also expressly authorizes local governments and school districts to use a private provider to provide building code inspection services for public works projects and improvements to any building or structure.

B. Amendments:

None.

By the Committees on Appropriations; and Community Affairs; and
Senators Brodeur and Perry

576-04235-21

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1 A bill to be entitled
2 An act relating to the Florida Building Code; amending
3 s. 381.0065, F.S.; authorizing fee owners or fee
4 owners' contractors to select private providers to
5 provide inspection services for onsite sewage
6 treatment and disposal systems if certain requirements
7 are met; providing legislative intent; requiring the
8 Department of Health to reduce certain permit fees;
9 prohibiting the department from charging inspection
10 fees if the fee owner or contractor hires a private
11 provider to perform an inspection; providing
12 requirements for private providers or duly authorized
13 representatives of private providers performing such
14 inspections; requiring fee owners or contractors to
15 provide specified notice to the department when using
16 a private provider for such inspections; providing
17 requirements for the contents of such notice;
18 prohibiting the department from charging a fee for
19 changing the duly authorized representative named in a
20 permit application; authorizing the department to
21 audit the performance of private providers; providing
22 requirements relating to work on a building, a
23 structure, or an onsite sewage treatment and disposal
24 system relating to such audits; amending s. 514.0115,
25 F.S.; prohibiting the Department of Health from
26 requiring that pools serving assisted living
27 facilities be compliant with rules relating to
28 swimming pool lifeguards; amending s. 553.73, F.S.;
29 authorizing a substantially affected person to file a

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30 petition with the Florida Building Commission to
31 review certain local government regulations, laws,
32 ordinances, policies, amendments, or land use or
33 zoning provisions; defining the term "local
34 government"; providing requirements for the petition
35 and commission; requiring the commission to issue a
36 nonbinding advisory opinion within a specified
37 timeframe; prohibiting a municipality, county, or
38 special district from using preliminary maps issued by
39 the Federal Emergency Management Agency for certain
40 purposes relating to land use changes; authorizing the
41 commission to issue errata to the code; defining the
42 term "errata to the code"; making technical changes;
43 amending s. 553.77, F.S.; conforming a cross-
44 reference; amending s. 553.79, F.S.; prohibiting a
45 local government from requiring certain contracts for
46 the application for or issuance
47 of a building permit; amending s. 553.791, F.S.;
48 revising and defining terms; providing requirements
49 for qualified private providers; requiring local
50 jurisdictions to reduce permit fees under certain
51 circumstances; deleting legislative intent; specifying
52 that contractors using private providers to provide
53 building code inspections services must notify local
54 building officials in writing; revising notice
55 requirements; deleting a provision requiring fee
56 owners or fee owners' contractors to post certain
57 information at a project site before commencing
58 construction; authorizing certain affidavits to be

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59 signed with electronic signatures and be submitted to
 60 local building officials electronically; authorizing
 61 certain inspections to be performed in-person or
 62 virtually; authorizing certain reports to be signed
 63 with electronic signatures; authorizing certain
 64 notices to be electronically posted; authorizing
 65 private providers to perform certain replacements and
 66 repairs without first notifying local building
 67 officials under certain circumstances; authorizing
 68 certain forms to be signed with electronic signatures;
 69 authorizing certain inspection records to be
 70 electronically posted and electronically submitted to
 71 local building officials; authorizing certificates of
 72 compliance to be electronically transmitted to local
 73 building officials; specifying that a certain registry
 74 must be distinct from the registry of qualified
 75 private providers; conforming provisions to changes
 76 made by the act; authorizing a county, a municipality,
 77 a school district, or an independent special district
 78 to use a private provider to provide building code
 79 inspection services for certain purposes; amending s.
 80 553.842, F.S.; requiring evaluation entities that meet
 81 certain criteria to comply with certain standards;
 82 amending ss. 125.01 and 125.56, F.S.; conforming
 83 cross-references; making technical changes; providing
 84 an effective date.

85
 86 Be It Enacted by the Legislature of the State of Florida:
 87

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88 Section 1. Subsection (8) is added to section 381.0065,
 89 Florida Statutes, to read:
 90 381.0065 Onsite sewage treatment and disposal systems;
 91 regulation.—
 92 (8) PRIVATE PROVIDER INSPECTION SERVICES.—
 93 (a) Notwithstanding any other law, ordinance, or policy,
 94 the fee owner of an onsite sewage treatment and disposal system,
 95 or the fee owner's contractor upon written authorization from
 96 the fee owner, may select a private provider to provide
 97 inspection services for onsite sewage treatment and disposal
 98 systems and may pay the private provider directly for such
 99 services if such services are the subject of a written contract
 100 between the private provider, or the private provider's firm,
 101 and the fee owner or the fee owner's contractor, upon written
 102 authorization of the fee owner.
 103 (b) It is the intent of the Legislature that owners and
 104 contractors pay reduced fees related to onsite sewage treatment
 105 disposal system inspections when selecting a private provider to
 106 provide such inspections. The department must calculate the cost
 107 savings to the department based on a fee owner or contractor
 108 hiring a private provider to perform inspections in lieu of the
 109 department and reduce permit fees accordingly. The department
 110 may not charge fees for an inspection if the fee owner or
 111 contractor hires a private provider to perform the inspection.
 112 (c) Onsite sewage treatment and disposal system inspection
 113 services may be performed only by a private provider or a duly
 114 authorized representative of a private provider within the
 115 disciplines covered under such person's licensure or if the
 116 person is certified under s. 381.0101, is a master septic

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117 contractor licensed pursuant to chapter 489, is a professional
 118 engineer who has passed all three parts of the OSTDS Accelerated
 119 Certification Training, or is a person working as staff under
 120 the supervision of a licensed professional engineer and has
 121 passed all three parts of the OSTDS Accelerated Certification
 122 Training.

123 (d)1. A fee owner or the fee owner's contractor using a
 124 private provider for onsite sewage treatment and disposal system
 125 inspection services must provide notice to the department at the
 126 time of permit application, or by 2 p.m. local time, 2 business
 127 days before the first scheduled inspection by the department.
 128 The notice must include the following information:

129 a. The name, firm, address, telephone number, and e-mail
 130 address of each private provider who is performing or will
 131 perform such services, the private provider's professional
 132 license or certification number, and qualification statements or
 133 resumes for each private provider; and

134 b. An acknowledgment from the fee owner in substantially
 135 the following form:

136
 137 I have elected to use one or more private providers to
 138 provide onsite sewage treatment and disposal system
 139 inspection services that are the subject of the
 140 enclosed permit application. I understand that the
 141 department may not perform the required onsite sewage
 142 treatment and disposal system inspections to determine
 143 compliance with the applicable codes, except to the
 144 extent authorized by law. Instead, inspections will be
 145 performed by the licensed or certified personnel

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146 identified in the application. By executing this form,
 147 I acknowledge that I have made inquiry regarding the
 148 competence of the licensed or certified personnel and
 149 am satisfied that my interests are adequately
 150 protected. I agree to indemnify, defend, and hold
 151 harmless the department from any and all claims
 152 arising from my use of these licensed or certified
 153 personnel to perform onsite sewage treatment and
 154 disposable system inspections with respect to the
 155 onsite sewage treatment and disposable system that are
 156 the subject of the enclosed permit application.

157
 158 2. If the fee owner or the fee owner's contractor makes any
 159 changes to the listed private providers or the services to be
 160 provided by the private providers, the fee owner or the fee
 161 owner's contractor must update the notice to reflect the change
 162 within 1 business day after the change. A change of a duly
 163 authorized representative named in the permit application does
 164 not require a revision of the permit and the department may not
 165 charge a fee for making such change.

166 (e) The department may audit the performance of onsite
 167 sewage treatment and disposal system inspection services by
 168 private providers. However, the same private provider may not be
 169 audited more than four times in a month unless the department
 170 determines that an onsite sewage treatment and disposal system
 171 inspected by the private provider should not have passed
 172 inspection. Work on a building, a structure, or an onsite sewage
 173 treatment and disposal system may proceed after inspection and
 174 approval by a private provider if the fee owner or fee owner's

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175 contractor has given notice of the inspection pursuant to
 176 subsection (4) and, subsequent to such inspection and approval,
 177 may not be delayed for completion of an inspection audit by the
 178 department.

179 Section 2. Present subsections (3) through (8) of section
 180 514.0115, Florida Statutes, are redesignated as subsections (4)
 181 through (9), respectively, and a new subsection (3) is added to
 182 that section, to read:

183 514.0115 Exemptions from supervision or regulation;
 184 variances.—

185 (3) The department may not require compliance with rules
 186 relating to swimming pool lifeguard standards for pools serving
 187 assisted living facilities.

188 Section 3. Subsections (4), (5), and (8) of section 553.73,
 189 Florida Statutes, are amended to read:

190 553.73 Florida Building Code.—

191 (4) (a) All entities authorized to enforce the Florida
 192 Building Code under pursuant to s. 553.80 shall comply with
 193 applicable standards for issuance of mandatory certificates of
 194 occupancy, minimum types of inspections, and procedures for
 195 plans review and inspections as established by the commission by
 196 rule. Local governments may adopt amendments to the
 197 administrative provisions of the Florida Building Code, subject
 198 to the limitations in of this subsection paragraph. Local
 199 amendments must shall be more stringent than the minimum
 200 standards described in this section herein and must shall be
 201 transmitted to the commission within 30 days after enactment.
 202 The local government shall make such amendments available to the
 203 general public in a usable format. The State Fire Marshal is

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204 responsible for establishing the standards and procedures
 205 required in this subsection paragraph for governmental entities
 206 with respect to applying the Florida Fire Prevention Code and
 207 the Life Safety Code.

208 (b) Local governments may, subject to the limitations in of
 209 this section and not more than once every 6 months, adopt
 210 amendments to the technical provisions of the Florida Building
 211 Code that which apply solely within the jurisdiction of such
 212 government and that which provide for more stringent
 213 requirements than those specified in the Florida Building Code,
 214 ~~not more than once every 6 months~~. A local government may adopt
 215 technical amendments that address local needs if:

216 1. The local governing body determines, following a public
 217 hearing which has been advertised in a newspaper of general
 218 circulation at least 10 days before the hearing, that there is a
 219 need to strengthen the requirements of the Florida Building
 220 Code. The determination must be based upon a review of local
 221 conditions by the local governing body, which review
 222 demonstrates by evidence or data that the geographical
 223 jurisdiction governed by the local governing body exhibits a
 224 local need to strengthen the Florida Building Code beyond the
 225 needs or regional variation addressed by the Florida Building
 226 Code, that the local need is addressed by the proposed local
 227 amendment, and that the amendment is no more stringent than
 228 necessary to address the local need.

229 2. Such additional requirements are not discriminatory
 230 against materials, products, or construction techniques of
 231 demonstrated capabilities.

232 3. Such additional requirements may not introduce a new

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233 subject not addressed in the Florida Building Code.

234 ~~(c)4-~~ The enforcing agency shall make readily available, in
235 a usable format, all amendments adopted under pursuant to this
236 section.

237 ~~(d)5-~~ Any amendment to the Florida Building Code shall be
238 transmitted within 30 days after adoption by the ~~adopting~~ local
239 government to the commission. The commission shall maintain
240 copies of all such amendments in a format that is usable and
241 obtainable by the public. Local technical amendments are shall
242 not ~~become~~ effective until 30 days after the amendment has been
243 received and published by the commission.

244 ~~(e)6-~~ An Any amendment to the Florida Building Code adopted
245 by a local government under pursuant to this subsection is
246 ~~paragraph shall be~~ effective only until the adoption by the
247 ~~commission~~ of the new edition of the Florida Building Code by
248 the commission every third year. At such time, the commission
249 shall review such amendment for consistency with the criteria in
250 paragraph (9) (a) and adopt such amendment as part of the Florida
251 Building Code or rescind the amendment. The commission shall
252 immediately notify the respective local government of the
253 rescission of any amendment. After receiving such notice, the
254 respective local government may readopt the rescinded amendment
255 under pursuant to the provisions of this subsection paragraph.

256 ~~(f)7-~~ Each county and municipality desiring to make local
257 technical amendments to the Florida Building Code shall by
258 ~~interlocal agreement~~ establish by interlocal agreement a
259 countywide compliance review board to review any amendment to
260 the Florida Building Code that is, adopted by a local government
261 within the county under pursuant to this subsection and

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262 ~~paragraph,~~ that is challenged by a any substantially affected
263 party for purposes of determining the amendment's compliance
264 with this subsection paragraph. If challenged, the local
265 technical amendments are shall not ~~become~~ effective until the
266 time for filing an appeal under paragraph (g) pursuant to
267 ~~subparagraph 8-~~ has expired or, if there is an appeal, until the
268 commission issues its final order determining if the adopted
269 amendment is in compliance with this subsection.

270 ~~(g)8-~~ If the compliance review board determines such
271 amendment is not in compliance with this subsection paragraph,
272 the compliance review board shall notify such local government
273 of the noncompliance and that the amendment is invalid and
274 unenforceable until the local government corrects the amendment
275 to bring it into compliance. The local government may appeal the
276 decision of the compliance review board to the commission. If
277 the compliance review board determines that such amendment is to
278 ~~be~~ in compliance with this subsection paragraph, any
279 substantially affected party may appeal such determination to
280 the commission. Any such appeal must shall be filed with the
281 commission within 14 days after of the board's written
282 determination. The commission shall promptly refer the appeal to
283 the Division of Administrative Hearings by electronic means
284 through the division's website for the assignment of an
285 administrative law judge. The administrative law judge shall
286 conduct the required hearing within 30 days after being assigned
287 to the appeal, and shall enter a recommended order within 30
288 days after of the conclusion of such hearing. The commission
289 shall enter a final order within 30 days after an order is
290 rendered thereafter. ~~The provisions of Chapter 120 and the~~

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291 uniform rules of procedure shall apply to such proceedings. The
 292 local government adopting the amendment that is subject to
 293 challenge has the burden of proving that the amendment complies
 294 with this ~~subsection paragraph~~ in proceedings before the
 295 compliance review board and the commission, as applicable.
 296 Actions of the commission are subject to judicial review under
 297 ~~pursuant to~~ s. 120.68. The compliance review board shall
 298 determine whether its decisions apply to a respective local
 299 jurisdiction or apply countywide.

300 ~~(h)9-~~ An amendment adopted under this ~~subsection paragraph~~
 301 ~~must shall~~ include a fiscal impact statement ~~that which~~
 302 documents the costs and benefits of the proposed amendment.
 303 Criteria for the fiscal impact statement shall include the
 304 impact to local government relative to enforcement ~~and,~~ the
 305 impact to property and building owners ~~and, as well as to~~
 306 industry, relative to the cost of compliance. The fiscal impact
 307 statement may not be used as a basis for challenging the
 308 amendment for compliance.

309 ~~(i)10-~~ In addition to paragraphs (f) and (g) ~~subparagraphs~~
 310 ~~7. and 9-~~, the commission may review any amendments adopted
 311 under pursuant to this subsection and make nonbinding
 312 recommendations related to compliance of such amendments with
 313 this subsection.

314 ~~(j)(e)~~ Any amendment adopted by a local enforcing agency
 315 under pursuant to this subsection ~~may shall~~ not apply to state
 316 or school district owned buildings, manufactured buildings or
 317 factory-built school buildings approved by the commission, or
 318 prototype buildings approved under pursuant to s. 553.77(3). The
 319 respective responsible entities shall consider the physical

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320 performance parameters substantiating such amendments when
 321 designing, specifying, and constructing such exempt buildings.

322 ~~(k)(d)~~ A technical amendment to the Florida Building Code
 323 related to water conservation practices or design criteria
 324 adopted by a local government under pursuant to this subsection
 325 is not ~~rendered~~ void when the code is updated if the technical
 326 amendment is necessary to protect or provide for more efficient
 327 use of water resources as provided in s. 373.621. However, any
 328 such technical amendment carried forward into the next edition
 329 of the code under pursuant to this paragraph is subject to
 330 review or modification as provided in this part.

331 (l) If a local government adopts a regulation, law,
 332 ordinance, policy, amendment, or land use or zoning provision
 333 without using the process established in this subsection, and a
 334 substantially affected person considers such regulation, law,
 335 ordinance, policy, amendment, or land use or zoning provision to
 336 be a technical amendment to the Florida Building Code, then the
 337 substantially affected person may submit a petition to the
 338 commission for a nonbinding advisory opinion. If a substantially
 339 affected person submits a request in accordance with this
 340 paragraph, the commission shall issue a nonbinding advisory
 341 opinion stating whether or not the commission interprets the
 342 regulation, law, ordinance, policy, amendment, or land use or
 343 zoning provision as a technical amendment to the Florida
 344 Building Code. As used in this paragraph, the term "local
 345 government" means a county, municipality, special district, or
 346 political subdivision of the state.

347 1. Requests to review a local government regulation, law,
 348 ordinance, policy, amendment, or land use or zoning provision

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349 may be initiated by any substantially affected person. A
 350 substantially affected person includes an owner or builder
 351 subject to the regulation, law, ordinance, policy, amendment, or
 352 land use or zoning provision, or an association of owners or
 353 builders having members who are subject to the regulation, law,
 354 ordinance, policy, amendment, or land use or zoning provision.

355 2. In order to initiate a review, a substantially affected
 356 person must file a petition with the commission. The commission
 357 shall adopt a form for the petition and directions for filing,
 358 which shall be published on the Building Code Information
 359 System. The form shall, at a minimum, require the following:

360 a. The name of the local government that enacted the
 361 regulation, law, ordinance, policy, amendment, or land use or
 362 zoning provision.

363 b. The name and address of the local government's general
 364 counsel or administrator.

365 c. The name, address, and telephone number of the
 366 petitioner; the name, address, and telephone number of the
 367 petitioner's representative, if any; and an explanation of how
 368 the petitioner's substantial interests are being affected by the
 369 regulation, law, ordinance, policy, amendment, or land use or
 370 zoning provision.

371 d. A statement explaining why the regulation, law,
 372 ordinance, policy, amendment, or land use or zoning provision is
 373 a technical amendment to the Florida Building Code, and which
 374 provisions of the Florida Building Code, if any, are being
 375 amended by the regulation, law, ordinance, policy, amendment, or
 376 land use or zoning provision.

377 3. The petitioner shall serve the petition on the local

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378 government's general counsel or administrator by certified mail,
 379 return receipt requested, and send a copy of the petition to the
 380 commission, in accordance with the commission's published
 381 directions. The local government shall respond to the petition
 382 in accordance with the form by certified mail, return receipt
 383 requested, and send a copy of its response to the commission,
 384 within 14 days after receipt of the petition, including
 385 Saturdays, Sundays, and legal holidays.

386 4. Upon receipt of a petition that meets the requirements
 387 of this paragraph, the commission shall publish the petition,
 388 including any response submitted by the local government, on the
 389 Building Code Information System in a manner that allows
 390 interested persons to address the issues by posting comments.

391 5. Before issuing an advisory opinion, the commission shall
 392 consider the petition, the response, and any comments posted on
 393 the Building Code Information System. The commission may also
 394 provide the petition, the response, and any comments posted on
 395 the Building Code Information System to a technical advisory
 396 committee, and may consider any recommendation provided by the
 397 technical advisory committee. The commission shall issue an
 398 advisory opinion stating whether the regulation, law, ordinance,
 399 policy, amendment, or land use or zoning provision is a
 400 technical amendment to the Florida Building Code within 30 days
 401 after the filing of the petition, including Saturdays, Sundays,
 402 and legal holidays. The commission shall publish its advisory
 403 opinion on the Building Code Information System and in the
 404 Florida Administrative Register. The commission's advisory
 405 opinion is nonbinding and is not a declaratory statement under
 406 s. 120.565.

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407 (5) Notwithstanding subsection (4), counties and
 408 municipalities may adopt by ordinance an administrative or
 409 technical amendment to the Florida Building Code relating to
 410 flood resistance in order to implement the National Flood
 411 Insurance Program or incentives. Specifically, an administrative
 412 amendment may assign the duty to enforce all or portions of
 413 flood-related code provisions to the appropriate agencies of the
 414 local government and adopt procedures for variances and
 415 exceptions from flood-related code provisions other than
 416 provisions for structures seaward of the coastal construction
 417 control line consistent with the requirements in 44 C.F.R. s.
 418 60.6. A technical amendment is authorized to the extent it is
 419 more stringent than the code. A technical amendment is not
 420 subject to the requirements of subsection (4) and may not be
 421 rendered void when the code is updated if the amendment is
 422 adopted for the purpose of participating in the Community Rating
 423 System promulgated pursuant to 42 U.S.C. s. 4022, the amendment
 424 had already been adopted by local ordinance prior to July 1,
 425 2010, or the amendment requires a design flood elevation above
 426 the base flood elevation. Any amendment adopted pursuant to this
 427 subsection shall be transmitted to the commission within 30 days
 428 after being adopted. A municipality, county, or special district
 429 may not use preliminary maps issued by the Federal Emergency
 430 Management Agency for any law, ordinance, rule, or other measure
 431 that has the effect of imposing land use changes.

432 (8) Notwithstanding subsection (3) or subsection (7), the
 433 commission may address issues identified in this subsection by
 434 amending the code ~~under pursuant to~~ the rule adoption procedures
 435 in chapter 120. Updates to the Florida Building Code, including

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436 provisions contained in referenced standards and criteria which
 437 relate to wind resistance or the prevention of water intrusion,
 438 may not be amended ~~under pursuant to~~ this subsection to diminish
 439 those standards; however, the commission may amend the Florida
 440 Building Code to enhance such standards. Following the approval
 441 of any amendments to the Florida Building Code by the commission
 442 and publication of the amendments on the commission's website,
 443 authorities having jurisdiction to enforce the Florida Building
 444 Code may enforce the amendments.

445 (a) The commission may approve amendments that are needed
 446 to address:

- 447 1. ~~(a)~~ Conflicts within the updated code;
- 448 2. ~~(b)~~ Conflicts between the updated code and the Florida
 449 Fire Prevention Code adopted under pursuant to chapter 633;
- 450 3. ~~(c)~~ Unintended results from the integration of previously
 451 adopted amendments with the model code;
- 452 4. ~~(d)~~ Equivalency of standards;
- 453 5. ~~(e)~~ Changes to or inconsistencies with federal or state
 454 law; or
- 455 6. ~~(f)~~ Adoption of an updated edition of the National
 456 Electrical Code if the commission finds that delay of
 457 implementing the updated edition causes undue hardship to
 458 stakeholders or otherwise threatens the public health, safety,
 459 and welfare.

460 (b) The commission may issue errata to the code to correct
 461 demonstrated errors in provisions contained within the Florida
 462 Building Code. The determination of such errors and the issuance
 463 of errata to the code must be approved by a 75 percent
 464 supermajority vote of the commission. For purposes of this

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465 paragraph, "errata to the code" means a list of errors in
 466 current and previous editions of the Florida Building Code.

467 Section 4. Subsection (7) of section 553.77, Florida
 468 Statutes, is amended to read:

469 553.77 Specific powers of the commission.—

470 (7) Building officials shall recognize and enforce variance
 471 orders issued by the Department of Health under s. 514.0115(9)
 472 ~~pursuant to s. 514.0115(8)~~, including any conditions attached to
 473 the granting of the variance.

474 Section 5. Paragraph (d) is added to subsection (1) of
 475 section 553.79, Florida Statutes, to read:

476 553.79 Permits; applications; issuance; inspections.—

477 (1)

478 (d) A local government may not require a contract between a
 479 builder and an owner for the issuance of a building permit or as
 480 a requirement for the submission of a building permit
 481 application.

482 Section 6. Present subsections (10) through (19) of section
 483 553.791, Florida Statutes, are redesignated as subsections (11)
 484 through (20), respectively, a new subsection (10) and subsection
 485 (21) are added to that section, and subsection (1), paragraph
 486 (b) of subsection (2), subsections (3), (4), and (6), paragraphs
 487 (b) and (d) of subsection (7), subsections (8) and (9), and
 488 present subsections (10), (11), (12), (14), and (15) are
 489 amended, to read:

490 553.791 Alternative plans review and inspection.—

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

492 (a) "Applicable codes" means the Florida Building Code and
 493 any local technical amendments to the Florida Building Code but

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494 does not include the applicable minimum fire prevention and
 495 firesafety codes adopted pursuant to chapter 633.

496 (b) "Audit" means the process to confirm that the building
 497 code inspection services have been performed by the private
 498 provider, including ensuring that the required affidavit for the
 499 plan review has been properly completed and submitted with
 500 ~~affixed to~~ the permit documents and that the minimum mandatory
 501 inspections required under the building code have been performed
 502 and properly recorded. The local building official may not
 503 replicate the plan review or inspection being performed by the
 504 private provider, unless expressly authorized by this section.

505 (c) "Building" means any construction, erection,
 506 alteration, demolition, or improvement of, or addition to, any
 507 structure or site work for which permitting by a local
 508 enforcement agency is required.

509 (d) "Building code inspection services" means those
 510 services described in s. 468.603(5) and (8) involving the review
 511 of building plans as well as those services involving the review
 512 of site plans and site work engineering plans or their
 513 functional equivalent, to determine compliance with applicable
 514 codes and those inspections required by law, conducted either in
 515 person or virtually, of each phase of construction for which
 516 permitting by a local enforcement agency is required to
 517 determine compliance with applicable codes.

518 (e) "Deliver" or "delivery" means any method of delivery
 519 used in conventional business or commercial practice, including
 520 delivery by electronic transmissions.

521 (f) "Duly authorized representative" means an agent of the
 522 private provider identified in the permit application who

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523 reviews plans or performs inspections as provided by this
 524 section and who is licensed as an engineer under chapter 471 or
 525 as an architect under chapter 481 or who holds a standard
 526 certificate under part XII of chapter 468.

527 (g) "Electronically posted" means providing notices of
 528 decisions, results, or records, including inspection records,
 529 through the use of a website or other form of electronic
 530 communication used to transmit or display information.

531 (h) "Electronic signature" means any letters, characters,
 532 or symbols manifested by electronic or similar means which are
 533 executed or adopted by a party with an intent to authenticate a
 534 writing or record.

535 (i) "Electronic transmission" or "submitted electronically"
 536 means any form or process of communication not directly
 537 involving the physical transfer of paper or another tangible
 538 medium which is suitable for the retention, retrieval, and
 539 reproduction of information by the recipient and is retrievable
 540 in paper form by the receipt through an automated process. All
 541 notices provided for in this section may be transmitted
 542 electronically and shall have the same legal effect as if
 543 physically posted or mailed.

544 (j)-(f) "Immediate threat to public safety and welfare"
 545 means a building code violation that, if allowed to persist,
 546 constitutes an immediate hazard that could result in death,
 547 serious bodily injury, or significant property damage. This
 548 paragraph does not limit the authority of the local building
 549 official to issue a Notice of Corrective Action at any time
 550 during the construction of a building project or any portion of
 551 such project if the official determines that a condition of the

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552 building or portion thereof may constitute a hazard when the
 553 building is put into use following completion as long as the
 554 condition cited is shown to be in violation of the building code
 555 or approved plans.

556 (k)-(g) "Local building official" means the individual
 557 within the governing jurisdiction responsible for direct
 558 regulatory administration or supervision of plans review,
 559 enforcement, and inspection of any construction, erection,
 560 alteration, demolition, or substantial improvement of, or
 561 addition to, any structure for which permitting is required to
 562 indicate compliance with applicable codes and includes any duly
 563 authorized designee of such person.

564 (l)-(h) "Permit application" means a properly completed and
 565 submitted application for the requested building or construction
 566 permit, including:

- 567 1. The plans reviewed by the private provider.
- 568 2. The affidavit from the private provider required under
- 569 subsection (6).
- 570 3. Any applicable fees.
- 571 4. Any documents required by the local building official to
- 572 determine that the fee owner has secured all other government
- 573 approvals required by law.

574 (m)-(i) "Plans" means building plans, site engineering
 575 plans, or site plans, or their functional equivalent, submitted
 576 by a fee owner or fee owner's contractor to a private provider
 577 or duly authorized representative for review.

578 (n)-(j) "Private provider" means a person licensed as a
 579 building code administrator under part XII of chapter 468, as an
 580 engineer under chapter 471, or as an architect under chapter

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581 481. For purposes of performing inspections under this section
 582 for additions and alterations that are limited to 1,000 square
 583 feet or less to residential buildings, the term "private
 584 provider" also includes a person who holds a standard
 585 certificate under part XII of chapter 468.

586 (o) "Qualified private provider" means a private provider
 587 who has previously performed plans review and inspection
 588 services in the local jurisdiction and has registered with the
 589 local enforcing agency by providing the local building official
 590 with the private provider's name, firm, address, telephone
 591 number, and e-mail address; his or her professional license or
 592 certification number, qualification statements, or resumes; and,
 593 if required by the local building official, a certificate of
 594 insurance demonstrating that professional liability insurance
 595 coverage is in place for the private provider's firm, the
 596 private provider, and any duly authorized representative in the
 597 amounts required by this section. This information must be
 598 submitted on an annual basis to the local jurisdiction in order
 599 to maintain qualifying status. If at any time any of the
 600 information submitted to the local jurisdiction changes, the
 601 private provider must contact the local jurisdiction and update
 602 the information within 10 business days after the change. The
 603 local jurisdiction is required to keep a registry of active
 604 qualified private providers.

605 (p)-(k) "Request for certificate of occupancy or certificate
 606 of completion" means a properly completed and executed
 607 application for:

- 608 1. A certificate of occupancy or certificate of completion.
- 609 2. A certificate of compliance from the private provider

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610 required under subsection (12) ~~(11)~~.

611 3. Any applicable fees.

612 4. Any documents required by the local building official to
 613 determine that the fee owner has secured all other government
 614 approvals required by law.

615 (q) "Single-trade inspection" means any inspection focused
 616 on a single construction trade, such as plumbing, mechanical, or
 617 electrical. The term includes, but is not limited to,
 618 inspections of door or window replacements; fences and block
 619 walls more than 6 feet high from the top of the wall to the
 620 bottom of the footing; stucco or plastering; reroofing with no
 621 structural alteration; HVAC replacements; ductwork or fan
 622 replacements; alteration or installation of wiring, lighting,
 623 and service panels; water heater changeouts; sink replacements;
 624 and repiping.

625 (r)-(l) "Site work" means the portion of a construction
 626 project that is not part of the building structure, including,
 627 but not limited to, grading, excavation, landscape irrigation,
 628 and installation of driveways.

629 (s)-(m) "Stop-work order" means the issuance of any written
 630 statement, written directive, or written order which states the
 631 reason for the order and the conditions under which the cited
 632 work will be permitted to resume.

633 (2)

634 (b) If an owner or contractor retains a private provider
 635 for purposes of plans review or building inspection services,
 636 the local jurisdiction must reduce the permit fee by the amount
 637 of cost savings realized by the local enforcement agency for not
 638 having to perform such services. Such reduction may be

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639 calculated on a flat fee or percentage basis, or any other
 640 reasonable means by which a local enforcement agency assesses
 641 the cost for its plans review or inspection services ~~It is the~~
 642 ~~intent of the Legislature that owners and contractors pay~~
 643 ~~reduced fees related to building permitting requirements when~~
 644 ~~hiring a private provider for plans review and building~~
 645 ~~inspections. A local jurisdiction must calculate the cost~~
 646 ~~savings to the local enforcement agency, based on a fee owner or~~
 647 ~~contractor hiring a private provider to perform plans reviews~~
 648 ~~and building inspections in lieu of the local building official,~~
 649 ~~and reduce the permit fees accordingly.~~ The local jurisdiction
 650 may not charge fees for building inspections if the fee owner or
 651 contractor hires a private provider to perform such services;
 652 however, the local jurisdiction may charge a reasonable
 653 administrative fee.

654 (3) A private provider and any duly authorized
 655 representative may only perform building code inspection
 656 services that are within the disciplines covered by that
 657 person's licensure or certification under chapter 468, chapter
 658 471, or chapter 481, including single-trade inspections. A
 659 private provider may not provide building code inspection
 660 services pursuant to this section upon any building designed or
 661 constructed by the private provider or the private provider's
 662 firm.

663 (4) A fee owner or the fee owner's contractor using a
 664 private provider to provide building code inspection services
 665 shall notify the local building official in writing at the time
 666 of permit application, or by 2 p.m. local time, 2 business days
 667 before the first scheduled inspection by the local building

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668 official or building code enforcement agency that ~~for~~ a private
 669 provider has been contracted to perform the ~~performing~~ required
 670 inspections of construction under this section, including
 671 single-trade inspections, on a form to be adopted by the
 672 commission. This notice shall include the following information:
 673 (a) The services to be performed by the private provider.
 674 (b) The name, firm, address, telephone number, and e-mail
 675 address ~~facsimile number~~ of each private provider who is
 676 performing or will perform such services, his or her
 677 professional license or certification number, qualification
 678 statements or resumes, and, if required by the local building
 679 official, a certificate of insurance demonstrating that
 680 professional liability insurance coverage is in place for the
 681 private provider's firm, the private provider, and any duly
 682 authorized representative in the amounts required by this
 683 section.

684
 685 However, the notice is not required to include such information
 686 for private providers who are qualified private providers within
 687 the local jurisdiction and have renewed such designation
 688 pursuant to this section.

689 (c) An acknowledgment from the fee owner in substantially
 690 the following form:

691
 692 I have elected to use one or more private providers to
 693 provide building code plans review and/or inspection
 694 services on the building or structure that is the
 695 subject of the enclosed permit application, as
 696 authorized by s. 553.791, Florida Statutes. I

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697 understand that the local building official may not
 698 review the plans submitted or perform the required
 699 building inspections to determine compliance with the
 700 applicable codes, except to the extent specified in
 701 said law. Instead, plans review and/or required
 702 building inspections will be performed by licensed or
 703 certified personnel identified in the application. The
 704 law requires minimum insurance requirements for such
 705 personnel, but I understand that I may require more
 706 insurance to protect my interests. By executing this
 707 form, I acknowledge that I have made inquiry regarding
 708 the competence of the licensed or certified personnel
 709 and the level of their insurance and am satisfied that
 710 my interests are adequately protected. I agree to
 711 indemnify, defend, and hold harmless the local
 712 government, the local building official, and their
 713 building code enforcement personnel from any and all
 714 claims arising from my use of these licensed or
 715 certified personnel to perform building code
 716 inspection services with respect to the building or
 717 structure that is the subject of the enclosed permit
 718 application.

720 If the fee owner or the fee owner's contractor makes any changes
 721 to the listed private providers or the services to be provided
 722 by those private providers, the fee owner or the fee owner's
 723 contractor shall, within 1 business day after any change or
 724 within 2 business days before the next scheduled inspection,
 725 update the notice to reflect such changes. A change of a duly

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726 authorized representative named in the permit application does
 727 not require a revision of the permit, and the building code
 728 enforcement agency shall not charge a fee for making the change.
 729 ~~In addition, the fee owner or the fee owner's contractor shall~~
 730 ~~post at the project site, before the commencement of~~
 731 ~~construction and updated within 1 business day after any change,~~
 732 ~~on a form to be adopted by the commission, the name, firm,~~
 733 ~~address, telephone number, and facsimile number of each private~~
 734 ~~provider who is performing or will perform building code~~
 735 ~~inspection services, the type of service being performed, and~~
 736 ~~similar information for the primary contact of the private~~
 737 ~~provider on the project.~~

738 (6) A private provider performing plans review under this
 739 section shall review the plans to determine compliance with the
 740 applicable codes. Upon determining that the plans reviewed
 741 comply with the applicable codes, the private provider shall
 742 prepare an affidavit or affidavits ~~on a form reasonably~~
 743 ~~acceptable to the commission~~ certifying, under oath, that the
 744 following is true and correct to the best of the private
 745 provider's knowledge and belief:

746 (a) The plans were reviewed by the affiant, who is duly
 747 authorized to perform plans review pursuant to this section and
 748 holds the appropriate license or certificate.

749 (b) The plans comply with the applicable codes.

750
 751 Such affidavit may bear a written or electronic signature and
 752 may be submitted electronically to the local building official.

753 (7)

754 (b) If the local building official provides a written

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755 notice of plan deficiencies to the permit applicant within the
 756 prescribed 20-day period, the 20-day period shall be tolled
 757 pending resolution of the matter. To resolve the plan
 758 deficiencies, the permit applicant may elect to dispute the
 759 deficiencies pursuant to subsection (14) ~~(13)~~ or to submit
 760 revisions to correct the deficiencies.

761 (d) If the local building official provides a second
 762 written notice of plan deficiencies to the permit applicant
 763 within the prescribed time period, the permit applicant may
 764 elect to dispute the deficiencies pursuant to subsection (14)
 765 ~~(13)~~ or to submit additional revisions to correct the
 766 deficiencies. For all revisions submitted after the first
 767 revision, the local building official has an additional 5
 768 business days from the date of resubmittal to issue the
 769 requested permit or to provide a written notice to the permit
 770 applicant stating which of the previously identified plan
 771 features remain in noncompliance with the applicable codes, with
 772 specific reference to the relevant code chapters and sections.

773 (8) A private provider performing required inspections
 774 under this section shall inspect each phase of construction as
 775 required by the applicable codes. Such inspection may be
 776 performed in-person or virtually. The private provider may have
 777 ~~shall be permitted to send~~ a duly authorized representative ~~to~~
 778 ~~the building site to~~ perform the required inspections, provided
 779 all required reports are prepared by and bear the written or
 780 electronic signature of the private provider or the private
 781 provider's duly authorized representative. The duly authorized
 782 representative must be an employee of the private provider
 783 entitled to receive reemployment assistance benefits under

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784 chapter 443. The contractor's contractual or legal obligations
 785 are not relieved by any action of the private provider.

786 (9) A private provider performing required inspections
 787 under this section shall provide notice to the local building
 788 official of the date and approximate time of any such inspection
 789 no later than the prior business day by 2 p.m. local time or by
 790 any later time permitted by the local building official in that
 791 jurisdiction. The local building official may not prohibit the
 792 private provider from performing any inspection outside the
 793 local building official's normal operating hours, including
 794 after hours, weekends, or holidays. The local building official
 795 may visit the building site as often as necessary to verify that
 796 the private provider is performing all required inspections. A
 797 deficiency notice must be posted ~~at the job site~~ by the private
 798 provider, the duly authorized representative of the private
 799 provider, or the building department whenever a noncomplying
 800 item related to the building code or the permitted documents is
 801 found. Such notice may be physically posted at the job site or
 802 electronically posted. After corrections are made, the item must
 803 be reinspected by the private provider or representative before
 804 being concealed. Reinspection or reaudit fees shall not be
 805 charged by the local jurisdiction as a result of the local
 806 jurisdiction's audit inspection occurring before the performance
 807 of the private provider's inspection or for any other
 808 administrative matter not involving the detection of a violation
 809 of the building code or a permit requirement.

810 (10) If equipment replacements and repairs must be
 811 performed in an emergency situation, subject to the emergency
 812 permitting provisions of the Florida Building Code, a private

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813 provider may perform emergency inspection services without first
 814 notifying the local building official pursuant to subsection
 815 (9). A private provider must conduct the inspection within 3
 816 business days after being contacted to conduct an emergency
 817 inspection and must submit the inspection report to the local
 818 building official within 1 day after the inspection is
 819 completed.

820 ~~(11)(10)~~ Upon completing the required inspections at each
 821 applicable phase of construction, the private provider shall
 822 record such inspections on a form acceptable to the local
 823 building official. The form must bear the written or electronic
 824 signature of ~~be signed by~~ the provider or the provider's duly
 825 authorized representative. These inspection records shall
 826 reflect those inspections required by the applicable codes of
 827 each phase of construction for which permitting by a local
 828 enforcement agency is required. The private provider, upon
 829 completion of the required inspection before leaving the project
 830 ~~site~~, shall post each completed inspection record, indicating
 831 pass or fail, ~~at the site~~ and provide the record to the local
 832 building official within 2 business days. Such inspection record
 833 may be electronically posted by the private provider or the
 834 private provider may post such inspection record physically at
 835 the project site. The private provider may electronically
 836 transmit the record to the local building official. The local
 837 building official may waive the requirement to provide a record
 838 of each inspection within 2 business days if the record is
 839 electronically posted or posted at the project site and all such
 840 inspection records are submitted with the certificate of
 841 compliance. Unless the records have been electronically posted,

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842 records of all required and completed inspections shall be
 843 maintained at the building site at all times and made available
 844 for review by the local building official. The private provider
 845 shall report to the local enforcement agency any condition that
 846 poses an immediate threat to public safety and welfare.

847 ~~(12)(11)~~ Upon completion of all required inspections, the
 848 private provider shall prepare a certificate of compliance, on a
 849 form acceptable to the local building official, summarizing the
 850 inspections performed and including a written representation,
 851 under oath, that the stated inspections have been performed and
 852 that, to the best of the private provider's knowledge and
 853 belief, the building construction inspected complies with the
 854 approved plans and applicable codes. The statement required of
 855 the private provider shall be substantially in the following
 856 form and shall be signed and sealed by a private provider as
 857 established in subsection (1) or may be electronically
 858 transmitted to the local building official:

859
 860 To the best of my knowledge and belief, the building
 861 components and site improvements outlined herein and
 862 inspected under my authority have been completed in
 863 conformance with the approved plans and the applicable
 864 codes.

865
 866 ~~(13)(12)~~ No more than 2 business days after receipt of a
 867 request for a certificate of occupancy or certificate of
 868 completion and the applicant's presentation of a certificate of
 869 compliance and approval of all other government approvals
 870 required by law, the local building official shall issue the

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871 certificate of occupancy or certificate of completion or provide
 872 a notice to the applicant identifying the specific deficiencies,
 873 as well as the specific code chapters and sections. If the local
 874 building official does not provide notice of the deficiencies
 875 within the prescribed 2-day period, the request for a
 876 certificate of occupancy or certificate of completion shall be
 877 deemed granted and the certificate of occupancy or certificate
 878 of completion shall be issued by the local building official on
 879 the next business day. To resolve any identified deficiencies,
 880 the applicant may elect to dispute the deficiencies pursuant to
 881 subsection (14) ~~(13)~~ or to submit a corrected request for a
 882 certificate of occupancy or certificate of completion.

883 (15) ~~(14)~~ For the purposes of this section, any notice to be
 884 provided by the local building official shall be deemed to be
 885 provided to the person or entity when successfully transmitted
 886 to the e-mail address ~~facsimile number~~ listed for that person or
 887 entity in the permit application or revised permit application,
 888 or, if no e-mail address ~~facsimile number~~ is stated, when
 889 actually received by that person or entity.

890 (16) (a) ~~(15) (a)~~ A local enforcement agency, local building
 891 official, or local government may not adopt or enforce any laws,
 892 rules, procedures, policies, qualifications, or standards more
 893 stringent than those prescribed by this section.

894 (b) A local enforcement agency, local building official, or
 895 local government may establish, for private providers and duly
 896 authorized representatives working within that jurisdiction, a
 897 system of registration to verify compliance with the licensure
 898 requirements of paragraph (1) (n) ~~(1) (j)~~ and the insurance
 899 requirements of subsection (17). Such registration must be

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900 distinct from the registry of qualified private providers ~~(16)~~.

901 (c) This section does not limit the authority of the local
 902 building official to issue a stop-work order for a building
 903 project or any portion of the project, as provided by law, if
 904 the official determines that a condition on the building site
 905 constitutes an immediate threat to public safety and welfare.

906 (21) Notwithstanding any other law, a county, a
 907 municipality, a school district, or an independent special
 908 district may use a private provider to provide building code
 909 inspection services for a public works project, an improvement,
 910 a building, or any other structure pursuant to this section.

911 Section 7. Paragraph (a) of subsection (8) of section
 912 553.842, Florida Statutes, is amended to read:

913 553.842 Product evaluation and approval.—

914 (8) The commission may adopt rules to approve the following
 915 types of entities that produce information on which product
 916 approvals are based. All of the following entities, including
 917 engineers and architects, must comply with a nationally
 918 recognized standard demonstrating independence or no conflict of
 919 interest:

920 (a) Evaluation entities approved under ~~pursuant to~~ this
 921 paragraph or that meet the criteria for approval adopted by the
 922 commission by rule. The commission shall specifically approve
 923 the National Evaluation Service, the International Association
 924 of Plumbing and Mechanical Officials Evaluation Service, the
 925 International Code Council Evaluation Services, Underwriters
 926 Laboratories, LLC, Intertek Testing Services NA, Inc., and the
 927 Miami-Dade County Building Code Compliance Office Product
 928 Control Division. Architects and engineers licensed in this

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929 state are also approved to conduct product evaluations as
930 provided in subsection (5).

931 Section 8. Paragraph (bb) of subsection (1) of section
932 125.01, Florida Statutes, is amended to read:

933 125.01 Powers and duties.—

934 (1) The legislative and governing body of a county shall
935 have the power to carry on county government. To the extent not
936 inconsistent with general or special law, this power includes,
937 but is not restricted to, the power to:

938 (bb) Enforce the Florida Building Code, as provided in s.
939 553.80, and adopt and enforce local technical amendments to the
940 Florida Building Code as provided in s. 553.73(4), ~~pursuant to~~
941 ~~s. 553.73(4) (b) and (c)~~.

942 Section 9. Subsection (1) of section 125.56, Florida
943 Statutes, is amended to read:

944 125.56 Enforcement and amendment of the Florida Building
945 Code and the Florida Fire Prevention Code; inspection fees;
946 inspectors; etc.—

947 (1) The board of county commissioners of each of the
948 several counties of the state may enforce the Florida Building
949 Code and the Florida Fire Prevention Code, as provided in ss.
950 553.80, 633.206, and 633.208, and, at its discretion, adopt
951 local technical amendments to the Florida Building Code as
952 provided in s. 553.73(4), ~~pursuant to s. 553.73(4) (b) and (c)~~
953 and local technical amendments to the Florida Fire Prevention
954 Code as provided in, ~~pursuant to~~ s. 633.202, to provide for the
955 safe construction, erection, alteration, repair, securing, and
956 demolition of any building within its territory outside the
957 corporate limits of any municipality. Upon a determination to

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958 consider amending the Florida Building Code or the Florida Fire
959 Prevention Code by a majority of the members of the board of
960 county commissioners of such county, the board shall call a
961 public hearing and comply with the public notice requirements of
962 s. 125.66(2). The board shall hear all interested parties at the
963 public hearing and may then amend the building code or the fire
964 code consistent with the terms and purposes of this act. Upon
965 adoption, an amendment to the code shall be in full force and
966 effect throughout the unincorporated area of such county until
967 otherwise notified by the Florida Building Commission under
968 ~~pursuant to~~ s. 553.73 or the State Fire Marshal under ~~pursuant~~
969 ~~to~~ s. 633.202. This subsection does not ~~Nothing herein contained~~
970 ~~shall be construed to~~ prevent the board of county commissioners
971 from repealing such amendment to the building code or the fire
972 code at any regular meeting of such board.

973 Section 10. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 31, 2021

I respectfully request that **Senate Bill 1146**, relating to the **Florida Building Code**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

6/15/21

Meeting Date

1146

Bill Number (if applicable)

Topic Building Codes

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Pkwy

Phone 56-1073

Street

Tallahassee FL 32317

Email rpayton@fhba.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Home Builders 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)

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 Appropriations

BILL: PCS/CS/SB 1166 (891930)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Brandes

SUBJECT: Juvenile Justice

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1166 amends section 20.316, Florida Statutes, to retain the creation of a new program entitled “Accountability and Program Support” and the revision of the name of an existing program, “Prevention and Victim Services” to “Prevention Services” within the Department of Juvenile Justice (DJJ).

This bill amends section 985.101, Florida Statutes, to revise the circumstances under which a child may be taken into custody for a failure to appear by requiring the court to consider whether the child’s nonappearance was willful based on certain factors.

This bill amends section 985.435, Florida Statutes, to require each judicial circuit to jointly develop a plan specifying the alternative consequence component for when a child violates probation.

This bill amends section 985.6865, Florida Statutes, to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost.

This bill amends section 1003.52, Florida Statutes, to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an

alternative model for providing and funding education services for youth in detention and residential commitment for Fiscal Year 2021-2022.

The DJJ indicates that there will be an indeterminate positive fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2021.

II. Present Situation:

The DJJ has traditionally managed juveniles under a rehabilitative model of justice.¹ The mission of the DJJ is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.² The secretary of the DJJ is appointed by the Governor and tasked with carrying out programs to help achieve this mission.

Programs within the Department of Juvenile Justice

Section 20.316, F.S., establishes six programs within the DJJ. The secretary of the DJJ appoints an assistant secretary to oversee these programs. The following DJJ programs have been established by law:

- Accountability and Program Support (OAPS). The OAPS emphasizes the DJJ's commitment to ensuring programs operated or contracted by the DJJ effectively provide for the safety, well-being, and treatment of youth under the state's care.³
- Administration. The Office of Administrative Services is responsible for providing services to department staff, including but not limited to, financial, computer information systems, personnel, and general services.^{4, 5}
- Intake and Detention. Detention is the custody status for youth that are held pursuant to a court order or after being taken into custody for a violation of the law. The DJJ operates 21 secure detention centers in 21 counties.⁶
- Prevention. The Prevention program offers voluntary youth crime prevention programs throughout the state.⁷
- Probation and Community Corrections. When a youth is charged with a crime they may be referred to diversion, court ordered sanctions, or probation. Each youth is assigned a

¹ Learn about the History of the Juvenile Justice System in Florida, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/history> (last visited March 5, 2021).

² Learn about the Vision, Mission and Guiding Principles of the Department of Juvenile Justice, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/mission> (last visited March 5, 2021).

³ DJJ, Office of Accountability and Program Support, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/OPA> (last visited March 5, 2021).

⁴ DJJ, Office of Administrative Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/administration> (last visited March 5, 2021).

⁵ Section 20.316(2), F.S.

⁶ DJJ, Detention Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/detention> (last visited March 5, 2021).

⁷ DJJ, Prevention Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/prevention> (last visited March 5, 2021).

probation officer who monitors compliance and helps the youth connect with service providers.⁸

- Residential and Correctional Facilities. The Office of Residential Services oversees the Department's development, maintenance, and management of facilities and programs that meet the needs of Florida's adjudicated delinquent youths and promote public safety.⁹

In order to carry out his or her duties, the secretary assigns an assistant secretary to administer each program. The OAPS emphasizes the DJJ's commitment to ensuring programs operated or contracted by the DJJ effectively provide for the safety, well-being, and treatment of youth under the state's care.¹⁰

The implementing bill for the General Appropriations Act for FY 2020-21 created the program of the OAPS in s. 20.316, F.S. This allowed the secretary to appoint an assistant secretary to oversee the OAPS. Section 65 of the implementing bill, which provided the changes to s. 20.316, F.S., will expire on July 1, 2021, and revert back to what it was on June 30, 2020.^{11,12} Without such a change, the DJJ will no longer have the OAPS and the Prevention program will revert back to Prevention and Victim Services.

The secretary of the DJJ is responsible for planning, coordinating, and managing the delivery of all programs and services within the DJJ.¹³ The secretary has many duties, including but not limited to:

- Ensuring that programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and circuit program operations and providing technical assistance to those programs.
- Identifying the need for and recommending the funding and implementation of an appropriate mix of programs and services, including prevention, diversion, nonresidential and residential commitment programs, training schools, and conditional release programs and services, with an overlay of educational, vocational, alcohol, drug abuse, and mental health services, where appropriate.
- Establishing program policies and rules and ensuring that those policies and rules encourage cooperation, collaboration, and information sharing with community partners in the juvenile justice system to the extent authorized by law.¹⁴

⁸ DJJ, Probation & Community Intervention, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/probation> (last visited March 5, 2021).

⁹ DJJ, Residential Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/residential> (last visited March 5, 2021).

¹⁰ Office of Accountability and Program Support, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/OPA> (last visited March 5, 2021).

¹¹ Chapter 2020-114 s. 64, Laws of Fla.

¹² Section 20.316, F.S. (2019), established 5 programs within the DJJ. The following DJJ programs have been established by this section: Prevention and Victim Services; Intake and Detention; Residential and Correctional Facilities; Probation and Community Corrections; and Administration.

¹³ Section 20.316(1)(a) and (b), F.S.

¹⁴ Section 20.316(1), F.S.

Detention of Children in Florida

A child may only be taken into custody of the DJJ under certain circumstances. A child may be taken into custody:

- Pursuant to an order of the circuit court issued under ch. 985, F.S., based on sworn testimony, either before or after a petition is filed;
- For a delinquent act or violation of law;
- By a law enforcement officer for failing to appear at a court hearing after being properly noticed; or
- By a law enforcement officer who has probable cause to believe that the child is in violation of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.¹⁵

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care if:

- The result of the risk assessment instrument pursuant to s. 985.245, F.S., indicates secure or supervised release detention.
- The child is alleged to be an escapee from a residential commitment program; or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision; or is alleged to have escaped while being lawfully transported to or from a residential commitment program.
- The child is detained on a judicial order for failure to appear, after proper notice:
 - For an adjudicatory hearing on the same case regardless of the results of the risk assessment instrument; or
 - At two or more court hearings of any nature on the same case regardless of the results of the risk assessment instrument.¹⁶

A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing for any of the above reasons. A child's failure to keep the clerk of court and defense counsel informed of a current mailing address is not an adequate excuse for the child's failure to appear.¹⁷

"Detention care" means "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."¹⁸ There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

¹⁵ Section 985.101(1)(a)-(d), F.S.

¹⁶ Section 985.255(1), F.S.

¹⁷ *Id.*

¹⁸ Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.¹⁹

Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional nine days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case. Additionally, a prolific juvenile²⁰ offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order.²¹

Juvenile Detention Cost Sharing

Detention cost sharing was previously governed by s. 985.686, F.S., and provided that non-fiscally constrained counties were responsible to pay all the costs of providing preadjudicatory detention care, exclusive of the costs of any nonmedical educational or therapeutic services. Section 985.686, F.S., required the state to pay all detention care costs of fiscally constrained counties.²² This cost sharing methodology led to litigation between counties and the DJJ.

In 2016, as a response to the litigation on cost sharing, the Legislature passed s. 985.6865, F.S., creating a new cost sharing methodology. The passage of s. 985.6865, F.S., has rendered s. 985.686, F.S., obsolete.

Section 985.6865, F.S., provides that, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained²³ and that has dismissed any action or claim described in s. 985.6865(2), F.S.,²⁴ must pay 50 percent of the total shared detention cost.²⁵

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for juveniles residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.²⁶

¹⁹ *Id.*

²⁰ Section 985.255, F.S., provides that a "prolific juvenile offender" means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

²¹ Section 985.26, F.S.

²² Section 985.686(3) and (4), F.S.

²³ Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

²⁴ Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Section 985.6865(1) and (2), F.S.

²⁵ Section 985.6865(4), F.S.

²⁶ *Id.*

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.²⁷ Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.²⁸ The DJJ will determine quarterly whether counties are complying with this section.²⁹

The State must pay all costs of detention care for juveniles:

- Residing in a fiscally constrained county;
- Residing out of State; or
- Housed in state detention centers from counties that provide their own detention care for juveniles.³⁰

Section 985.6865, F.S., also contains language that refers back to past litigation arising from s. 985.686, F.S. This language is outdated and has become obsolete.

Violation of Probation

After a child is found to have committed a delinquent act, the court must hold a disposition hearing.³¹ At the disposition hearing, the court must determine whether the child will be committed to the DJJ or receive community based sanctions. If the court determines not to commit the child to the DJJ, the court must determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to:

- Participation in substance abuse treatment.
- A day-treatment probation program.
- Restitution in money or in kind.
- A curfew.
- Revocation or suspension of the driver license of the child.
- Community service.
- Appropriate educational programs as determined by the district school board.³²

A probation program for a child adjudicated delinquent must include a penalty component,³³ and a rehabilitative program component.³⁴ A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new law violations. The alternative consequence component is designed to provide swift and appropriate consequences to any noncompliance with technical conditions of probation. If the probation program includes this

²⁷ Section 985.6865(6), F.S.

²⁸ Section 985.6865(7), F.S.

²⁹ Section 985.6865(8), F.S.

³⁰ Section 985.6865(5), F.S.

³¹ Section 985.433, F.S.

³² Section 985.433(8), F.S.

³³ Section 985.435(2), F.S., provides a penalty component that may include restitution, community service, a curfew, revocation or suspension of the driver license, or other nonresidential punishment appropriate to the offense.

³⁴ Section 985.435(3), F.S., provides a rehabilitative component that may include a substance abuse treatment program, or a school or career and technical education program.

component, specific consequences that apply to noncompliance with specific technical conditions of probation must be detailed in the disposition order.³⁵

The state attorney or the DJJ may bring a child before the court on a petition alleging a violation of probation if sanctions are sought.³⁶ A child taken into custody on an alleged violation of probation must be screened and either detained or released based on his or her risk assessment instrument score.³⁷ If the child admits to the violation, or the court finds that the child has violated his or her probation, the court must enter a new disposition order. The court may impose any sanction that the court could have imposed at the original disposition hearing.³⁸ The court may:

- Place the child in supervised release detention with electronic monitoring.
- If the violation of probation is technical in nature and not a new law violation, place the child in an alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation.
 - Alternative consequence programs must be established, within existing resources, at the local level in coordination with law enforcement agencies, the chief judge of the circuit, the state attorney, and the public defender.
 - Alternative consequence programs may be operated by an entity such as a law enforcement agency, the DJJ, a juvenile assessment center, a county or municipality, or another entity selected by the DJJ.
 - Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.
- Modify or continue the child’s probation program.
- Revoke probation and commit the child to the DJJ.³⁹

Additionally, the court may order the child submit to random testing to detect the use of alcohol or controlled substances at the time of disposition.⁴⁰

III. Effect of Proposed Changes:

This bill amends s. 20.316, F.S., to retain the program entitled “Accountability and Program Support” within the Department of Juvenile Justice (DJJ). This program was created in statute by the implementing bill for the General Appropriations Act for FY 2020-21.⁴¹ This change will also allow the secretary to keep the assistant secretary that was appointed for the program. The bill also retains the change made to s. 20.316, F.S., by the implementing bill for the General Appropriations Act for FY 2020-21, that revised the name of the existing program, “Prevention and Victim Services,” to “Prevention Services.”⁴² This change is because the DJJ has not provided victim services for numerous years.

³⁵ Section 985.435(4), F.S.

³⁶ Section 985.439(1)(b), F.S.

³⁷ Section 985.439(2), F.S.

³⁸ Section 985.439(4), F.S.

³⁹ Section 985.439(4)(a)-(d), F.S.

⁴⁰ Section 985.439(5), F.S.

⁴¹ Chapter 2020-114 s. 64, Laws of Fla.

⁴² *Id.*

This bill amends s. 985.101, F.S., providing a court may order that a child be taken into custody for a failure to appear. Before the court issues such an order, it must consider all of the following information relating to whether the child's nonappearance was willful:

- Whether notice was sent to the address in the official court record.
- Whether notice was given to the child in any format by anyone.
- Whether counsel, if any, for the child had contact or attempted to have contact with the child.
- Whether a DJJ representative had contact or attempted to have contact with the child.
- Whether the DJJ has any specific information to assist the court in this decision.

This bill amends s. 985.435, F.S., providing that each judicial circuit must develop a written plan specifying the alternative consequence component. These plans must be based upon the principle that sanctions must reflect:

- The seriousness of the violation.
- The assessed criminogenic needs and risks of the child.
- The child's age and maturity level.
- How effective the sanction or incentive will be in moving the child to compliant behavior.

The plan must be made in consultation with the judges, the state attorney, the public defender, the relevant law enforcement agency in the judicial circuit, and the DJJ.

This bill also amends s. 985.6865, F.S., to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost. This bill also removes language related to detention cost sharing that is no longer relevant.

This bill repeals s. 985.686, F.S. Section 985.686, F.S., formerly provided for a detention cost sharing plan between the DJJ and counties. This cost sharing plan is now governed by s. 985.6865, F.S.

This bill amends s. 1003.52, F.S., to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an alternative model for providing and funding educational services for youth in detention and residential commitment for Fiscal Year 2021-2022. The model is required to provide for assessments and direct educational services, including special education and career and technical educational services, transitional planning; educational program accountability standards; research-based best practices for educating justice-involved youth; and the recruiting, hiring, and training of teachers. This subsection expires on June 1, 2022.

Additionally, for purposes of incorporating the amendments made by this act, this bill reenacts ss. 960.001, 985.439, and 985.565, F.S.

This bill is effective 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DJJ indicates this PCS/CS/SB 1166 will have an indeterminate cost savings. The bill will likely decrease the number of youth held in secure detention for a failure to appear or violation of probation, therefore providing a cost savings for the state and the counties (who share in the cost of detention).⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴³ Department of Juvenile Justice, *2021 Agency Analysis of SB 1166* (February 22, 2021). On file with the Senate Committee on Criminal Justice.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.316, 985.101, 985.435, 985.6865, and 1003.52.

This bill repeals section 985.686 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 960.001, 985.439, and 985.565.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on March 17, 2021:

The committee substitute amends s. 1003.52, F.S., to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an alternative model for providing and funding education services for youth in detention and residential commitment for Fiscal Year 2021-2022.

CS by Criminal Justice on March 9, 2021:

The committee substitute:

- Amends s. 985.101, F.S., providing that a court may take a child into custody for failing to appear. Prior to issuing such order, the court must consider specified criteria to determine the child's nonappearance was willful.
- Amends s. 985.435, F.S., to provide that each circuit must develop, in consultation with judges, the state attorney, the public defender, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative sanctions and incentives for noncompliance with probation.
- Reenacts various statutes.

- B. **Amendments:**

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to juvenile justice; amending s. 20.316, F.S.; creating the Accountability and Program Support Program within the Department of Juvenile Justice and revising the name of an existing program; amending s. 985.101, F.S.; authorizing a court to order that a child be taken into custody for failure to appear; requiring a court to consider specified information before it issues such an order; amending s. 985.435, F.S.; requiring each judicial circuit to develop, in consultation with specified persons and entities, a written plan specifying the alternative consequence component which must be based upon certain principles; providing that the alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation; repealing s. 985.686, F.S., relating to the shared county and state financial support responsibility for juvenile detention; amending s. 985.6865, F.S.; deleting provisions relating to legislative findings and intent; requiring the Department of Juvenile Justice to calculate annually by a certain date and provide to each county that is not a fiscally constrained county and that does not provide its own detention care for juveniles its annual percentage share of detention costs; requiring each county that



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is not a fiscally constrained county and that does not provide its own detention care for juveniles to incorporate into its annual county budget sufficient funds to pay its annual percentage share of detention costs; amending s. 1003.52, F.S.; authorizing the Department of Juvenile Justice, in consultation with the Department of Education, to evaluate the viability of an alternative model for providing and funding education services for youth in detention and residential facilities; providing requirements; providing for expiration; reenacting ss. 960.001(1)(b) and 985.439(2), F.S., relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems and violation of probation or postcommitment probation, respectively, to incorporate the amendment made to s. 985.101, F.S., in references thereto; reenacting s. 985.565(4)(b), F.S., relating to sentencing alternatives, to incorporate the amendment made to s. 985.435, F.S., in a reference thereto; providing an effective date.

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

Section 1. Upon the expiration and reversion of the amendment made to section 20.316, Florida Statutes, pursuant to section 65 of chapter 2020-114, Laws of Florida, subsections (2) and (3) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a



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57 Department of Juvenile Justice.

58 (2) DEPARTMENT PROGRAMS.—The following programs are
59 established within the Department of Juvenile Justice:

60 (a) Accountability and Program Support.

61 ~~(d)(a) Prevention and Victim Services.~~

62 ~~(c)(b) Intake and Detention.~~

63 ~~(f)(e) Residential and Correctional Facilities.~~

64 ~~(e)(d) Probation and Community Corrections.~~

65 ~~(b)(e) Administration.~~

66
67 The secretary may establish assistant secretary positions and a
68 chief of staff position as necessary to administer the
69 requirements of this section.

70 (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department
71 shall plan and administer its programs through a substate
72 structure that conforms to the boundaries of the judicial
73 circuits prescribed in s. 26.021. A county may seek placement in
74 a juvenile justice operating circuit other than as prescribed in
75 s. 26.021 for participation in the ~~Prevention and Victim~~
76 ~~Services Program~~ and the Probation and Community Corrections
77 Program by making a request of the chief circuit judge in each
78 judicial circuit affected by such request. Upon a showing that
79 geographic proximity, community identity, or other legitimate
80 concern for efficiency of operations merits alternative
81 placement, each affected chief circuit judge may authorize the
82 execution of an interagency agreement specifying the alternative
83 juvenile justice operating circuit in which the county is to be
84 placed and the basis for the alternative placement. Upon the
85 execution of said interagency agreement by each affected chief



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86 circuit judge, the secretary may administratively place a county
87 in an alternative juvenile justice operating circuit pursuant to
88 the agreement.

89 Section 2. Subsection (5) is added to section 985.101,
90 Florida Statutes, to read:

91 985.101 Taking a child into custody.—

92 (5) A court may order that a child be taken into custody
93 for failure to appear. Before the court issues such an order, it
94 must consider all of the following information relating to
95 whether the child's nonappearance was willful:

96 (a) Whether notice was sent to the address in the official
97 court record.

98 (b) Whether notice was given to the child in any format by
99 anyone.

100 (c) Whether counsel, if any, for the child had contact or
101 attempted to have contact with the child.

102 (d) Whether a department representative had contact or
103 attempted to have contact with the child.

104 (e) Whether the department has any specific information to
105 assist the court in this decision.

106 Section 3. Subsection (4) of section 985.435, Florida
107 Statutes, is amended to read:

108 985.435 Probation and postcommitment probation; community
109 service.—

110 (4) A probation program may also include an alternative
111 consequence component to address instances in which a child is
112 noncompliant with technical conditions of his or her probation
113 but has not committed any new violations of law. Each circuit
114 shall develop, in consultation with judges, the state attorney,



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115 the public defender, relevant law enforcement agencies, and the
116 department, a written plan specifying the alternative
117 consequence component which must be based upon the principle
118 that sanctions must reflect the seriousness of the violation,
119 the assessed criminogenic needs and risks of the child, the
120 child's age and maturity level, and how effective the sanction
121 or incentive will be in moving the child to compliant behavior.
122 The alternative consequence component is designed to provide
123 swift and appropriate consequences or incentives to a child who
124 is alleged to be noncompliant with or in violation of to any
125 noncompliance with technical conditions of probation. If the
126 probation program includes this component, specific consequences
127 that apply to noncompliance with specific technical conditions
128 of probation, as well as incentives used to move the child
129 toward compliant behavior, must be detailed in the disposition
130 order.

131 Section 4. Section 985.686, Florida Statutes, is repealed.

132 Section 5. Subsections (1) through (6) of section 985.6865,
133 Florida Statutes, are amended to read:

134 985.6865 Juvenile detention.-

135 ~~(1) The Legislature finds that various counties and the~~
136 ~~Department of Juvenile Justice have engaged in a multitude of~~
137 ~~legal proceedings regarding detention cost sharing for~~
138 ~~juveniles. Such litigation has largely focused on how the~~
139 ~~Department of Juvenile Justice calculates the detention costs~~
140 ~~that the counties are responsible for paying, leading to the~~
141 ~~overbilling of counties for a period of years. Additionally,~~
142 ~~litigation pending in 2016 is a financial burden on the~~
143 ~~taxpayers of this state.~~



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144 ~~(2) It is the intent of the Legislature that all counties~~
145 ~~that are not fiscally constrained counties and that have pending~~
146 ~~administrative or judicial claims or challenges file a notice of~~
147 ~~voluntary dismissal with prejudice to dismiss all actions~~
148 ~~pending on or before February 1, 2016, against the state or any~~
149 ~~state agency related to juvenile detention cost sharing.~~
150 Furthermore, all counties that are not fiscally constrained
151 shall execute a release and waiver of any existing or future
152 claims and actions arising from detention cost share prior to
153 the 2016-2017 fiscal year. The department may not seek
154 reimbursement from counties complying with this subsection for
155 any underpayment for any cost-sharing requirements before the
156 2016-2017 fiscal year.

157 ~~(1)(3)~~ As used in this section, the term:

158 (a) "Detention care" means secure detention and respite
159 beds for juveniles charged with a domestic violence crime.

160 (b) "Fiscally constrained county" means a county within a
161 rural area of opportunity as designated by the Governor pursuant
162 to s. 288.0656 or each county for which the value of a mill will
163 raise no more than \$5 million in revenue, based on the certified
164 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
165 from the previous July 1.

166 (c) "Total shared detention costs" means the amount of
167 funds expended by the department for the costs of detention care
168 for the prior fiscal year. This amount includes the most recent
169 actual certify forward amounts minus any funds it expends on
170 detention care for juveniles residing in fiscally constrained
171 counties or out of state.

172 ~~(2)(4) Notwithstanding s. 985.686, for the 2017-2018 fiscal~~



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173 ~~year, and each fiscal year thereafter, each county that is not a~~
174 ~~fiscally constrained county and that has taken the action~~
175 ~~fulfilling the intent of this section as described in subsection~~
176 ~~(2) shall pay its annual percentage share of 50 percent of the~~
177 ~~total shared detention costs. By Annually by July 15, 2017, and~~
178 ~~each year thereafter, the department shall calculate and provide~~
179 ~~to each county that is not a fiscally constrained county and~~
180 ~~that does not provide its own detention care for juveniles its~~
181 ~~annual percentage share by dividing the total number of~~
182 ~~detention days for juveniles residing in the county for the most~~
183 ~~recently completed 12-month period by the total number of~~
184 ~~detention days for juveniles in all counties that are not~~
185 ~~fiscally constrained counties during the same period. The annual~~
186 ~~percentage share of each county that is not a fiscally~~
187 ~~constrained county and that does not provide its own detention~~
188 ~~care for juveniles must be multiplied by 50 percent of the total~~
189 ~~shared detention costs to determine that county's share of~~
190 ~~detention costs. Beginning August 1, each such county shall pay~~
191 ~~to the department its share of detention costs, which shall be~~
192 ~~paid in 12 equal payments due on the first day of each month.~~
193 ~~The state shall pay the remaining actual costs of detention~~
194 ~~care.~~

195 ~~(3)(5)~~ The state shall pay all costs of detention care for
196 juveniles residing in a fiscally constrained county and for
197 juveniles residing out of state. The state shall pay all costs
198 of detention care for juveniles housed in state detention
199 centers from counties that provide their own detention care for
200 juveniles.

201 ~~(4)(6)~~ Each county that is not a fiscally constrained



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202 county and that does not provide its own detention care for
203 juveniles ~~has taken the action fulfilling the intent of this~~
204 ~~section as described in subsection (2)~~ shall incorporate into
205 its annual county budget sufficient funds to pay its annual
206 percentage share of the total shared detention costs required by
207 subsection (2) ~~(4)~~.

208 Section 6. Subsection (23) is added to section 1003.52,
209 Florida Statutes, to read:

210 1003.52 Educational services in Department of Juvenile
211 Justice programs.—

212 (23) Notwithstanding this section, during fiscal year 2021-
213 2022, the Department of Juvenile Justice, in consultation with
214 the Department of Education, is authorized to evaluate the
215 viability of an alternative model for providing and funding
216 education services for youth in detention and residential
217 facilities. This evaluation must include material gathered
218 through a request for information process. Such model must
219 provide for assessments and direct educational services,
220 including, but not limited to, special education and career and
221 technical educational services; transition planning; educational
222 program accountability standards; research-based best practices
223 for educating justice-involved youth; and the recruiting,
224 hiring, and training of teachers. This subsection expires June
225 1, 2022.

226 Section 7. For the purpose of incorporating the amendment
227 made by this act to section 985.101, Florida Statutes, in
228 references thereto, paragraph (b) of subsection (1) of section
229 960.001, Florida Statutes, is reenacted to read:

230 960.001 Guidelines for fair treatment of victims and



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231 witnesses in the criminal justice and juvenile justice systems.-

232 (1) The Department of Legal Affairs, the state attorneys,
233 the Department of Corrections, the Department of Juvenile
234 Justice, the Florida Commission on Offender Review, the State
235 Courts Administrator and circuit court administrators, the
236 Department of Law Enforcement, and every sheriff's department,
237 police department, or other law enforcement agency as defined in
238 s. 943.10(4) shall develop and implement guidelines for the use
239 of their respective agencies, which guidelines are consistent
240 with the purposes of this act and s. 16(b), Art. I of the State
241 Constitution and are designed to implement s. 16(b), Art. I of
242 the State Constitution and to achieve the following objectives:

243 (b) *Information for purposes of notifying victim or*
244 *appropriate next of kin of victim or other designated contact of*
245 *victim.*-In the case of a homicide, pursuant to chapter 782; or a
246 sexual offense, pursuant to chapter 794; or an attempted murder
247 or sexual offense, pursuant to chapter 777; or stalking,
248 pursuant to s. 784.048; or domestic violence, pursuant to s.
249 25.385:

250 1. The arresting law enforcement officer or personnel of an
251 organization that provides assistance to a victim or to the
252 appropriate next of kin of the victim or other designated
253 contact must request that the victim or appropriate next of kin
254 of the victim or other designated contact complete a victim
255 notification card. However, the victim or appropriate next of
256 kin of the victim or other designated contact may choose not to
257 complete the victim notification card.

258 2. Unless the victim or the appropriate next of kin of the
259 victim or other designated contact waives the option to complete



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260 the victim notification card, a copy of the victim notification
261 card must be filed with the incident report or warrant in the
262 sheriff's office of the jurisdiction in which the incident
263 report or warrant originated. The notification card shall, at a
264 minimum, consist of:

- 265 a. The name, address, and phone number of the victim; or
266 b. The name, address, and phone number of the appropriate
267 next of kin of the victim; or
268 c. The name, address, and telephone number of a designated
269 contact other than the victim or appropriate next of kin of the
270 victim; and
271 d. Any relevant identification or case numbers assigned to
272 the case.

273 3. The chief administrator, or a person designated by the
274 chief administrator, of a county jail, municipal jail, juvenile
275 detention facility, or residential commitment facility shall
276 make a reasonable attempt to notify the alleged victim or
277 appropriate next of kin of the alleged victim or other
278 designated contact within 4 hours following the release of the
279 defendant on bail or, in the case of a juvenile offender, upon
280 the release from residential detention or commitment. If the
281 chief administrator, or designee, is unable to contact the
282 alleged victim or appropriate next of kin of the alleged victim
283 or other designated contact by telephone, the chief
284 administrator, or designee, must send to the alleged victim or
285 appropriate next of kin of the alleged victim or other
286 designated contact a written notification of the defendant's
287 release.

288 4. Unless otherwise requested by the victim or the



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289 appropriate next of kin of the victim or other designated
290 contact, the information contained on the victim notification
291 card must be sent by the chief administrator, or designee, of
292 the appropriate facility to the subsequent correctional or
293 residential commitment facility following the sentencing and
294 incarceration of the defendant, and unless otherwise requested
295 by the victim or the appropriate next of kin of the victim or
296 other designated contact, he or she must be notified of the
297 release of the defendant from incarceration as provided by law.
298 5. If the defendant was arrested pursuant to a warrant
299 issued or taken into custody pursuant to s. 985.101 in a
300 jurisdiction other than the jurisdiction in which the defendant
301 is being released, and the alleged victim or appropriate next of
302 kin of the alleged victim or other designated contact does not
303 waive the option for notification of release, the chief
304 correctional officer or chief administrator of the facility
305 releasing the defendant shall make a reasonable attempt to
306 immediately notify the chief correctional officer of the
307 jurisdiction in which the warrant was issued or the juvenile was
308 taken into custody pursuant to s. 985.101, and the chief
309 correctional officer of that jurisdiction shall make a
310 reasonable attempt to notify the alleged victim or appropriate
311 next of kin of the alleged victim or other designated contact,
312 as provided in this paragraph, that the defendant has been or
313 will be released.
314 Section 8. For the purpose of incorporating the amendment
315 made by this act to section 985.101, Florida Statutes, in a
316 reference thereto, subsection (2) of section 985.439, Florida
317 Statutes, is reenacted to read:



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318 985.439 Violation of probation or postcommitment
319 probation.-
320 (2) A child taken into custody under s. 985.101 for
321 violating the conditions of probation shall be screened and
322 detained or released based on his or her risk assessment
323 instrument score.
324 Section 9. For the purpose of incorporating the amendment
325 made by this act to section 985.435, Florida Statutes, in a
326 reference thereto, paragraph (b) of subsection (4) of section
327 985.565, Florida Statutes, is reenacted to read:
328 985.565 Sentencing powers; procedures; alternatives for
329 juveniles prosecuted as adults.-
330 (4) SENTENCING ALTERNATIVES.-
331 (b) *Juvenile sanctions.*-For juveniles transferred to adult
332 court but who do not qualify for such transfer under s.
333 985.556(3), the court may impose juvenile sanctions under this
334 paragraph. If juvenile sentences are imposed, the court shall,
335 under this paragraph, adjudge the child to have committed a
336 delinquent act. Adjudication of delinquency may not be deemed a
337 conviction, nor shall it operate to impose any of the civil
338 disabilities ordinarily resulting from a conviction. The court
339 shall impose an adult sanction or a juvenile sanction and may
340 not sentence the child to a combination of adult and juvenile
341 punishments. An adult sanction or a juvenile sanction may
342 include enforcement of an order of restitution or probation
343 previously ordered in any juvenile proceeding. However, if the
344 court imposes a juvenile sanction and the department determines
345 that the sanction is unsuitable for the child, the department
346 shall return custody of the child to the sentencing court for



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347 further proceedings, including the imposition of adult
348 sanctions. Upon adjudicating a child delinquent under subsection
349 (1), the court may:

350 1. Place the child in a probation program under the
351 supervision of the department for an indeterminate period of
352 time until the child reaches the age of 19 years or sooner if
353 discharged by order of the court.

354 2. Commit the child to the department for treatment in an
355 appropriate program for children for an indeterminate period of
356 time until the child is 21 or sooner if discharged by the
357 department. The department shall notify the court of its intent
358 to discharge no later than 14 days before discharge. Failure of
359 the court to timely respond to the department's notice shall be
360 considered approval for discharge.

361 3. Order disposition under ss. 985.435, 985.437, 985.439,
362 985.441, 985.45, and 985.455 as an alternative to youthful
363 offender or adult sentencing if the court determines not to
364 impose youthful offender or adult sanctions.

365

366 It is the intent of the Legislature that the criteria and
367 guidelines in this subsection are mandatory and that a
368 determination of disposition under this subsection is subject to
369 the right of the child to appellate review under s. 985.534.

370 Section 10. 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 Appropriations

BILL: CS/CS/SB 1166

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Brandes

SUBJECT: Juvenile Justice

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3.	<u>Forbes</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1166 amends section 20.316, Florida Statutes, to retain the creation of a new program entitled “Accountability and Program Support” and the revision of the name of an existing program, “Prevention and Victim Services” to “Prevention Services” within the Department of Juvenile Justice (DJJ).

This bill amends section 985.101, Florida Statutes, to revise the circumstances under which a child may be taken into custody for a failure to appear by requiring the court to consider whether the child’s nonappearance was willful based on certain factors.

This bill amends section 985.435, Florida Statutes, to require each judicial circuit to jointly develop a plan specifying the alternative consequence component for when a child violates probation.

This bill amends section 985.6865, Florida Statutes, to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost.

This bill amends section 1003.52, Florida Statutes, to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an

alternative model for providing and funding education services for youth in detention and residential commitment for Fiscal Year 2021-2022.

The DJJ indicates that there will be an indeterminate positive fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2021.

II. Present Situation:

The DJJ has traditionally managed juveniles under a rehabilitative model of justice.¹ The mission of the DJJ is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.² The secretary of the DJJ is appointed by the Governor and tasked with carrying out programs to help achieve this mission.

Programs within the Department of Juvenile Justice

Section 20.316, F.S., establishes six programs within the DJJ. The secretary of the DJJ appoints an assistant secretary to oversee these programs. The following DJJ programs have been established by law:

- Accountability and Program Support (OAPS). The OAPS emphasizes the DJJ's commitment to ensuring programs operated or contracted by the DJJ effectively provide for the safety, well-being, and treatment of youth under the state's care.³
- Administration. The Office of Administrative Services is responsible for providing services to department staff, including but not limited to, financial, computer information systems, personnel, and general services.^{4, 5}
- Intake and Detention. Detention is the custody status for youth that are held pursuant to a court order or after being taken into custody for a violation of the law. The DJJ operates 21 secure detention centers in 21 counties.⁶
- Prevention. The Prevention program offers voluntary youth crime prevention programs throughout the state.⁷
- Probation and Community Corrections. When a youth is charged with a crime they may be referred to diversion, court ordered sanctions, or probation. Each youth is assigned a

¹ Learn about the History of the Juvenile Justice System in Florida, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/history> (last visited March 5, 2021).

² Learn about the Vision, Mission and Guiding Principles of the Department of Juvenile Justice, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/about-us/mission> (last visited March 5, 2021).

³ DJJ, Office of Accountability and Program Support, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/OPA> (last visited March 5, 2021).

⁴ DJJ, Office of Administrative Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/administration> (last visited March 5, 2021).

⁵ Section 20.316(2), F.S.

⁶ DJJ, Detention Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/detention> (last visited March 5, 2021).

⁷ DJJ, Prevention Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/prevention> (last visited March 5, 2021).

probation officer who monitors compliance and helps the youth connect with service providers.⁸

- Residential and Correctional Facilities. The Office of Residential Services oversees the Department's development, maintenance, and management of facilities and programs that meet the needs of Florida's adjudicated delinquent youths and promote public safety.⁹

In order to carry out his or her duties, the secretary assigns an assistant secretary to administer each program. The OAPS emphasizes the DJJ's commitment to ensuring programs operated or contracted by the DJJ effectively provide for the safety, well-being, and treatment of youth under the state's care.¹⁰

The implementing bill for the General Appropriations Act for FY 2020-21 created the program of the OAPS in s. 20.316, F.S. This allowed the secretary to appoint an assistant secretary to oversee the OAPS. Section 65 of the implementing bill, which provided the changes to s. 20.316, F.S., will expire on July 1, 2021, and revert back to what it was on June 30, 2020.^{11,12} Without such a change, the DJJ will no longer have the OAPS and the Prevention program will revert back to Prevention and Victim Services.

The secretary of the DJJ is responsible for planning, coordinating, and managing the delivery of all programs and services within the DJJ.¹³ The secretary has many duties, including but not limited to:

- Ensuring that programs and services are implemented according to legislative intent; state and federal laws, rules, and regulations; statewide program standards; and performance objectives by reviewing and monitoring regional and circuit program operations and providing technical assistance to those programs.
- Identifying the need for and recommending the funding and implementation of an appropriate mix of programs and services, including prevention, diversion, nonresidential and residential commitment programs, training schools, and conditional release programs and services, with an overlay of educational, vocational, alcohol, drug abuse, and mental health services, where appropriate.
- Establishing program policies and rules and ensuring that those policies and rules encourage cooperation, collaboration, and information sharing with community partners in the juvenile justice system to the extent authorized by law.¹⁴

⁸ DJJ, Probation & Community Intervention, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/probation> (last visited March 5, 2021).

⁹ DJJ, Residential Services, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/residential> (last visited March 5, 2021).

¹⁰ Office of Accountability and Program Support, *The Department of Juvenile Justice*, available at <http://www.djj.state.fl.us/services/support/OPA> (last visited March 5, 2021).

¹¹ Chapter 2020-114 s. 64, Laws of Fla.

¹² Section 20.316, F.S. (2019), established 5 programs within the DJJ. The following DJJ programs have been established by this section: Prevention and Victim Services; Intake and Detention; Residential and Correctional Facilities; Probation and Community Corrections; and Administration.

¹³ Section 20.316(1)(a) and (b), F.S.

¹⁴ Section 20.316(1), F.S.

Detention of Children in Florida

A child may only be taken into custody of the DJJ under certain circumstances. A child may be taken into custody:

- Pursuant to an order of the circuit court issued under ch. 985, F.S., based on sworn testimony, either before or after a petition is filed;
- For a delinquent act or violation of law;
- By a law enforcement officer for failing to appear at a court hearing after being properly noticed; or
- By a law enforcement officer who has probable cause to believe that the child is in violation of the child's probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential commitment.¹⁵

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care if:

- The result of the risk assessment instrument pursuant to s. 985.245, F.S., indicates secure or supervised release detention.
- The child is alleged to be an escapee from a residential commitment program; or an absconder from a nonresidential commitment program, a probation program, or conditional release supervision; or is alleged to have escaped while being lawfully transported to or from a residential commitment program.
- The child is detained on a judicial order for failure to appear, after proper notice:
 - For an adjudicatory hearing on the same case regardless of the results of the risk assessment instrument; or
 - At two or more court hearings of any nature on the same case regardless of the results of the risk assessment instrument.¹⁶

A child may be held in secure detention for up to 72 hours in advance of the next scheduled court hearing for any of the above reasons. A child's failure to keep the clerk of court and defense counsel informed of a current mailing address is not an adequate excuse for the child's failure to appear.¹⁷

"Detention care" means "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."¹⁸ There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

¹⁵ Section 985.101(1)(a)-(d), F.S.

¹⁶ Section 985.255(1), F.S.

¹⁷ *Id.*

¹⁸ Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.¹⁹

Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional nine days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case. Additionally, a prolific juvenile²⁰ offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order.²¹

Juvenile Detention Cost Sharing

Detention cost sharing was previously governed by s. 985.686, F.S., and provided that non-fiscally constrained counties were responsible to pay all the costs of providing preadjudicatory detention care, exclusive of the costs of any nonmedical educational or therapeutic services. Section 985.686, F.S., required the state to pay all detention care costs of fiscally constrained counties.²² This cost sharing methodology led to litigation between counties and the DJJ.

In 2016, as a response to the litigation on cost sharing, the Legislature passed s. 985.6865, F.S., creating a new cost sharing methodology. The passage of s. 985.6865, F.S., has rendered s. 985.686, F.S., obsolete.

Section 985.6865, F.S., provides that, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained²³ and that has dismissed any action or claim described in s. 985.6865(2), F.S.,²⁴ must pay 50 percent of the total shared detention cost.²⁵

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for juveniles residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.²⁶

¹⁹ *Id.*

²⁰ Section 985.255, F.S., provides that a "prolific juvenile offender" means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

²¹ Section 985.26, F.S.

²² Section 985.686(3) and (4), F.S.

²³ Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

²⁴ Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Section 985.6865(1) and (2), F.S.

²⁵ Section 985.6865(4), F.S.

²⁶ *Id.*

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.²⁷ Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.²⁸ The DJJ will determine quarterly whether counties are complying with this section.²⁹

The State must pay all costs of detention care for juveniles:

- Residing in a fiscally constrained county;
- Residing out of State; or
- Housed in state detention centers from counties that provide their own detention care for juveniles.³⁰

Section 985.6865, F.S., also contains language that refers back to past litigation arising from s. 985.686, F.S. This language is outdated and has become obsolete.

Violation of Probation

After a child is found to have committed a delinquent act, the court must hold a disposition hearing.³¹ At the disposition hearing, the court must determine whether the child will be committed to the DJJ or receive community based sanctions. If the court determines not to commit the child to the DJJ, the court must determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to:

- Participation in substance abuse treatment.
- A day-treatment probation program.
- Restitution in money or in kind.
- A curfew.
- Revocation or suspension of the driver license of the child.
- Community service.
- Appropriate educational programs as determined by the district school board.³²

A probation program for a child adjudicated delinquent must include a penalty component,³³ and a rehabilitative program component.³⁴ A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new law violations. The alternative consequence component is designed to provide swift and appropriate consequences to any noncompliance with technical conditions of probation. If the probation program includes this

²⁷ Section 985.6865(6), F.S.

²⁸ Section 985.6865(7), F.S.

²⁹ Section 985.6865(8), F.S.

³⁰ Section 985.6865(5), F.S.

³¹ Section 985.433, F.S.

³² Section 985.433(8), F.S.

³³ Section 985.435(2), F.S., provides a penalty component that may include restitution, community service, a curfew, revocation or suspension of the driver license, or other nonresidential punishment appropriate to the offense.

³⁴ Section 985.435(3), F.S., provides a rehabilitative component that may include a substance abuse treatment program, or a school or career and technical education program.

component, specific consequences that apply to noncompliance with specific technical conditions of probation must be detailed in the disposition order.³⁵

The state attorney or the DJJ may bring a child before the court on a petition alleging a violation of probation if sanctions are sought.³⁶ A child taken into custody on an alleged violation of probation must be screened and either detained or released based on his or her risk assessment instrument score.³⁷ If the child admits to the violation, or the court finds that the child has violated his or her probation, the court must enter a new disposition order. The court may impose any sanction that the court could have imposed at the original disposition hearing.³⁸ The court may:

- Place the child in supervised release detention with electronic monitoring.
- If the violation of probation is technical in nature and not a new law violation, place the child in an alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation.
 - Alternative consequence programs must be established, within existing resources, at the local level in coordination with law enforcement agencies, the chief judge of the circuit, the state attorney, and the public defender.
 - Alternative consequence programs may be operated by an entity such as a law enforcement agency, the DJJ, a juvenile assessment center, a county or municipality, or another entity selected by the DJJ.
 - Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.
- Modify or continue the child’s probation program.
- Revoke probation and commit the child to the DJJ.³⁹

Additionally, the court may order the child submit to random testing to detect the use of alcohol or controlled substances at the time of disposition.⁴⁰

III. Effect of Proposed Changes:

This bill amends s. 20.316, F.S., to retain the program entitled “Accountability and Program Support” within the Department of Juvenile Justice (DJJ). This program was created in statute by the implementing bill for the General Appropriations Act for FY 2020-21.⁴¹ This change will also allow the secretary to keep the assistant secretary that was appointed for the program. The bill also retains the change made to s. 20.316, F.S., by the implementing bill for the General Appropriations Act for FY 2020-21, that revised the name of the existing program, “Prevention and Victim Services,” to “Prevention Services.”⁴² This change is because the DJJ has not provided victim services for numerous years.

³⁵ Section 985.435(4), F.S.

³⁶ Section 985.439(1)(b), F.S.

³⁷ Section 985.439(2), F.S.

³⁸ Section 985.439(4), F.S.

³⁹ Section 985.439(4)(a)-(d), F.S.

⁴⁰ Section 985.439(5), F.S.

⁴¹ Chapter 2020-114 s. 64, Laws of Fla.

⁴² *Id.*

This bill amends s. 985.101, F.S., providing a court may order that a child be taken into custody for a failure to appear. Before the court issues such an order, it must consider all of the following information relating to whether the child's nonappearance was willful:

- Whether notice was sent to the address in the official court record.
- Whether notice was given to the child in any format by anyone.
- Whether counsel, if any, for the child had contact or attempted to have contact with the child.
- Whether a DJJ representative had contact or attempted to have contact with the child.
- Whether the DJJ has any specific information to assist the court in this decision.

This bill amends s. 985.435, F.S., providing that each judicial circuit must develop a written plan specifying the alternative consequence component. These plans must be based upon the principle that sanctions must reflect:

- The seriousness of the violation.
- The assessed criminogenic needs and risks of the child.
- The child's age and maturity level.
- How effective the sanction or incentive will be in moving the child to compliant behavior.

The plan must be made in consultation with the judges, the state attorney, the public defender, the relevant law enforcement agency in the judicial circuit, and the DJJ.

This bill also amends s. 985.6865, F.S., to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost. This bill also removes language related to detention cost sharing that is no longer relevant.

This bill repeals s. 985.686, F.S. Section 985.686, F.S., formerly provided for a detention cost sharing plan between the DJJ and counties. This cost sharing plan is now governed by s. 985.6865, F.S.

This bill amends s. 1003.52, F.S., to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an alternative model for providing and funding educational services for youth in detention and residential commitment for Fiscal Year 2021-2022. The model is required to provide for assessments and direct educational services, including special education and career and technical educational services, transitional planning; educational program accountability standards; research-based best practices for educating justice-involved youth; and the recruiting, hiring, and training of teachers. This subsection expires on June 1, 2022.

Additionally, for purposes of incorporating the amendments made by this act, this bill reenacts ss. 960.001, 985.439, and 985.565, F.S.

This bill is effective 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DJJ indicates this PCS/CS/SB 1166 will have an indeterminate cost savings. The bill will likely decrease the number of youth held in secure detention for a failure to appear or violation of probation, therefore providing a cost savings for the state and the counties (who share in the cost of detention).⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴³ Department of Juvenile Justice, *2021 Agency Analysis of SB 1166* (February 22, 2021). On file with the Senate Committee on Criminal Justice.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.316, 985.101, 985.435, 985.6865, and 1003.52.

This bill repeals section 985.686 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 960.001, 985.439, and 985.565.

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 April 15, 2021:

The committee substitute amends s. 1003.52, F.S., to add a new subsection that authorizes the department in consultation with the Department of Education to evaluate the viability of an alternative model for providing and funding education services for youth in detention and residential commitment for Fiscal Year 2021-2022.

CS by Criminal Justice on March 9, 2021:

The committee substitute:

- Amends s. 985.101, F.S., providing that a court may take a child into custody for failing to appear. Prior to issuing such order, the court must consider specified criteria to determine the child's nonappearance was willful.
- Amends s. 985.435, F.S., to provide that each circuit must develop, in consultation with judges, the state attorney, the public defender, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative sanctions and incentives for noncompliance with probation.
- Reenacts various statutes.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Brandes

591-02610-21

20211166c1

1 A bill to be entitled
 2 An act relating to juvenile justice; amending s.
 3 20.316, F.S.; creating the Accountability and Program
 4 Support Program within the Department of Juvenile
 5 Justice and revising the name of an existing program;
 6 amending s. 985.101, F.S.; authorizing a court to
 7 order that a child be taken into custody for failure
 8 to appear; requiring a court to consider specified
 9 information before it issues such an order; amending
 10 s. 985.435, F.S.; requiring each judicial circuit to
 11 develop, in consultation with specified persons and
 12 entities, a written plan specifying the alternative
 13 consequence component which must be based upon certain
 14 principles; providing that the alternative consequence
 15 component is designed to provide swift and appropriate
 16 consequences or incentives to a child who is alleged
 17 to be noncompliant with or in violation of probation;
 18 repealing s. 985.686, F.S., relating to the shared
 19 county and state financial support responsibility for
 20 juvenile detention; amending s. 985.6865, F.S.;
 21 deleting provisions relating to legislative findings
 22 and intent; requiring the Department of Juvenile
 23 Justice to calculate annually by a certain date and
 24 provide to each county that is not a fiscally
 25 constrained county and that does not provide its own
 26 detention care for juveniles its annual percentage
 27 share of detention costs; requiring each county that
 28 is not a fiscally constrained county and that does not
 29 provide its own detention care for juveniles to

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

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30 incorporate into its annual county budget sufficient
 31 funds to pay its annual percentage share of detention
 32 costs; reenacting ss. 960.001(1)(b) and 985.439(2),
 33 F.S., relating to guidelines for fair treatment of
 34 victims and witnesses in the criminal justice and
 35 juvenile justice systems and violation of probation or
 36 postcommitment probation, respectively, to incorporate
 37 the amendment made to s. 985.101, F.S., in references
 38 thereto; reenacting s. 985.565(4)(b), F.S., relating
 39 to sentencing alternatives, to incorporate the
 40 amendment made to s. 985.435, F.S., in a reference
 41 thereto; providing an effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Upon the expiration and reversion of the
 46 amendment made to section 20.316, Florida Statutes, pursuant to
 47 section 65 of chapter 2020-114, Laws of Florida, subsections (2)
 48 and (3) of section 20.316, Florida Statutes, are amended to
 49 read:

50 20.316 Department of Juvenile Justice.—There is created a
 51 Department of Juvenile Justice.

52 (2) DEPARTMENT PROGRAMS.—The following programs are
 53 established within the Department of Juvenile Justice:

54 (a) Accountability and Program Support.

55 (d) ~~(a)~~ Prevention and Victim Services.

56 (c) ~~(b)~~ Intake and Detention.

57 (f) ~~(e)~~ Residential and Correctional Facilities.

58 (e) ~~(d)~~ Probation and Community Corrections.

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

591-02610-21

20211166c1

59 (b)(e) Administration.

60
61 The secretary may establish assistant secretary positions and a
62 chief of staff position as necessary to administer the
63 requirements of this section.

64 (3) JUVENILE JUSTICE OPERATING CIRCUITS.—The department
65 shall plan and administer its programs through a substate
66 structure that conforms to the boundaries of the judicial
67 circuits prescribed in s. 26.021. A county may seek placement in
68 a juvenile justice operating circuit other than as prescribed in
69 s. 26.021 for participation in the Prevention ~~and Victim~~
70 Services Program and the Probation and Community Corrections
71 Program by making a request of the chief circuit judge in each
72 judicial circuit affected by such request. Upon a showing that
73 geographic proximity, community identity, or other legitimate
74 concern for efficiency of operations merits alternative
75 placement, each affected chief circuit judge may authorize the
76 execution of an interagency agreement specifying the alternative
77 juvenile justice operating circuit in which the county is to be
78 placed and the basis for the alternative placement. Upon the
79 execution of said interagency agreement by each affected chief
80 circuit judge, the secretary may administratively place a county
81 in an alternative juvenile justice operating circuit pursuant to
82 the agreement.

83 Section 2. Subsection (5) is added to section 985.101,
84 Florida Statutes, to read:

85 985.101 Taking a child into custody.—

86 (5) A court may order that a child be taken into custody
87 for failure to appear. Before the court issues such an order, it

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88 must consider all of the following information relating to
89 whether the child's nonappearance was willful:

90 (a) Whether notice was sent to the address in the official
91 court record.

92 (b) Whether notice was given to the child in any format by
93 anyone.

94 (c) Whether counsel, if any, for the child had contact or
95 attempted to have contact with the child.

96 (d) Whether a department representative had contact or
97 attempted to have contact with the child.

98 (e) Whether the department has any specific information to
99 assist the court in this decision.

100 Section 3. Subsection (4) of section 985.435, Florida
101 Statutes, is amended to read:

102 985.435 Probation and postcommitment probation; community
103 service.—

104 (4) A probation program may also include an alternative
105 consequence component to address instances in which a child is
106 noncompliant with technical conditions of his or her probation
107 but has not committed any new violations of law. Each circuit
108 shall develop, in consultation with judges, the state attorney,
109 the public defender, relevant law enforcement agencies, and the
110 department, a written plan specifying the alternative
111 consequence component which must be based upon the principle
112 that sanctions must reflect the seriousness of the violation,
113 the assessed criminogenic needs and risks of the child, the
114 child's age and maturity level, and how effective the sanction
115 or incentive will be in moving the child to compliant behavior.

116 The alternative consequence component is designed to provide

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117 swift and appropriate consequences or incentives to a child who
 118 is alleged to be noncompliant with or in violation of ~~to any~~
 119 ~~noncompliance with technical conditions of~~ probation. If the
 120 probation program includes this component, specific consequences
 121 that apply to noncompliance with specific technical conditions
 122 of probation, as well as incentives used to move the child
 123 toward compliant behavior, must be detailed in the disposition
 124 order.

125 Section 4. Section 985.686, Florida Statutes, is repealed.

126 Section 5. Subsections (1) through (6) of section 985.6865,
 127 Florida Statutes, are amended to read:

128 985.6865 Juvenile detention.—

129 ~~(1) The Legislature finds that various counties and the~~
 130 ~~Department of Juvenile Justice have engaged in a multitude of~~
 131 ~~legal proceedings regarding detention cost sharing for~~
 132 ~~juveniles. Such litigation has largely focused on how the~~
 133 ~~Department of Juvenile Justice calculates the detention costs~~
 134 ~~that the counties are responsible for paying, leading to the~~
 135 ~~overbilling of counties for a period of years. Additionally,~~
 136 ~~litigation pending in 2016 is a financial burden on the~~
 137 ~~taxpayers of this state.~~

138 ~~(2) It is the intent of the Legislature that all counties~~
 139 ~~that are not fiscally constrained counties and that have pending~~
 140 ~~administrative or judicial claims or challenges file a notice of~~
 141 ~~voluntary dismissal with prejudice to dismiss all actions~~
 142 ~~pending on or before February 1, 2016, against the state or any~~
 143 ~~state agency related to juvenile detention cost sharing.~~
 144 ~~Furthermore, all counties that are not fiscally constrained~~
 145 ~~shall execute a release and waiver of any existing or future~~

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146 ~~claims and actions arising from detention cost share prior to~~
 147 ~~the 2016-2017 fiscal year. The department may not seek~~
 148 ~~reimbursement from counties complying with this subsection for~~
 149 ~~any underpayment for any cost-sharing requirements before the~~
 150 ~~2016-2017 fiscal year.~~

151 ~~(1)(3)~~ As used in this section, the term:

152 (a) "Detention care" means secure detention and respite
 153 beds for juveniles charged with a domestic violence crime.

154 (b) "Fiscally constrained county" means a county within a
 155 rural area of opportunity as designated by the Governor pursuant
 156 to s. 288.0656 or each county for which the value of a mill will
 157 raise no more than \$5 million in revenue, based on the certified
 158 school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
 159 from the previous July 1.

160 (c) "Total shared detention costs" means the amount of
 161 funds expended by the department for the costs of detention care
 162 for the prior fiscal year. This amount includes the most recent
 163 actual certify forward amounts minus any funds it expends on
 164 detention care for juveniles residing in fiscally constrained
 165 counties or out of state.

166 ~~(2)(4) Notwithstanding s. 985.686, for the 2017-2018 fiscal~~
 167 ~~year, and each fiscal year thereafter, each county that is not a~~
 168 ~~fiscally constrained county and that has taken the action~~
 169 ~~fulfilling the intent of this section as described in subsection~~
 170 ~~(2) shall pay its annual percentage share of 50 percent of the~~
 171 ~~total shared detention costs. By Annually by July 15, 2017, and~~
 172 ~~each year thereafter, the department shall calculate and provide~~
 173 ~~to each county that is not a fiscally constrained county and~~
 174 ~~that does not provide its own detention care for juveniles its~~

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175 annual percentage share by dividing the total number of
 176 detention days for juveniles residing in the county for the most
 177 recently completed 12-month period by the total number of
 178 detention days for juveniles in all counties that are not
 179 fiscally constrained counties during the same period. The annual
 180 percentage share of each county that is not a fiscally
 181 constrained county and that does not provide its own detention
 182 care for juveniles must be multiplied by 50 percent of the total
 183 shared detention costs to determine that county's share of
 184 detention costs. Beginning August 1, each such county shall pay
 185 to the department its share of detention costs, which shall be
 186 paid in 12 equal payments due on the first day of each month.
 187 The state shall pay the remaining actual costs of detention
 188 care.

189 (3)(5) The state shall pay all costs of detention care for
 190 juveniles residing in a fiscally constrained county and for
 191 juveniles residing out of state. The state shall pay all costs
 192 of detention care for juveniles housed in state detention
 193 centers from counties that provide their own detention care for
 194 juveniles.

195 (4)(6) Each county that is not a fiscally constrained
 196 county and that does not provide its own detention care for
 197 juveniles ~~has taken the action fulfilling the intent of this~~
 198 ~~section as described in subsection (2)~~ shall incorporate into
 199 its annual county budget sufficient funds to pay its annual
 200 percentage share of the total shared detention costs required by
 201 subsection (2) ~~(4)~~.

202 Section 6. For the purpose of incorporating the amendment
 203 made by this act to section 985.101, Florida Statutes, in

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204 references thereto, paragraph (b) of subsection (1) of section
 205 960.001, Florida Statutes, is reenacted to read:

206 960.001 Guidelines for fair treatment of victims and
 207 witnesses in the criminal justice and juvenile justice systems.—

208 (1) The Department of Legal Affairs, the state attorneys,
 209 the Department of Corrections, the Department of Juvenile
 210 Justice, the Florida Commission on Offender Review, the State
 211 Courts Administrator and circuit court administrators, the
 212 Department of Law Enforcement, and every sheriff's department,
 213 police department, or other law enforcement agency as defined in
 214 s. 943.10(4) shall develop and implement guidelines for the use
 215 of their respective agencies, which guidelines are consistent
 216 with the purposes of this act and s. 16(b), Art. I of the State
 217 Constitution and are designed to implement s. 16(b), Art. I of
 218 the State Constitution and to achieve the following objectives:

219 (b) *Information for purposes of notifying victim or*
 220 *appropriate next of kin of victim or other designated contact of*
 221 *victim.—In the case of a homicide, pursuant to chapter 782; or a*
 222 *sexual offense, pursuant to chapter 794; or an attempted murder*
 223 *or sexual offense, pursuant to chapter 777; or stalking,*
 224 *pursuant to s. 784.048; or domestic violence, pursuant to s.*
 225 *25.385:*

226 1. The arresting law enforcement officer or personnel of an
 227 organization that provides assistance to a victim or to the
 228 appropriate next of kin of the victim or other designated
 229 contact must request that the victim or appropriate next of kin
 230 of the victim or other designated contact complete a victim
 231 notification card. However, the victim or appropriate next of
 232 kin of the victim or other designated contact may choose not to

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233 complete the victim notification card.

234 2. Unless the victim or the appropriate next of kin of the
235 victim or other designated contact waives the option to complete
236 the victim notification card, a copy of the victim notification
237 card must be filed with the incident report or warrant in the
238 sheriff's office of the jurisdiction in which the incident
239 report or warrant originated. The notification card shall, at a
240 minimum, consist of:

- 241 a. The name, address, and phone number of the victim; or
- 242 b. The name, address, and phone number of the appropriate
243 next of kin of the victim; or
- 244 c. The name, address, and telephone number of a designated
245 contact other than the victim or appropriate next of kin of the
246 victim; and
- 247 d. Any relevant identification or case numbers assigned to
248 the case.

249 3. The chief administrator, or a person designated by the
250 chief administrator, of a county jail, municipal jail, juvenile
251 detention facility, or residential commitment facility shall
252 make a reasonable attempt to notify the alleged victim or
253 appropriate next of kin of the alleged victim or other
254 designated contact within 4 hours following the release of the
255 defendant on bail or, in the case of a juvenile offender, upon
256 the release from residential detention or commitment. If the
257 chief administrator, or designee, is unable to contact the
258 alleged victim or appropriate next of kin of the alleged victim
259 or other designated contact by telephone, the chief
260 administrator, or designee, must send to the alleged victim or
261 appropriate next of kin of the alleged victim or other

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262 designated contact a written notification of the defendant's
263 release.

264 4. Unless otherwise requested by the victim or the
265 appropriate next of kin of the victim or other designated
266 contact, the information contained on the victim notification
267 card must be sent by the chief administrator, or designee, of
268 the appropriate facility to the subsequent correctional or
269 residential commitment facility following the sentencing and
270 incarceration of the defendant, and unless otherwise requested
271 by the victim or the appropriate next of kin of the victim or
272 other designated contact, he or she must be notified of the
273 release of the defendant from incarceration as provided by law.

274 5. If the defendant was arrested pursuant to a warrant
275 issued or taken into custody pursuant to s. 985.101 in a
276 jurisdiction other than the jurisdiction in which the defendant
277 is being released, and the alleged victim or appropriate next of
278 kin of the alleged victim or other designated contact does not
279 waive the option for notification of release, the chief
280 correctional officer or chief administrator of the facility
281 releasing the defendant shall make a reasonable attempt to
282 immediately notify the chief correctional officer of the
283 jurisdiction in which the warrant was issued or the juvenile was
284 taken into custody pursuant to s. 985.101, and the chief
285 correctional officer of that jurisdiction shall make a
286 reasonable attempt to notify the alleged victim or appropriate
287 next of kin of the alleged victim or other designated contact,
288 as provided in this paragraph, that the defendant has been or
289 will be released.

290 Section 7. For the purpose of incorporating the amendment

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291 made by this act to section 985.101, Florida Statutes, in a
 292 reference thereto, subsection (2) of section 985.439, Florida
 293 Statutes, is reenacted to read:

294 985.439 Violation of probation or postcommitment
 295 probation.-

296 (2) A child taken into custody under s. 985.101 for
 297 violating the conditions of probation shall be screened and
 298 detained or released based on his or her risk assessment
 299 instrument score.

300 Section 8. For the purpose of incorporating the amendment
 301 made by this act to section 985.435, Florida Statutes, in a
 302 reference thereto, paragraph (b) of subsection (4) of section
 303 985.565, Florida Statutes, is reenacted to read:

304 985.565 Sentencing powers; procedures; alternatives for
 305 juveniles prosecuted as adults.-

306 (4) SENTENCING ALTERNATIVES.-

307 (b) *Juvenile sanctions*.-For juveniles transferred to adult
 308 court but who do not qualify for such transfer under s.
 309 985.556(3), the court may impose juvenile sanctions under this
 310 paragraph. If juvenile sentences are imposed, the court shall,
 311 under this paragraph, adjudge the child to have committed a
 312 delinquent act. Adjudication of delinquency may not be deemed a
 313 conviction, nor shall it operate to impose any of the civil
 314 disabilities ordinarily resulting from a conviction. The court
 315 shall impose an adult sanction or a juvenile sanction and may
 316 not sentence the child to a combination of adult and juvenile
 317 punishments. An adult sanction or a juvenile sanction may
 318 include enforcement of an order of restitution or probation
 319 previously ordered in any juvenile proceeding. However, if the

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320 court imposes a juvenile sanction and the department determines
 321 that the sanction is unsuitable for the child, the department
 322 shall return custody of the child to the sentencing court for
 323 further proceedings, including the imposition of adult
 324 sanctions. Upon adjudicating a child delinquent under subsection
 325 (1), the court may:

326 1. Place the child in a probation program under the
 327 supervision of the department for an indeterminate period of
 328 time until the child reaches the age of 19 years or sooner if
 329 discharged by order of the court.

330 2. Commit the child to the department for treatment in an
 331 appropriate program for children for an indeterminate period of
 332 time until the child is 21 or sooner if discharged by the
 333 department. The department shall notify the court of its intent
 334 to discharge no later than 14 days before discharge. Failure of
 335 the court to timely respond to the department's notice shall be
 336 considered approval for discharge.

337 3. Order disposition under ss. 985.435, 985.437, 985.439,
 338 985.441, 985.45, and 985.455 as an alternative to youthful
 339 offender or adult sentencing if the court determines not to
 340 impose youthful offender or adult sanctions.

341
 342 It is the intent of the Legislature that the criteria and
 343 guidelines in this subsection are mandatory and that a
 344 determination of disposition under this subsection is subject to
 345 the right of the child to appellate review under s. 985.534.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1166

Bill Number (if applicable)

Topic JV Justice

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Counsel

Address P.O. Box 10788

Phone 850 570 9560

Street

Tallahassee

FL

32303

Email carrie.boyd@^{plcentr}crj

City

State

Zip

Speaking: For Against Information

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

Representing SPIC 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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

11620

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcstep@updo.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21
Meeting Date

1166
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Ida V. Eskamoni

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 Florida Rising

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1194

INTRODUCER: Appropriations Committee; Transportation Committee; and Senator Hooper

SUBJECT: Transportation

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	Fav/CS
2.	McAuliffe	Sadberry	AP	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1194 contains various transportation-related provisions, including:

- Authorizing a municipal or county governing body to abandon roads and rights of way dedicated in a recorded residential subdivision plat and to simultaneously convey the city's or the county's interest to a community development district under specified conditions.
- Precluding a governmental entity from prohibiting a bid relating to the entity's procurement of certain contractual services from a vendor possessing a valid certificate of qualification from the Florida Department of Transportation (FDOT) relating to certain road and bridge construction contracts or a license relating to construction, electrical and alarm, or septic tank contracting corresponding to the services being procured.
- Authorizing construction equipment in a work zone on roadways with a posted speed limit of 55 miles per hour or higher to display a combination of flashing green, amber, and red lights during periods when workers are present.
- Authorizing flashing lights on vehicles during periods of extremely low visibility on roadways posted with a speed limit of 55 miles per hour or more.
- Substitutes an affidavit with an attestation on a form provided by the Florida Department of Highway Safety and Motor Vehicles (DHSMV) as a requirement for an insurance company to receive a salvage certificate of title or certificate of destruction for motor vehicles and mobile homes from the DHSMV.
- Clarifies that the types of vehicles authorized to elect a permanent registration period are rental vehicles, making clear that the authorization does not apply to leased vehicles.

- Requires motor vehicle dealer licensees to deliver to the DHSMV copies of renewed, continued, changed, or new insurance policies, surety bonds, or irrevocable letters of credit within 10 days after any renewal, continuation, change, or new issuance of the same, ensuring continuous insurance coverage.
- Dissolves the inactive Northwest Florida Transportation Corridor Authority and repeals part III of ch. 343, F.S., under which the authority was established.
- Prohibits the Central Florida Expressway Authority from constructing any extensions, additions, or improvements to the Central Florida Expressway System in Lake County without prior consultation with, rather than consent of, the Secretary of Transportation.
- Increases from 40 years to 99 years an existing limitation on the term of a lease into which the Jacksonville Transportation Authority may enter.
- Revising provisions relating to an annual cap on the FDOT's authorization to enter into contracts for innovative transportation projects.
- Amending financial statement requirements relating to applications for certificates of qualification to bid on contracts for the performance of work for the FDOT under certain construction contracts.
- Excluding certain airports from the prohibition against the same entity performing design and performing construction engineering and inspection services on a project funded by the FDOT and administered by a local governmental entity
- Substantially revising provisions relating to the State Arbitration Board, which hears claims for additional compensation arising out of construction and maintenance contracts between the FDOT and its contractors.
- Defining the term "borrow pit" and requiring a borrow pit operator to provide a notice of intent to extract to the DEP.
- Prohibiting the FDOT, and its contractors and subcontractors, from purchasing or using specified substances extracted from a borrow pit unless certification is provided by the operator showing the borrow pit is in compliance with certain existing requirements and proof is provided of currently valid permits required by the Florida Department of Environmental Protection (DEP) and the appropriate water management district.
- Requiring the FDOT, if it determines substances are being obtained and used from a noncompliant borrow pit, to cease accepting any substances within 48 hours. The FDOT may resume acceptance of substances from the borrow pit once the pit is in compliance.
- Requires the FDOT to create and implement a publicly accessible electronic database for sign permit information; specifies requirements for the database; prohibits the department from furnishing permanent metal permit tags or replacement tags and from enforcing related provisions once the department creates and implements the database.

The bill does not appear to impact state and local revenues but may present other fiscal impacts. See the "Fiscal Impact Statement" for further information.

The bill takes effect July 1, 2021.

II. Present Situation:

For ease of organization and readability, the present situation is discussed below in conjunction with the effect of the proposed changes.

III. Effect of Proposed Changes:

Closing and Abandonment of Roads/Optional Conveyance to a Community Development District (Section 1)

Present Situation

Community Development Districts

Community development districts (CDD) are a type of special-purpose local government intended to develop and provide basic urban community services cost-effectively. These independent special districts are created pursuant to and governed by the Uniform Community Development District Act of 1980.¹ The act lays out the exclusive and uniform procedures for establishing and operating a CDD.² CDDs provide a means to manage and finance the delivery of basic services and capital infrastructure to developing communities without overburdening other governments and their taxpayers.³ As of April 15, 2021, there are 755 active CDDs in Florida.⁴

Powers of CDD Board of Supervisors

A CDD board is authorized to exercise general and special powers within the constraints of applicable comprehensive plans, ordinances, and regulations of the general-purpose local government.⁵ General powers include the authority to assess and impose ad valorem taxes within the district and to issue bonds.⁶ In part, the special powers over public improvements and community facilities include, unless prohibited elsewhere,⁷ the power to finance, fund, plan, establish, acquire, construct, equip, operate, and maintain facilities and basic infrastructures for:⁸

- Water management and control for the lands within the district;
- Water supply, sewer, and wastewater management, reclamation, and reuse; and
- District roads and road improvements.⁹

CDDs are specifically granted “the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for...security, including, but not limited to, *guardhouses, fences and gates*, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies.”¹⁰

¹ Chapter 190, F.S.

² See ss. 190.004 and 190.005, F.S.

³ Section 190.002(1)(a), F.S.

⁴ Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at: <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited April 14, 2021).

⁵ See s. 190.004(3), F.S.

⁶ Section 190.011, F.S.

⁷ Sections 190.005(1)(f) and (2)(d), F.S.

⁸ A CDD board may authorize general obligation, benefit, or revenue bonds by one or more resolutions approved by a majority of the members in office. Section 190.016(2), F.S. Although the statute allows boards to authorize benefit bonds, these bonds are not defined nor discussed any further in the chapter.

⁹ Section 190.012, F.S.

¹⁰ Section 190.012(2)(d), F.S. (emphasis added).

Closing and Abandonment of Roads/Optional Conveyance to Homeowner's Association

The Florida Constitution establishes and describes the duties, powers, structure, function, and limitations of government in Florida. Article VIII, s. 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.

County governing bodies are statutorily authorized to abandon the roads and rights-of-way dedicated in a recorded residential plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

- The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.
- No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.
- The homeowners' association is both a corporation nonprofit organized and in good standing under ch. 617, F.S., and a "homeowners' association" as defined in s. 720.301(9), F.S., with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.
- The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.¹¹

The homeowners' association is required to install, operate, maintain, repair, and replace all signs, signals, markings, striping, guardrails, and other traffic control devices necessary or useful for the private roads unless an agreement has been entered into between the county and the homeowners' association, as authorized under s. 316.006(3)(b), F.S., expressly providing that the county has traffic control jurisdiction.

Upon abandonment of the roads and rights-of-way and the conveyance thereof to the homeowners' association, the homeowners' association has all the rights, title, and interest in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the county. The homeowners' association holds the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision and operates, maintains, repairs, and, from time to time, replaces and reconstructs the roads, street lighting, sidewalks, and drainage

¹¹ Section 336.125, F.S.

facilities as necessary to ensure their use and enjoyment by the residents. These provisions are supplemental and additional to the provisions of s. 336.12, F.S.¹²

Municipalities likely have the same power under the broad home rule authority granted by the Florida constitution, as well as authorization in ch. 163, F.S., to enter into interlocal agreements.

Traffic Control Jurisdiction

Generally, municipalities and counties may exercise traffic control jurisdiction over any roads located within their respective jurisdictions. This includes exercising jurisdiction over any private road or roads, or any limited access road or roads owned or controlled by a special district, if the municipality or county enters into a written agreement approved by the respective governing body.¹³

As to municipalities, the agreement with the party owning or controlling the road at issue:

- May include provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party, and such other terms as are mutually agreeable.
- May provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement if a determination is made by such parties that the signage will enhance traffic safety.

The exercise of jurisdiction is in addition to jurisdictional authority exercised by municipalities under law, and nothing limits or removes any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel. In addition, the board of directors of a homeowners' association as defined in ch. 720, F.S., may, by majority vote, elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association. A municipality may also, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county.¹⁴

As to counties, the agreement with the party owning or controlling the road at issue may include the same two provisions identified above. The exercise of jurisdiction is likewise additional authority for counties, and a homeowner's association board may also elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association. However, prior to entering into any agreement, the governing body of the county must consult with the county sheriff.¹⁵

If the county governing body abandons the roads and rights-of-way dedicated in a recorded residential subdivision, and simultaneously conveys the county's interest to a homeowners'

¹² That section provides the act of any commissioners in closing or abandoning any such road, or in renouncing or disclaiming any rights in any land delineated on any recorded map as a road, abrogates the easement held by or on behalf of the public and the title of fee owners is released. If the fee title to the road space has been vested in the county, the same is surrendered and vests in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.

¹³ Section 316.006(2)(b) and (3)(b), F.S.

¹⁴ Section 316.006(2)(b), F.S.

¹⁵ Section 316.006(3)(b), F.S.

association for the subdivision in the manner prescribed in s. 336.125, F.S., that county's traffic control jurisdiction over the abandoned and conveyed roads ceases unless an agreement exists for the exercise of traffic control jurisdiction in accordance with the above-described requirements.¹⁶

Effect of Proposed Changes

Section 1 creates s. 177.107, F.S., primarily, but not identically, modeled after s. 336.125, F.S. The bill authorizes a municipal or county governing body to abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the municipality's or county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a community development district established under ch. 190, F.S., in which the subdivision is located, if all of the following conditions are met:

- The CDD has requested the abandonment and conveyance by written resolution for the purpose of converting the subdivision to a gated neighborhood with monitored (as opposed to "restricted," in the case of a homeowner's association) public access.
- The CDD has received approval for the conveyance by a vote of two-thirds (four-fifths in the case of a homeowner's association) of the landowners who are subject to the non-ad valorem assessments of the community development district and who are present by person or proxy at a properly noticed landowners meeting.
- The CDD has executed an interlocal agreement with the municipality or county, as applicable, requiring the CDD to do all of the following:
 - Maintain the roads and any associated drainage, street lighting, or sidewalks identified in the interlocal agreement to municipal or county standards, as applicable.
 - Every 5 years, conduct a reserve study of the roads and any associated drainage, street lighting, or sidewalks identified in the interlocal agreement.
 - Levy annual special assessments in amounts sufficient to maintain the roads and any drainage, street lighting, or sidewalks identified in the interlocal agreement to municipal or county standards, as applicable.
 - Annually fund the amounts set forth in the reserve study.

The CDD must install, operate, maintain, repair, and replace all signs, signals, markings, striping, guardrails, and other traffic control devices necessary or useful for the roads unless an agreement has been entered into between the municipality or county and the CDD, as authorized under s. 316.006(2)(b) and (3)(b), respectively, expressly providing that the municipality or county has traffic control jurisdiction.

Upon abandonment of the roads and rights-of-way and the conveyance to the CDD, the CDD has all the rights, title, and interest in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the municipality or county. Thereafter, the CDD holds the roads and rights-of-way in trust for the benefit of the public and owners of the property in the subdivision and shall operate, maintain, repair, and from time to time replace and reconstruct the roads and any associated street lighting, sidewalks, or drainage facilities identified in the interlocal agreement as necessary to ensure their use and enjoyment by the public and property owners, tenants, and residents of the subdivision and their guests and invitees.

¹⁶ Section 316.006(3)(c), F.S.

The bill provides that the new provisions are supplemental and additional to the powers of municipalities and counties.

Procurement of Public Construction Services (Section 2)

Present Situation

Procurement Methods

Chapter 287, F.S., sets out provisions governing agency¹⁷ procurement of personal property and services. Agencies may use different methods, depending on the cost and characteristics of the goods or services being procured, which include:

- Invitations to bid, used when an agency is capable of specifically defining the scope of work for which a contractual service is required or of establishing precise specifications defining the actual commodity or group of commodities required.¹⁸
- Requests for proposals, used when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency is capable of identifying necessary deliverables. Responsive vendors may propose various combinations or versions of commodities or contractual services to meet the agency's specifications.¹⁹
- Invitations to negotiate, used to determine the best method for achieving a specific goal or solving a particular problem. This procurement method identifies one or more responsive vendors with which the agency may negotiate to receive the best value.²⁰
- Single source contracts, used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase and which may be excepted from competitive-solicitation requirements.²¹

FDOT Certificate of Qualification

Current law requires any contractor desiring to bid on any FDOT construction contract in excess of \$250,000 to first be certified by the FDOT as qualified pursuant to s. 337.14, F.S., and the FDOT's rules.²² Those rules include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor, which are necessary to perform the specific class of work for which the contractor seeks certification. The rules also apply to applicants seeking to bid on road, bridge, or public transportation construction contracts in excess of \$250,000.²³

¹⁷ "Agency" is defined as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government," but does not include university and college boards of trustees or the state universities and colleges. Section 287.012(1), F.S.

¹⁸ Section 287.057(1)(a), F.S.

¹⁹ Section 287.057(1)(b), F.S.

²⁰ Section 287.057(1)(c), F.S.

²¹ Section 287.057(3)(c), F.S.

²² Chapter 14-22, F.A.C.

²³ Section 337.14(1), F.S., and Rule 14-22.0011(1), F.A.C.

Licensure: Construction, Electrical and Alarm System, and Septic Tank Contracting

Chapter 489, F.S., is administered by the Department of Business and Professional Regulation and, in general, requires licensure of various types of contractors before contracting to perform work of the type for which they are licensed. Part I of ch. 489, F.S., relating to construction contracting, expressly does not apply to contractors in work on bridges, roads, streets, highways, or railroads, and services incidental thereto.²⁴ “Services incidental thereto” specifically includes storm drainage and excavation work necessary for the construction of bridges, roads, streets, highways, and railroads, and those subcontractor categories, defined in s 489.105(3)(d)-(q), F.S., and includes directly contracting with a governmental entity for such work.²⁵ Section 489.105(3)(d)-(q), F.S., includes a wide variety of contractors including roofing, air-conditioning, plumbing, underground utility and excavation, and solar.

Effect of Proposed Changes

Section 2 of the bill creates s. 287.05705, F.S., to provide that if a competitive solicitation is limited to the classes of work for which the FDOT issues certificates of qualification and does not involve the construction, remodeling, repair, or improvement of any building, or if a vendor holds an FDOT certificate of qualification or license under ch. 489, F.S., corresponding to the contractual service being procured, the procuring governmental entity may not prohibit a vendor from responding (*e.g.*, submitting a bid or proposal) to that entity’s competitive solicitation. The bill applies these provisions to all competitive solicitations issued by a governmental entity on or after October 1, 2021.

Lights on Vehicles (Section 3)

Present Situation

Current law generally prohibits a person from driving or otherwise moving on a road any vehicle or equipment that has a lamp or device that displays red, red and white, or blue lights visible from directly in front of such vehicle or equipment, with certain exceptions.²⁶ The display of blue lights on any vehicle or equipment is prohibited, except police vehicles and vehicles owned, operated, or leased by the Department of Corrections (DOC) or any county correctional agency when responding to emergencies.²⁷

The display of flashing lights on vehicles is also prohibited, except:²⁸

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicles is lawfully stopped or disabled upon the highway.
- When a motorist intermittently flashes his or her vehicles’ headlamps at an oncoming vehicle notwithstanding the motorist’s intent for doing so.
- Flashing blue lights on police, DOC, or county correctional agency vehicles.
- Flashing amber lights on road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier

²⁴ Section 489.103(1)

²⁵ Rule 61G4-12.011(9), F.A.C.

²⁶ Section 316.2397(1), F.S.

²⁷ Section 316.2397(2), F.S.

²⁸ Section 316.2397(7), F.S.

vehicles when in operation or when a hazard exists; and on commercial motor vehicles or trailers designed to transport unprocessed logs or pulpwood.

- Flashing red or red and white lights on vehicles such as those of a fire department or medical staff or facilities and ambulances.
- Flashing red lights on emergency response vehicles used by the Fish and Wildlife Conservation Commission, the DEP, and the Department of Health when responding to an emergency in the line of duty.
- Flashing white lights or flashing white strobe lights on road maintenance and construction equipment and vehicles when in operation and where a hazard exists; and on school buses and vehicles used to transport farm workers.
- Flashing white and red lights on bicycles and bicycle riders.
- Additional flashing lights authorized under s. 316.235, F.S., relating to additionally authorized lighting equipment on vehicles such as running board or fender lights.

Effect of Proposed Changes

Section 3 amends s. 316.2397, F.S., to authorize on roadways with a posted speed limit of 55 miles per hour or more:

- Flashing green, amber, and red lights on construction equipment within a work zone²⁹ during periods when workers are present.
- Flashing lights on vehicles during periods of extremely low visibility.³⁰

Salvage Certificate of Title or Certificate of Destruction (Section 4)

Present Situation

In order to receive a salvage certificate of title or certificate of destruction for a motor vehicle or mobile home that does not carry an electronic lien on the title under current law, among other requirements, an insurance company must provide proof of payment of the total loss claim and must provide an affidavit to the DHSMV stating that attempts have been made to obtain the title from the owner or lienholder to no avail.³¹

Effect of Proposed Changes

Section 4 amends s. 319.30(3)(b), F.S., to remove the requirement for an affidavit, instead requiring that the insurance company has *attested* on a form provided by the DHSMV stating that attempts have been made to obtain the title from the owner or lienholder to no avail, and has *attested* on a form provided by the DHSMV stating that attempts to obtain the title have failed.

²⁹ Section 316.003(105) defines “work zone *area*” to mean “the area and its approaches on any state-maintained highway, county-maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes are closed to traffic.”

³⁰ With the exception of vehicles in funeral processions as provided in 316.1974(4)(c), F.S., Florida law does not expressly authorize the use of hazard lights on moving vehicles. The Florida Driver Handbook indicates that a driver should not use emergency flashers in instances of low visibility or rain and may only use emergency flashers when a vehicle is disabled or stopped on the side of the road. Department of Highway Safety and Motor Vehicles, *Florida Driver Handbook*, at p. 48, available at <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited April 7, 2021).

³¹ Section 319.30(3)(b), F.S.

Permanent Motor Vehicle Registration (Section 5)

Present Situation

Currently, upon application for registration of a motor vehicle and payment of the appropriate license tax, the DHSMV generally issues one registration license plate.³² Generally, upon registration renewal (and replacement of the license plate after a ten-year period), a validation sticker is issued based on the applicant's renewal period. The period is 12 months, the extended period is 24 months, and all expirations occur based on the applicant's appropriate registration period.³³ Owners of motor vehicles for hire taxed under s. 320.08(6), F.S., are authorized to elect a permanent registration period if payment of the appropriate license taxes and fees occurs annually.³⁴ According to the DHSMV, for-hire vehicles include both short-term and long-term *leased* vehicles,³⁵ and the department proposes clarifying that permanent registration is available only to rental vehicles.³⁶

Effect of Proposed Changes

Section 5 amends s. 320.06(1)(b)1., F.S., providing that owners of *rental* vehicles taxed under s. 320.06(8), F.S., may elect a permanent registration period upon annual payment of the appropriate license taxes and fees.

Garage Liability Insurance (Section 6)

Present Situation

Motor vehicle dealers are required to have garage liability insurance or general liability insurance coupled with a business automobile policy in order to ensure a licensed dealer³⁷ has coverage for the day-to-day operations of businesses in the automotive industry that are not covered under most commercial or business liability insurance, including providing coverage for all dealer-owned vehicles driven by prospective purchasers.³⁸

While the Florida law requires a dealer to provide at the time of licensure application proof of the required coverage for the duration of the licensure period and again at the beginning of each licensure renewal period, the statute does not cover the issue of a gap in coverage during the licensure period. Gaps in coverage can, and do, occur as a result of various actions - a dealer may cancel a policy in the middle of the term or the insurer itself may cancel the policy in the middle of the term for nonpayment of the premium or for other reasons.

This technicality may allow a motor vehicle dealer to meet the requirement of proof of coverage at the beginning of the licensure period but allow the coverage to lapse during the licensure

³² Section 320.06(1)(a), F.S.

³³ Section 320.06(1)(b)1., F.S.

³⁴ *Id.*

³⁵ Section 320.01(15)(a), F.S., defines "for-hire vehicle," in part, as any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration, or offered for rent or hire as a means of transportation for compensation.

³⁶ See DHSMV email dated April 5, 2021 (on file in the Senate Transportation Committee).

³⁷ Section 320.27, F.S.

³⁸ Section 320.27(3), F.S.

period and then reinstate coverage at the beginning of the next licensure period. The cancellation and later reinstatement of a policy creates a gap wherein the dealer has no insurance coverage. A gap in insurance coverage at any time during the licensure period has the potential to result in direct consumer harm, as any dealer-owned vehicles taken for test drives or driven as program models by the dealer, or any consumer-owned vehicles damaged while on the dealer's lot, or any other property or personal injury situations that would otherwise be covered under a garage liability policy are not otherwise covered. Currently, over 14,500 dealers are required to carry appropriate insurance coverage.³⁹

The DHSMV currently advises vehicle dealers and recreational vehicle dealers about upcoming policy expirations by generating a list of dealers whose policies are set to expire. The DHSMV then sends out three separate notices that ask each dealer to submit an updated or current policy to the DHSMV. Additionally, after the policy has expired, the DHSMV sends a follow-up letter that indicates the DHSMV will take administrative action against the licensee for non-compliance with the insurance requirement if an updated policy is not received within fourteen days. In addition to this written communication, the DHSMV field offices follow up with telephone calls and emails to the dealers, attempting to bring them into compliance with the insurance requirement. Ultimately, if the dealer is unresponsive and does not provide the DHSMV with proof of the required coverage, the Bureau of Dealer Services forwards the relevant information to the Office of the General Counsel with a request to initiate an administrative action against the dealer under ch. 120, F.S.⁴⁰

Currently, the DHSMV has no enforcement authority permitting it to take administrative action against a dealer's license for not timely providing proof of coverage. The only enforcement authority available lies in the ability to seek administrative action if the dealer has a gap in coverage or does not obtain and maintain coverage.⁴¹

Effect of Proposed Changes

Section 6 amends s. 320.27(3) and (10), F.S., requiring motor vehicle dealer licensees to deliver to the FDHSMV copies of renewed, continued, changed, or new insurance policies, surety bonds, or irrevocable letters of credit within 10 days after any renewal, continuation, change, or new issuance of the same, ensuring continuous insurance coverage.

Innovative Transportation Projects (Section 7)

Present Situation

The FDOT is currently authorized to establish a program for transportation projects that demonstrate innovative techniques of highway and bridge design, construction, maintenance, and finance. The innovations must intend to measure resiliency and structural integrity and control time and cost increases on construction projects. These techniques may include state-of-the-art technology for pavement, safety, and other aspects of highway and bridge design, construction, and maintenance; innovative bidding and financing techniques; accelerated construction

³⁹ Department of Highway Safety and Motor Vehicles, *2021 Legislative Bill Analysis for SB 1500*, (March 5, 2021), p. 4 (on file in the Senate Committee on Transportation).

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

procedures; and techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the FDOT must use existing processes to award and administer construction and maintenance contracts.⁴²

The FDOT is limited to \$120 million in contracts annually for the purposes of innovative transportation projects. This annual cap on contracts for innovative transportation projects does not apply to:

- Turnpike Enterprise projects.
- Transportation projects funded by the American Recovery and Reinvestment Act of 2009.

Currently, minor design-build contracts are included in the annual cap for innovative transportation projects. These projects are bridges under \$10 million and other transportation projects (resurfacing) that are not considered to be major design-build.⁴³

Effect of Proposed Changes

Section 7 amends s. 337.025, F.S., to repeal redundant language relative to exclusion of Turnpike Enterprise projects and obsolete language relative to exclusion of transportation projects funded by the American Recovery and Reinvestment Act of 2009 from the annual \$120 million cap.

The bill also excludes low-bid design-build milling and resurfacing contracts from the annual cap. Such contracts would not be counted toward the annual cap for innovative transportation projects, possibly resulting in increased opportunities for the FDOT to engage in innovative transportation projects.

Whether all low-bid milling and resurfacing contracts are “innovative,” even with the design-build element, is unclear. The FDOT’s work program instructions state that resurfacing deals with improvements to the structural condition of existing pavement, intended to preserve the pavement’s structural integrity. The program provides for pavement milling and pavement resurfacing, among other activities.⁴⁴

FDOT Certificates of Qualification (Section 9)

Present Situation

FDOT Certificate of Qualification

Current law requires any contractor desiring to bid on any FDOT construction contract in excess of \$250,000 to first be certified by the FDOT as qualified to perform the specific class of work for which the contractor seeks certification. A contractor who is not already qualified and in good standing with the FDOT as of January 1, 2019, and who desires to bid on FDOT contracts

⁴² Section 337.025(1), F.S.

⁴³ FDOT Construction, *Design-Build Minor*, available at <https://www.fdot.gov/construction/AltContract/General/DBMinor.shtm> (last visited April 7, 2021).

⁴⁴ FDOT, *Work Program Instructions Tentative Work Program – FY 21/22-25/26*, Part III – Chapter 27: Resurfacing, (rev. April 1, 2021) available at <https://fdotewp1.dot.state.fl.us/fmsupportapps/Documents/development/WorkProgramInstructions.pdf> (last visited April 7, 2021).

in excess of \$50 million must have satisfactorily completed two projects, each in excess of \$15 million, for the FDOT or for any other state's department of transportation.⁴⁵

When applying to the FDOT, each application for certification must be accompanied by the contractor's latest annual financial statement, which must have been completed within the last 12 months. If the application or the annual financial statement shows the contractor's financial condition more than four months prior to the date on which the FDOT receives the application, the contractor must also submit an interim financial statement and an updated application.⁴⁶ Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.

Contractor Maximum Capacity Rating

The FDOT's rules include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor, which are necessary to perform the specific class of work for which the contractor seeks certification. In so doing, the FDOT verifies and evaluates whether an applicant is competent and responsible and possesses the necessary financial resources to perform the requested work.⁴⁷

Part of the latter inquiry involves whether an applicant has the financial resources sufficient to establish a maximum capacity rating (MCR), which is defined as the total aggregate dollar amount of *uncompleted* work an applicant may have under contract at any one time as a prime contractor and/or subcontractor, regardless of the work location and with whom the applicant contracted.⁴⁸

According to the FDOT's rules, the MCR is established by a formula, one element of which is the "ability factor." For example, for new applicants and applicants not qualified under the rule for more than two years, the "ability score" determines the ability factor, which is determined from the total ability score resulting from evaluations of the applicant's organization, management, work experience, and letters of recommendation.⁴⁹

Currently, if an applicant for a certificate of qualification is found to possess the prescribed qualifications, the FDOT must issue the applicant a certificate, which, unless revoked by the FDOT for good cause, is valid for a period of 18 months after the date of the applicant's financial statement, or such shorter period as the FDOT prescribes. Submission of an application does not affect expiration of the certificate.⁵⁰

⁴⁵ Section 337.14(1), F.S.

⁴⁶ The interim statement must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than four months prior to the date the FDOT receives the interim statement but, upon request of the applicant, an application and accompanying annual or interim financial statement received by the FDOT within 15 days after either four-month period is considered timely.

⁴⁷ Rule 14.22-003(1), F.A.C.

⁴⁸ Rule 14.22-003(1)(d) and (2), F.A.C.

⁴⁹ *Id.*

⁵⁰ Section 337.14(4), F.S.

Effect of Proposed Changes

Section 9 amends s. 337.14(1) and (4), F.S., to clarify that any contractor desiring to bid on contracts in excess of \$50 million must first be certified by the FDOT as qualified, in addition to the existing requirement relating to satisfactory completion of two projects, each in excess of \$15 million.

The bill requires each application for certification to be accompanied by *audited, certified* financial statements prepared in accordance with generally accepted accounting principles and auditing standards by a certified public accountant licensed in this state or another state. The applying contractor's audited, certified financial statements must specifically address the applying contractor and must have been prepared within the immediately preceding 12 months. The FDOT may not consider any financial information relating to the parent entity of the applying contractor, if any, and may not certify as qualified any applying contractor that fails to submit the required audited, certified financial statements.

If the application or the annual financial statement shows the applying contractor's financial condition more than four months before the date on which the FDOT receives the application, the applying contractor must also submit interim *audited, certified* financial statements prepared in accordance with generally accepted accounting and auditing principles and standards by a certified public accountant licensed in this state or another state.

The bill provides that submission of an application *and subsequent approval* do not affect expiration of a contractor's certificate of qualification and, additionally, do not affect a contractor's ability factor or maximum capacity rating.

Construction, Engineering, and Inspection Services (Section 9)

Construction, engineering, and inspection (CEI) services include the activities required to review and inspect highway and bridge construction performed by a construction contractor for compliance with contract requirements. These services are critical to ensuring the safety of the traveling public.

Currently, a contractor⁵¹ or affiliate⁵² holding an FDOT certification of qualification may not also qualify to provide testing services or CEI services to the FDOT in connection with a construction contract under which the contractor is performing any work.⁵³ Simply stated, the contractor is prohibited from performing both the construction work *and* the CEI services on the same project, to avoid any conflict of interest that may arise in inspecting one's own work.⁵⁴

Legislation enacted in 2019 restated the prohibition with respect to projects funded by the FDOT and administered by a local governmental entity; *i.e.*, that the entity performing design services

⁵¹ Section 337.165(1)(d), F.S.

⁵² Section 337.165(1)(a), F.S.

⁵³ Section 337.14(7), F.S.

⁵⁴ This limitation does not apply to any design-build prequalification pursuant to s. 337.11(7), F.S., and does not apply when the FDOT otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the public's best interests with respect to a particular contract for testing services or CEI services.

and CEI services may not be the same entity.⁵⁵ Specified seaports were made exempt from the prohibition in that legislation, but airports were not.⁵⁶

According to the Florida Airports Council, the current prohibition increases airport project construction costs, lengthens project schedules due to additional coordination with consultants, and reduces project efficiency. Further:

- Florida airports leverage many different delivery methods for conducting CEI activities, depending on the project.
- Airports deliver more than road projects, such as building, hangars, ramps, and runways, and the CEI methods and processes the FDOT uses do not accommodate airport construction projects.
- “Airports need to remain agile with the many types of projects that they deliver, particularly as it pertains to the unique and specialized nature of airport projects, to ensure that each project is completed safely, timely and cost effectively.”⁵⁷

Effect of Proposed Changes

Section 9 amends s. 337.14(7), F.S., to provide that with respect to projects funded by the FDOT and administered by a local governmental entity, airports as defined in s. 332.004, F.S.,⁵⁸ are likewise exempt from the prohibition against the same entity performing design services and CEI services.

State Arbitration Board (Section 10)

Present Situation

Current law creates the State Arbitration Board (SAB) within the FDOT to facilitate the prompt settlement of claims⁵⁹ for additional compensation arising out of construction and maintenance contracts between the FDOT and its various contractors.⁶⁰ Every contractual claim in an amount up to \$250,000 per contract or, at the claimant's option, up to \$1 million per contract or, upon agreement of the parties, up to \$2 million per contract, which cannot be resolved by negotiation between the FDOT and the contractor must be arbitrated by the SAB after the FDOT's acceptance of the project. However, either party may request that the claim be submitted to binding private arbitration. A court of law may not consider the settlement of a claim until the SAB process has been exhausted.⁶¹

⁵⁵ Chapter 2019-153, L.O.F.

⁵⁶ Those listed in s. 311.09, which include 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.

⁵⁷ See email to House committee staff relating to HB 1441 (2020) (on file in the Senate Transportation Committee).

⁵⁸ That section defines the term “airport” to mean “any area of land or water, or any manmade object or facility located therein, which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for public use, for airport buildings or other airport facilities or rights-of-way.”

⁵⁹ For the purpose of s. 337.185, F.S., the term “claim” means the aggregate of all outstanding claims by a party arising out of a construction or maintenance contract.

⁶⁰ Section 337.185(1), F.S.

⁶¹ Section 337.185(1), F.S.

The SAB is composed of three members: one member is appointed by the FDOT Secretary; one member is elected by those construction or maintenance companies who are under contract with the FDOT; and the third member is chosen by agreement of the other two members. Whenever the third member has a conflict of interest regarding an affiliation with one of the parties, the other two members select an alternate member for that hearing. The FDOT secretary may select an alternative or substitute to serve as the FDOT's member for any hearing or term. Each member serves a two-year term. The SAB elects a chair, each term, who is the administrator of the SAB and custodian of its records.⁶²

An arbitration hearing may be requested by the FDOT or by a contractor who has a dispute with the FDOT.⁶³ For all contracts entered into after June 30, 1993, the request must be made to the SAB within 820 days after the final acceptance of the work. The SAB must conduct the hearing within 45 days of the request. The party requesting the SAB's consideration must give notice of the hearing to each SAB member. If the SAB finds that a third party is necessary to resolve the dispute, the SAB may vote to dismiss the claim, which may thereafter be pursued in accordance with Florida law.⁶⁴ All members must be present to conduct a meeting. Upon being called into session, the SAB must promptly proceed to a determination of the issue or issues in dispute.⁶⁵

When a valid contract is in effect defining the rights, duties, and liabilities of the parties with respect to any matter in dispute, the SAB may only determine the proper interpretation and application of the appropriate contract provisions. Any investigation made by less than the whole membership of the SAB must be by authority of a written directive by the chair, and the investigation must be summarized in writing and considered by the SAB as part of the record of its proceedings.⁶⁶ The SAB must hand down its order within 60 days after it is called into session. If all three SAB members do not agree, the order of the majority constitutes the order of the SAB.⁶⁷

The SAB members may receive compensation for the performance of their duties from administrative fees received by the SAB, except that an FDOT employee may not receive compensation. The compensation amount is determined by the SAB, but may not exceed \$125 per hour, up to \$1,000 per day for each member authorized to receive compensation. This does not prevent the member elected by construction or maintenance companies from being an employee of an association affiliated with the industry, even if the sole responsibility of that member is service on the SAB. Travel expenses for the industry member may be paid by an industry association, if necessary. The SAB may allocate funds annually for clerical and other administrative services.⁶⁸

⁶² Section 337.185(2), F.S.

⁶³ Current State Arbitration Board procedures are available at: https://cdn.ymaws.com/ftba.site-ym.com/resource/resmgr/website_files/arbitration_board/11-19-20_State_Arbitration_B.pdf (last visited April 8, 2020).

⁶⁴ Section 337.185(3), F.S.

⁶⁵ Section 337.185(4), F.S.

⁶⁶ Section 337.185(5), F.S.

⁶⁷ Section 337.185(6), F.S.

⁶⁸ Section 337.185(7), F.S.

The party requesting arbitration must pay a fee to the SAB in accordance with a schedule established by it, to cover the cost of administration and compensation of the SAB, not to exceed:

- \$500 per claim which is \$25,000 or less;
- \$1,000 per claim which is in excess of \$25,000 but not exceeding \$50,000;
- \$1,500 per claim which is in excess of \$50,000 but not exceeding \$100,000;
- \$2,000 per claim which is in excess of \$100,000 but not exceeding \$200,000;
- \$3,000 per claim which is in excess of \$200,000 but not exceeding \$300,000;
- \$4,000 per claim which is in excess of \$300,000 but not exceeding \$400,000; or
- \$5,000 per claim which is in excess of \$400,000.⁶⁹

The SAB in its order may apportion the above fees, and the cost of recording and preparing a transcript of the hearing, among the parties in accordance with the SAB's finding of liability.⁷⁰

Effect of Proposed Changes

Section 10 substantially revises s. 337.185, F.S., relating to the SAB. The bill creates the following definitions:

- “Claim” means the aggregate of all outstanding written requests for additional monetary compensation, time, or other adjustments to the contract, the entitlement or impact of which is disputed by the FDOT and could not be resolved by negotiations between the FDOT and the contractor.
- “Contractor” means a person or firm having a contract for rendering services to the FDOT relating to the construction or maintenance of a transportation facility.
- “Final acceptance” means that the contractor has completely performed the work provided for under the contract, the FDOT or its agent has determined that the contractor has satisfactorily completed the work provided for under the contract, and the FDOT or its agent has submitted written notice of final acceptance to the contractor.

The bill requires every claim of up to \$250,000 per contract that cannot be resolved by negotiations between the FDOT and the contractor to be arbitrated by the SAB. Authorization for either party to request that a claim be submitted to binding private arbitration is removed. An award issued by the SAB is final and enforceable by a court of law.

A contractor may submit a claim greater than \$250,000 up to \$1 million per contract or, upon agreement of the parties, up to \$2 million per contract to be arbitrated by the SAB. An award issued by the SAB is final if a request for a trial de novo⁷¹ is not filed within the time provided by Rule 1.830, Florida Rules of Civil Procedure.⁷² At the trial de novo, the court may not admit evidence that there has been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at an arbitration hearing may be used for any purpose otherwise permitted by the Florida Evidence

⁶⁹ Section 337.185(8), F.S.

⁷⁰ Section 337.185(9), F.S.

⁷¹ A trial de novo refers to a new trial on the entire case and is conducted as if there had been no trial in the first instance.

⁷² Rule 1.830, Florida Rules of Civil Procedure, relates to voluntary binding arbitration. The rule provides that a voluntary binding arbitration decision may be appealed within 30 days after service of the decision on the parties. Appeal is limited to the grounds specified in s. 44.104(10), F.S.

Code.⁷³ If a request for trial de novo is not filed within the time provided, the award issued by the board is final and enforceable by a court of law.

An arbitration request may not be made to the SAB before final acceptance, but must be made within 820 days after final acceptance. The SAB must still schedule a hearing within 45 days after an arbitration request but, if possible, must now conduct the hearing within 90 days after the request instead of the previous 45-day deadline.

The bill authorizes the SAB to administer oaths and conduct the proceedings as provided by court rules. The bill requires the hearing to be conducted informally, with the presentation of testimony and evidence being kept to a minimum. The bill requires matters to be presented to the arbitrators primarily through the statements and arguments of counsel. The SAB must address the scope of discovery, presentation of testimony, and evidence at a preliminary hearing by considering the size, subject matter, and complexity of the dispute. Any party to the arbitration may petition the SAB, for good cause shown, to issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence at the arbitration and may petition the SAB for orders compelling such attendance and production at the arbitration. Subpoenas must be served and are enforceable in the manner provided by law.

The SAB must issue its award within 45 days after the conclusion of the arbitration hearing (rather than within 60 days after being called into session under current law). If all three members of the board do not agree, the award agreed to by the majority of the board constitutes the award of the board.

The board is still composed of three members who are selected in the same manner as in current law. If the first or second member has a conflict of interest regarding affiliation with one of the parties, the appointing entity must appoint an alternate member for that hearing. If the third member has such a conflict, the first and second members must select an alternate. Each member serves a 4-year term, instead of the current 2-year term. As under current law, the SAB still elects a chair for each term, and the chair is the SAB administrator and custodian of its records. The presence of all SAB members is required to conduct a meeting, whether in person or via videoconferencing.

The bill requires that SAB members receive compensation from deposits made by the parties based on an estimate of compensation by the SAB, except that, again, an FDOT employee may not receive SAB compensation. All deposits must be held in escrow by the chair in advance of the hearing. Each member eligible for compensation must be compensated at \$200 per hour, up to a maximum of \$1,500 per day (currently not to exceed \$125 per hour up to a maximum of \$1,000 per day), and a member must be reimbursed for the actual cost of his or her travel expenses. The SAB is authorized to allocate funds annually for clerical and other administration services.

The bill effectively maintains the same schedule of filing fees as in current law, based on the dollar amount of a claim, and authorizes the SAB to apportion the filing fees and the cost of recording and preparing a transcript of the hearing among the parties in its award.

⁷³ Chapter 90, F.S.

Surplus Revenue/High-Occupancy Toll Lanes or Express Lanes (Section 11)

Present Situation

Current law authorizes the FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on high-occupancy toll lanes (HOT lanes) or express lanes established on FDOT-owned facilities.⁷⁴ All collected tolls must first be used to pay the annual cost of operation, maintenance, and improvement of the HOT or express lanes project or associated transportation system. The FDOT may continue to collect tolls on HOT or express lanes after the discharge of any bond indebtedness related to such project.⁷⁵ The FDOT must use any remaining toll revenue from the HOT or express lanes for the construction, maintenance, or improvement of any road on the State Highway System (SHS) within the county or counties in which the toll revenues were collected or to support express bus service on the facility where the toll revenues were collected.⁷⁶

Effect of Proposed Changes

Section 11 amends s. 338.166(3), F.S., providing that remaining toll revenue from HOT or express lanes, after payment of the annual cost of operation, maintenance, and improvement of the HOT or express lanes project and associated transportation system, the FDOT must use any remaining toll revenue to support public transportation projects that benefit the operation of HOT or express lanes on the State Highway System within the county or counties in which the toll revenues were collected. Use of the remaining revenue for such purpose is in addition to expenditures as currently specified for any road on the SHS within the county or counties in which the toll revenues were collected or to support express bus service on the facility where the toll revenues were collected.

Metropolitan Planning Organizations Member Fees (Section 12)

Present Situation

The FDOT is currently required to allocate to each metropolitan planning organization (MPO) for the purpose of accomplishing its transportation planning and programming duties, an appropriate amount of federal transportation planning funds,⁷⁷ which generally make up the largest portion of MPO funding. However, governmental entity members of an MPO may, from time to time, voluntarily contribute various sums to an MPO to supplement the federal funding received through the FDOT, and an MPO may assess fees for municipalities, counties, or other governmental entities that are members of the MPO. Under current law, the MPO in a county as defined in s. 125.011(1), F.S. (*i.e.*, Miami-Dade County) is prohibited from assessing any fees for municipalities, counties, or other governmental entities that are members of that MPO.⁷⁸

⁷⁴ Section 338.166(1), F.S.

⁷⁵ Section 338.166(2), F.S.

⁷⁶ Section 338.166(3), F.S.

⁷⁷ Section 339.175(6)(f)1., F.S.

⁷⁸ *Id.*

Effect of Proposed Changes

Section 12 amends s. 339.175(6)(f), F.S., to remove the current prohibition against the MPO in Miami-Dade County assessing any fees for municipalities, counties, or other governmental entities that are members of the MPO.

Northwest Florida Transportation Corridor Authority (Sections 13 and 20)

Present Situation

The Northwest Florida Transportation Corridor Authority (NFTCA), is an agency of the State of Florida, created in 2005 pursuant to ch. 343, Part IV, F.S. One of several transportation authorities in Florida, the governing body consists of eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla counties, appointed by the Governor to a 4-year term. The appointees are residents of their respective counties and may not hold an elected office. The district secretary of the FDOT serving Northwest Florida also serves as an ex officio, nonvoting member of the NFTCA governing body.⁷⁹

The primary purpose of the NFTCA is to improve mobility on the U.S. 98 corridor in Northwest Florida, enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development, and implement transportation projects to alleviate current or anticipated traffic congestion.⁸⁰

The NFTCA met on September 20, 2018, and during the meeting, the NFTCA Board voted unanimously, approving Resolution 18-02, to become inactive as an authority. The NFTCA Board also voted unanimously to approve their 2019 Budget, which utilized all of their remaining funds of \$1,016, with \$1,015 placed under Board Expenses and \$1 placed in Total Reserves for the 2019 Budget before going inactive.⁸¹

Effect of Proposed Changes

Section 13 repeals Part III of ch. 343, F.S., consisting of ss. 343.80, 343.805, 343.81, 343.82, 343.83, 753 343.835, 343.836, 343.84, 343.85, 343.87, 343.875, 343.88, 754 343.881, 343.884, and 343.89, F.S., in which the NFTCA was established.

Section 20, notwithstanding any other law, dissolves the inactive NFTCA. The NFTCA must discharge or make provisions for the their debts, obligations, and other liabilities; settle and close the NFTCA's activities and affairs; and provide for distribution of the their assets (estimated to be \$1,016),⁸² or the proceeds of such assets, such that each local general-purpose government represented on the NFTCA's board receives a distribution generally in proportion to each entity's contribution to the acquisition of the assets.

⁷⁹ Section 343.81(2), F.S.

⁸⁰ Section 343.81(1), F.S.

⁸¹ Northwest Florida Transportation Corridor Authority, Board Meeting Minutes, September 20, 2018 (on file in the Senate Transportation Committee).

⁸² *Id.*

Central Florida Expressway Authority – Lake County (Section 14)

The Central Florida Expressway Authority (CFX) is established in Part III of ch. 348, F.S., and is granted the right to acquire, hold, construct, improve, maintain, operate, own, and lease in the capacity of lessor the CFX Expressway System. Except as otherwise provided, the area served by the CFX is that within the geographical boundaries of Orange, Seminole, Lake, Brevard, and Osceola counties.⁸³

The Wekiva Parkway (State Road 429) will ultimately connect to State Road 417 and complete the beltway around Central Florida. The project is a cooperative effort between the FDOT (which is responsible for constructing portions of the parkway)⁸⁴ the CFX, and the Turnpike Enterprise. Portions of the parkway are already open, and the entire parkway is scheduled to be open to traffic in 2023.⁸⁵

Section 348.754(1)(c), F.S., notwithstanding any other provision of that section, provides that to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the FDOT, the CFX may not, without the prior consent of the secretary of the FDOT, construct any extensions, additions, or improvements to the expressway system in Lake County.

Effect of Proposed Changes

Section 14 amends s. 348.754(1)(c), F.S., to provide that to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the FDOT, the CFX may not, without the prior consultation (rather than consent) of the secretary of the FDOT, construct any extensions, additions, or improvements to the expressway system in Lake County.

Jacksonville Transportation Authority (Section 15)

Present Situation

Chapter 349, F.S., creates the Jacksonville Transportation Authority (the JTA) as a body politic and corporate and an agency of the state.⁸⁶ The JTA is authorized to acquire, hold, construct, improve, maintain, operate, and own the Jacksonville Expressway System,⁸⁷ but the authority also has multi-modal responsibilities. The JTA designs and constructs bridges and highways⁸⁸ and provides varied mass transit services including, but not limited to, express and regular bus service;⁸⁹ a downtown Skyway Monorail;⁹⁰ the St. Johns River Ferry;⁹¹ the Gameday Xpress for

⁸³ Section 348.754(1)(a), F.S.

⁸⁴ See *Wekiva Parkway, Sections*, available at [Wekiva Parkway - FDOT Sections](#) (last visited April 14, 2021).

⁸⁵ See *Wekiva Parkway*, available at [Wekiva Parkway - Home Page](#) (last visited April 14, 2021).

⁸⁶ Section 349.03(1), F.S.

⁸⁷ Section 349.04(1)(a), F.S.

⁸⁸ See the JTA website for a list of projects, available at [JTA Mobility Works - Projects \(jtafla.com\)](#) (last visited April 14, 2021).

⁸⁹ See the JTA website, *Riding JTA*, available at [Jacksonville Transportation Authority - Riding JTA \(jtafla.com\)](#) (last visited April 14, 2021).

⁹⁰ See the JTA website, *Skyway*, available at [Jacksonville Transportation Authority - Skyway \(jtafla.com\)](#) (last visited April 14, 2021).

⁹¹ See the JTA website, *St. Johns River Ferry*, available at [JTA Ferry - St. John's River Ferry | Schedule, Costs, Information, Directions | JTA \(jtafla.com\)](#) (last visited April 14, 2021).

various sporting events;⁹² inter-county service between points in Baker, Clay, Nassau, Putnam, and St. Johns Counties;⁹³ and paratransit service.⁹⁴

Current law authorizes the JTA to enter into lease agreements, including the authority to lease:

- As a lessor, the Jacksonville Expressway System,⁹⁵ a mass transit system employing motor cars or buses, street railway systems beneath the surface, on the surface, or above the surface, or any other means determined useful to the rapid transfer of large numbers of people among the locations of residence, commerce, industry, and education in Duval County.⁹⁶
- Public transportation projects, such as express bus services; bus rapid transit services; light rail, commuter rail, heavy rail, or other transit services; ferry services; transit stations; park-and-ride lots; transit-oriented development nodes; or feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities, that are intended to address critical transportation needs or concerns in the Jacksonville, Duval County, metropolitan area.⁹⁷
- As lessee or lessor, and use any franchise or any property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it, including, without limitation, land, buildings, and other facilities located within or comprising transit-oriented developments which enhance the use or utility of transportation facilities owned or constructed by the authority and administrative and other buildings for the use of the authority in carrying out its powers and obligations.⁹⁸

Various transportation, bridge, and expressway authorities are granted the power under current law to enter into agreements for similar or other types of leases, such as the South Florida Regional Transportation Authority,⁹⁹ the Central Florida Regional Transportation Authority,¹⁰⁰ the Tampa Bay Area Regional Transit Authority,¹⁰¹ the Tampa-Hillsborough Expressway Authority,¹⁰² and the Santa Rosa Bay Bridge Authority.¹⁰³ The authorization in each of these instances, however, is open-ended and not limited in duration. The duration for which the Central Florida Expressway Authority is authorized to enter into lease agreements is for a term not exceeding 99 years.¹⁰⁴

Standing alone among these various transportation, bridge, and expressway authorities, the JTA is the only such entity with leasing authority limited to a duration of 40 years.

⁹² See the JTA website, *Gameday Xpress*, available at [Jacksonville Transportation Authority - Gameday Xpress \(jtafla.com\)](https://www.jtafla.com/gameday-xpress) (last visited April 14, 2021).

⁹³ See the JTA website, *Regional Services*, available at [Jacksonville Transportation Authority - Regional Services \(jtafla.com\)](https://www.jtafla.com/regional-services) (last visited April 14, 2021).

⁹⁴ See the JTA website, *Paratransit*, available at [Jacksonville Transportation Authority - Paratransit \(jtafla.com\)](https://www.jtafla.com/paratransit) (last visited April 14, 2021). Some of the JTA services listed have been modified or suspended due to the COVID virus.

⁹⁵ Section 349.04(1)(a), F.S.

⁹⁶ Section 349.04(1)(b), F.S.

⁹⁷ Section 349.04(1)(e), F.S.

⁹⁸ Section 349.04(2)(c), F.S.

⁹⁹ Section 343.54(1)(b) and (3)(d), (e), and (i), F.S.

¹⁰⁰ Section 343.64(1)(b) and (3)(d), (e), and (i), F.S.

¹⁰¹ Section 343.922(5)(d), (e), and (i), F.S.

¹⁰² Section 348.54(3), F.S.

¹⁰³ Section 348.968(2)(c), and (d), F.S.

¹⁰⁴ Section 348.754(1)(a) and (2)(c), F.S.

Effect of Proposed Changes

Section 15 amends s. 349.04(2)(d), F.S., to increase from 40 years to 99 years the limitation on the term of a lease into which the Jacksonville Transportation Authority (JTA) is authorized to enter.

Borrow Pits (Sections 8, 16, 17, and 18)

Present Situation

Currently, the term “borrow pit” is not defined in Florida law.

Part III of ch. 378, F.S., contains the Resource Extraction Reclamation Act, which prohibits an operator¹⁰⁵ from beginning the process of extracting clay, peat, gravel, sand, or any other solid substance of commercial value found in natural deposits or in the earth, except fuller's earth clay, heavy minerals, limestone, or phosphate, which are regulated elsewhere in ch. 378, F.S., at a new mine¹⁰⁶ without notifying the secretary of the DEP of the intention to mine.¹⁰⁷ The operator's notice of intent to mine must consist of the operator's estimated life of the mine and the operator's signed acknowledgment of the performance standards provided in s. 378.803, F.S.¹⁰⁸

The act also provides that after January 1, 1989, all operators of existing mines for the extraction of resources as described above must meet the performance standards provided by s. 378.803, F.S., for any new surface area disturbed at such mines.¹⁰⁹

Section 378.803, F.S., provides the following performance standards for the reclamation of other resources:¹¹⁰

- Reclamation must achieve the stormwater, drainage, wetlands, and other surface and groundwater requirements of the DEP and the appropriate water management district.
- The final slopes must be at such an angle as to minimize the possibility of slides and may not exceed the natural angle of repose of the material being mined.
- Provisions for safety to persons, wildlife, and adjoining property must be provided.
- Any overburden and spoil must be left in a configuration which is in accordance with accepted soil conservation practices and which is suitable for the proposed future use of the land.
- Reclamation must be designed to avoid the collection of water in pools that are, or are likely to become, noxious, odious, or foul.
- All reclamation activities must, to the extent possible, be coordinated with resource extraction and in any event must be initiated at the earliest practicable time.

¹⁰⁵ Section 378.403(13), F.S., defines the term “operator” as any person engaged in an operation.

¹⁰⁶ Section 348.403(10), F.S., defines the term “mine” as an area of land upon which mining operations have been conducted, are being conducted, or are planned to be conducted, as the term is commonly used in the trade.

¹⁰⁷ Section 378.801(1), F.S.

¹⁰⁸ Section 378.801(2), F.S.

¹⁰⁹ Section 378.802, F.S.

¹¹⁰ Section 378.403(17), F.S., defines the term “resource” as soil, clay, peat, stone, gravel, sand, limerock, metallic ore, or any other solid substance of commercial value found in natural deposits on or in the earth, except phosphate.

- Reclamation activities must be consistent with all applicable local government ordinances at least as stringent as the criteria and standards discussed above.

Effect of Proposed Changes

Section 16 amends s. 378.403, F.S., to define the term “borrow pit” as an area of land:

- Upon which excavation of surface resources has been conducted, is being conducted, or is planned to be conducted, as the term is commonly used in the mining trade; and
- Not considered a mine.

Such resources are limited to soil, organic soil, sand, or clay that can be removed with construction excavating equipment and loaded on a haul truck with no additional processing.

Section 8 creates s. 337.0262, F.S., to prohibit the FDOT, and any contractor or subcontractor of the FDOT, from purchasing or using any clay, peat, gravel, sand, or other solid substance extracted from a borrow pit unless:

- The operator certifies to the FDOT, the contractor, or the subcontractor that the borrow pit is in compliance with the notice requirement and the substantive requirements of s. 378.801, F.S., and
- The operator is in compliance with the performance standards described above, including providing proof of currently valid permits required by the DEP and the appropriate water management district.

The bill mandates that all contracts and purchase orders executed by the FDOT, and all subcontracts and purchase orders executed by contractors or subcontractors after July 1, 2021, must include specific requirements for compliance with the bill’s provisions.

If the FDOT determines that substances are being obtained and used from a borrow pit not in compliance with the bill’s provisions, the FDOT is required to cease accepting any substances from that pit within 48 hours. The FDOT is authorized to resume acceptance once the pit has reestablished compliance with the bill’s provisions.

Section 17 amends s. 378.801, F.S., revising the title to address a notice of intent to extract, rather than to mine. The bill prohibits an operator from beginning the operation of a borrow pit (in addition to the current prohibition against beginning the process of extracting clay, peat, gravel, etc.) at a new *location* (instead of at a new mine) without notifying the DEP secretary of the intent to *extract* (instead of the intent to mine). The operator’s notice of intent to *extract* must consist of the operator’s estimated life of the *extraction location* (instead of the estimated life of the mine).

Section 18 amends s. 378.802, F.S., revising the title to address existing extraction locations (rather than existing mines). The bill requires that after January 1, 1989, all operators of existing *locations* for the extraction of the resources described in s. 378.801, F.S., must meet the performance standards in s. 378.803, F.S., for any new surface area disturbed at such *locations*.

Outdoor Advertising (Section 19)

Present Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-aid Primary, Interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the HBA include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting, and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all interstates, federal-aid primaries, and other highways that are part of the national Highway System.
- States have the discretion to remove legal nonconforming signs¹¹¹ along highways. However, the payment of just compensation is required for the removal of any lawfully erected billboard along the specified roads.
- States and localities may enact stricter laws than stipulated in the HBA.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.¹¹²

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)¹¹³ incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations and the 1972 agreement.¹¹⁴ That chapter expressly provides that its provisions do not

¹¹¹ A legal "nonconforming sign" is a sign that was legally erected according to the applicable laws and regulations of the time, but which does not meet current laws or regulations. Section 479.01(16), F.S.

¹¹² 23 U.S.C. § 131(b).

¹¹³ For a copy of the agreement, see ScenicAmerica, available at [Florida Agreement \(scenic.org\)](https://www.scenic.org/Florida-Agreement) (last visited March 25, 2021).

¹¹⁴ Some local governments have their own ordinances regulating outdoor advertising in their communities. See FDOT, *Outdoor Advertising*, available at [Outdoor Advertising \(fdot.gov\)](https://www.fdot.gov/outdoor-advertising) (last visited March 26, 2021). The current database may be accessed using the same link.

supersede the rights and powers of counties and municipalities to enact outdoor advertising or sign ordinances.¹¹⁵

Permitting and Metal Tags

A person is prohibited from engaging in the business of outdoor advertising in this state without first obtaining a license from the FDOT.¹¹⁶ Except as otherwise provided,¹¹⁷ a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System outside an urban area,¹¹⁸ or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from FDOT (and paying the required annual fee).¹¹⁹

Once obtaining a license to engage in the business of outdoor advertising and having been issued a permit by the FDOT for an outdoor advertising sign, the FDOT is required to furnish to a permittee a serially numbered, permanent metal permit tag which the permittee is responsible for maintaining on each permitted sign facing at all times. The tag must be securely attached to the upper 50 percent of the sign structure in such a manner as to be plainly visible from the main traveled way.¹²⁰ The tag must be properly and permanently displayed at the permitted site within 30 days after the date of permit issuance and, if the permittee fails to erect a completed sign on the permitted site within 270 days after the date of permit issuance, the permit becomes void. The FDOT is prohibited from issuing a new permit to that permittee for the same locations for 270 days after the date on which the permit becomes void.¹²¹ Current law also provides for the FDOT issuance of a replacement tag in the event a permit tag is lost, stolen, or destroyed.¹²² The fee for a replacement tag, set by FDOT rule, is \$12 per tag.¹²³

At least 105 days before a license or a sign permit expires, the FDOT must send to each permittee a notice of fees due for all licenses and permits issued to a licensee/permittee before the date of the notice, and the permittee must advise the FDOT of any additions, deletions, or errors contained in the notice no later than 45 days before the expiration date.¹²⁴ Permits tags that are not renewed must be returned to the FDOT for cancellation by the expiration date. Permits that are not renewed or are canceled must be certified in writing at canceled or not renewed by

¹¹⁵ Section 479.155, F.S.

¹¹⁶ Section 479.04, F.S. However, a person is not required to obtain the license to erect outdoor advertising signs or structures as an incidental part of a building construction contract.

¹¹⁷ See, e.g., s. 479.16, F.S., for a list of signs for which permits are not required.

¹¹⁸ “Urban area” means a geographic region comprising as a minimum the area inside the United States Bureau of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations. Section 334.03(31), F.S.

¹¹⁹ The annual permit fee for each sign facing is \$71. See Rule 14-10.0043, F.A.C. A “sign facing” includes all sign faces and automatic changeable faces displayed at the same location and facing the same direction. Section 479.01(22), F.S. An “automatic changeable facing” means a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process. Section 479.01(2), F.S.

¹²⁰ “Main traveled way” means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. The term does not include such facilities as frontage roads, turning roadways which specifically include on-ramps or off-ramps to the interstate highway system, or parking areas. Section 479.01(12), F.S.

¹²¹ Section 479.07(5), F.S.

¹²² Section 479.07(5), F.S.

¹²³ Rule 14-10.004(14), F.A.C.

¹²⁴ Section 479.07(8), F.S.

the permittee, and permit tags for such permits must be returned to the FDOT or accounted for in writing by the permittee.¹²⁵

Effect of Proposed Changes

Section 19 amends s. 479.07, F.S., relating to outdoor advertising sign permits, requiring the FDOT to create and implement as soon as practicable a publicly accessible electronic database which includes permit details for each permit issued by the FDOT. The details in the database must include at a minimum the:

- Name and contact information of the permit operator;
- Structure identification number or numbers;
- Panel or face identification number or numbers;
- Latitude and longitude of the permitted sign;
- Compass bearing; and
- Most recent date the FDOT visually inspected the permitted sign.

Additionally, the database must also include images of the permitted sign once constructed.

Upon implementation of the database, the FDOT may not:

- Furnish permanent metal permit tags or replacement tags to permittees; or
- Enforce specified provisions of current law relating to permanent metal permit tags or replacement tags.

In addition, permittees are not then required to return permit tags to the FDOT, as is the case under current law.

Section 21 provides that the bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹²⁵ *Id.*

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurance companies may incur insignificant expenses associated with providing the required attestation forms relating to insurance company receipt of a salvage certificate of title or certificate of destruction for a motor vehicle or mobile home.

Motor vehicle dealer licensees may incur insignificant expenses associated with delivering to the DHSMV copies of renewed, continued, changed, or new insurance policies, surety bonds, or irrevocable letters of credit.

The bill increases hourly compensation for SAB members from \$150 to \$200, and increases the daily maximum compensation from \$1,000 to \$1,500 per member. Both current law and the bill require parties bringing arbitrations to the SAB to pay fees, based on the amount of the dispute, to defray the costs of operating the board. Contractors requesting arbitration through the SAB may experience indeterminate increased costs associated with submitting a claim to the SAB.

To the extent the bill results in contractors determining that the new procedural and evidentiary provisions governing SAB proceedings warrant hiring legal counsel, the bill may result in increased costs to contractors in the form of legal representation.

Contractors seeking certificates of qualification may experience indeterminate increased costs associated with the bill's requirements for audited, certified financial statements.

C. Government Sector Impact:

Municipalities, counties, and CDDs that undertake conveyance of a road and rights-of-way dedicated in a recorded subdivision plat and enter into an interlocal agreement may incur expenses in accomplishing the conveyance, which expenses are likely not significant. CDDs that choose not to enter into agreements for traffic control jurisdiction over a conveyed road will incur indeterminate expenses associated with installing, operating, maintaining, repairing and replacing all signs, signals, markings, striping, guardrails and other traffic control devices. If there is such an agreement, such costs remain with the municipality or county.

The DHSMV will incur expenses associated with creating the required attestation forms relating to insurance company receipt of a salvage certificate of title or certificate of destruction for a motor vehicle or mobile home, which expenses are likely insignificant.

The FDOT will incur likely significant expenses associated with creating and implementing the publicly accessible electronic database for sign permit information but, as the bill allows the FDOT to do so “as soon as practicable,” these significant expenses may be incurred over time.

As to the increased SAB compensation, the fees are static. The extent of time for which the fees will adequately cover SAB costs is unknown.

Local governments operating airports may experience a reduction in expenditures due to the exemption from the CEI requirements. Any reduction is dependent on project specifics and is therefore indeterminate.

The bill does not otherwise appear to impact state or local government revenues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDOT currently requires, by contract specification, contractors to take any dispute before what is called a Dispute Review Board (DRB) before invoking the SAB process. The DRB process establishes a per hearing cost of \$9,000 to provide compensation to all DRB members for participation in an actual hearing, with the DRB chair receiving \$3,500 and the other two members receiving \$2,750 each. The FDOT and the contractor equally provide compensation to the DRB for participation in an actual hearing. The FDOT compensates the contractor in the amount of \$4,500 as its contribution to the hearing cost. DRB rulings are not binding and can be rejected by either party.¹²⁶

Under the revised SAB provisions, proceedings must be conducted “as provided by court rules.” The bill also requires a preliminary hearing not currently required. The FDOT will presumably continue to require the DRB process, by contract, before a contractor may submit a claim to the SAB. The bill requires SAB hearings to be conducted informally, with the presentation of testimony and evidence kept to a minimum, yet matters are to be presented to the SAB primarily through the statements and arguments of counsel.

¹²⁶ See FDOT Dispute Review Board, *Three Party Agreement Form # 700-011-02, Section VI Payment*, at p. 5 (July 2019), available at <https://www.fdot.gov/construction/constadm/drb/drbmain.shtm> (last visited April 13, 2021).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.2397, 319.30, 320.06, 320.27, 337.025, 337.14, 337.185, 338.166, 339.175, 348.754, 349.04, 378.403, 378.801, 378.802, and 479.07.

This bill creates the following sections of the Florida Statutes: 177.107, 287.05705, and 337.0262.

This bill creates an undesignated section of Florida law.

This bill repeals the following sections of the Florida Statutes: 343.80, 343.805, 343.81, 343.82, 343.83, 343.835, 343.836, 343.84, 343.85, 343.87, 343.875, 343.88, 343.881, 343.884, and 343.89.

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 April 15, 2021:

The committee substitute:

- Authorizes a municipal or county governing body to abandon roads and rights of way dedicated in a recorded residential subdivision plat and to simultaneously convey the city's or the county's interest to a CDD under specified conditions.
- Substitutes an affidavit with an attestation on a form provided by the DHSMV as a requirement for an insurance company to receive a salvage certificate of title or certificate of destruction for motor vehicles and mobile homes from the DHSMV.
- Clarifies that the types of vehicles authorized to elect a permanent registration period are rental vehicles, making clear that the authorization does not apply to leased vehicles.
- Requires motor vehicle dealer licensees to deliver to the DHSMV copies of renewed, continued, changed, or new insurance policies, surety bonds, or irrevocable letters of credit within 10 days after any renewal, continuation, change, or new issuance of the same, ensuring continuous insurance coverage.
- Requires the FDOT to also use surplus toll revenues from HOT or express lanes for any public transportation project that benefits the operation of an HOV or express lane on the state highway system within the county or counties in which the revenue was collected, in addition to current use of these revenues for construction, maintenance, or improvement of any road on the state highway system, or to support express bus service on the facility, within the county or counties in which the toll revenues were collected.
- Repeals a prohibition against an MPO in Miami-Dade County assessing any fees for municipalities, counties, or other governmental entities that are members of the MPO.
- Repeals part III of ch. 343, F.S., relating to the inactive Northwest Florida Transportation Corridor Authority.

- Prohibits the Central Florida Expressway Authority from constructing any extensions, additions, or improvements to the Central Florida Expressway System in Lake County without prior consultation with, rather than consent of, the Secretary of Transportation.
- Requires the FDOT to create and implement a publicly accessible electronic database for sign permit information; specifies requirements for the database; prohibits the department from furnishing permanent metal permit tags or replacement tags and from enforcing related provisions once the department creates and implements the database.
- Increases from 40 years to 99 years an existing limitation on the term of a lease into which the Jacksonville Transportation Authority may enter.

CS by Transportation on March 24, 2021:

The committee substitute:

- Authorizes construction equipment in a work zone on roadways with a posted speed limit of 55 miles per hour or higher to display a combination of flashing green, amber, and red lights during periods when workers are present.
- Prohibits the FDOT, and its contractors and subcontractors, from purchasing or using specified substances extracted from a borrow pit unless certification is provided by the operator showing the borrow pit is in compliance with certain existing requirements, and provides proof of currently valid permits required by the FDEP and the appropriate water management district.
- Mandates that all contracts and purchase orders executed by the FDOT, and all subcontracts and purchase orders executed by contractors or subcontractors after July 1, 2021, must include specific requirements for compliance with the bill's provisions.
- Requires the FDOT, if it determines substances are being obtained and used from a non-compliant borrow pit, to cease accepting any substances within 48 hours. The FDOT may resume acceptance of substances from the borrow pit once the pit is in compliance.

B. Amendments:

None.

By the Committees on Appropriations; and Transportation; and
Senator Hooper

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1 A bill to be entitled
2 An act relating to transportation; creating s.
3 177.107, F.S.; authorizing governing bodies of
4 municipalities and counties to abandon and convey
5 their interests in certain roads and rights-of-way
6 dedicated in a recorded residential subdivision plat
7 to community development districts under specified
8 conditions; specifying duties for community
9 development districts relating to such roads and
10 rights-of-way; providing for traffic control
11 jurisdiction of such roads; specifying that the
12 community development district has all rights, title,
13 and interest in such roads and rights-of-way upon
14 abandonment and conveyance; requiring community
15 development districts to thereafter hold such roads
16 and rights-of-way in trust; providing construction;
17 creating s. 287.05705, F.S.; providing that certain
18 governmental entities may not prohibit certain vendors
19 from responding to competitive solicitations of
20 certain contractual services; providing applicability;
21 amending s. 316.2397, F.S.; revising provisions
22 authorizing vehicles and equipment to show or display
23 flashing lights; amending s. 319.30, F.S.; revising
24 conditions under which insurance companies are
25 authorized to receive salvage certificates of title or
26 certificates of destruction for motor vehicles and
27 mobile homes from the Department of Highway Safety and
28 Motor Vehicles; amending s. 320.06, F.S.; clarifying
29 that certain rental vehicles are authorized to elect a

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30 permanent registration period; amending s. 320.27,
31 F.S.; requiring motor vehicle dealer licensees to
32 deliver copies of renewed, continued, changed, or new
33 insurance policies to the department within specified
34 timeframes under certain conditions; requiring such
35 licensees to deliver copies of renewed, continued,
36 changed, or new surety bonds or irrevocable letters of
37 credit to the department within specified timeframes
38 under certain conditions; amending s. 337.025, F.S.;
39 revising the type of transportation project contracts
40 that are subject to an annual cap; creating s.
41 337.0262, F.S.; prohibiting the Department of
42 Transportation and contractors and subcontractors of
43 the department from purchasing specified substances
44 from a borrow pit unless specified conditions are
45 satisfied; requiring certain contracts, subcontracts,
46 and purchase orders to require compliance with the
47 prohibition; requiring the department to cease
48 acceptance of substances from a borrow pit under
49 certain conditions; authorizing the department to
50 resume acceptance of such substances under certain
51 conditions; amending s. 337.14, F.S.; requiring
52 contractors wishing to bid on certain contracts to
53 first be certified by the department as qualified;
54 revising requirements for applying for and issuing a
55 certificate of qualification; providing construction
56 with respect to submission and approval of an
57 application for such certificate; exempting airports
58 from certain restrictions regarding entities

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59 performing engineering and inspection services;
 60 amending s. 337.185, F.S.; revising and providing
 61 definitions; revising requirements for arbitration of
 62 certain contracts by the State Arbitration Board;
 63 revising requirements regarding arbitration requests,
 64 hearings, procedures, and awards; revising membership
 65 and meeting requirements; revising compensation of
 66 board members; amending s. 338.166, F.S.; requiring
 67 that specified toll revenue be used to support certain
 68 public transportation projects; amending s. 339.175,
 69 F.S.; deleting a provision prohibiting certain
 70 metropolitan planning organizations from assessing any
 71 fees for municipalities, counties, or other
 72 governmental entities that are members of the
 73 organization; repealing part III of ch. 343, F.S.,
 74 relating to the creation and operation of the
 75 Northwest Florida Transportation Corridor Authority;
 76 amending s. 348.754, F.S.; prohibiting the Central
 77 Florida Expressway Authority from constructing any
 78 extensions, additions, or improvements to the Central
 79 Florida Expressway System in Lake County without prior
 80 consultation with, rather than consent of, the
 81 Secretary of Transportation; amending s. 349.04, F.S.;
 82 revising a limitation on the terms of leases that the
 83 Jacksonville Transportation Authority may enter into
 84 and make; amending s. 378.403, F.S.; defining the term
 85 "borrow pit"; amending s. 378.801, F.S.; prohibiting
 86 operation of a borrow pit at a new location without
 87 notifying the Secretary of Environmental Protection of

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88 the intent to extract; conforming provisions to
 89 changes made by the act; amending s. 378.802, F.S.;
 90 revising application of provisions to exclude existing
 91 locations; amending s. 479.07, F.S.; requiring the
 92 department to create and implement a publicly
 93 accessible electronic database for sign permit
 94 information; specifying requirements for the database;
 95 prohibiting the department from furnishing permanent
 96 metal permit tags or replacement tags and from
 97 enforcing specified provisions once the department
 98 creates and implements the database; specifying that
 99 permittees are not required to return permit tags to
 100 the department once the department creates and
 101 implements the database; dissolving the Northwest
 102 Florida Transportation Corridor Authority and
 103 requiring the authority to discharge its liabilities,
 104 settle and close its activities and affairs, and
 105 provide for the distribution of the authority's
 106 assets; providing an effective date.

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

109
 110 Section 1. Section 177.107, Florida Statutes, is created to
 111 read:

112 177.107 Closing and abandonment of roads; optional
 113 conveyance to a community development district; traffic control
 114 jurisdiction.-

115 (1) The governing body of a municipality or county may
 116 abandon the roads and rights-of-way dedicated in a recorded

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117 residential subdivision plat and simultaneously convey the
 118 municipality's or county's interest in such roads, rights-of-
 119 way, and appurtenant drainage facilities to a community
 120 development district established under chapter 190 in which the
 121 subdivision is located, if all of the following conditions are
 122 met:

123 (a) The community development district has requested the
 124 abandonment and conveyance by written resolution for the purpose
 125 of converting the subdivision to a gated neighborhood with
 126 monitored public access.

127 (b) The community development district has received
 128 approval for the conveyance by a vote of two-thirds of the
 129 landowners who are subject to the non-ad valorem assessments of
 130 the community development district and who are present by person
 131 or proxy at a properly noticed landowners meeting.

132 (c) The community development district has executed an
 133 interlocal agreement with the municipality or county, as
 134 applicable, requiring the community development district to do
 135 all of the following:

136 1. Maintain the roads and any associated drainage, street
 137 lighting, or sidewalks identified in the interlocal agreement to
 138 municipal or county standards, as applicable.

139 2. Every 5 years, conduct a reserve study of the roads and
 140 any associated drainage, street lighting, or sidewalks
 141 identified in the interlocal agreement.

142 3. Levy annual special assessments in amounts sufficient to
 143 maintain the roads and any drainage, street lighting, or
 144 sidewalks identified in the interlocal agreement to municipal or
 145 county standards, as applicable.

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146 4. Annually fund the amounts set forth in the reserve
 147 study.

148 (2) The community development district shall install,
 149 operate, maintain, repair, and replace all signs, signals,
 150 markings, striping, guardrails, and other traffic control
 151 devices necessary or useful for the roads unless an agreement
 152 has been entered into between the municipality or county and the
 153 community development district, as authorized under s.
 154 316.006(2) (b) and (3) (b), respectively, expressly providing that
 155 the municipality or county has traffic control jurisdiction.

156 (3) Upon abandonment of the roads and rights-of-way and the
 157 conveyance thereof to the community development district, the
 158 community development district shall have all the rights, title,
 159 and interest in the roads and rights-of-way, including all
 160 appurtenant drainage facilities, as were previously vested in
 161 the municipality or county. Thereafter, the community
 162 development district shall hold the roads and rights-of-way in
 163 trust for the benefit of the public and owners of the property
 164 in the subdivision and shall operate, maintain, repair, and from
 165 time to time replace and reconstruct the roads and any
 166 associated street lighting, sidewalks, or drainage facilities
 167 identified in the interlocal agreement as necessary to ensure
 168 their use and enjoyment by the public and property owners,
 169 tenants, and residents of the subdivision and their guests and
 170 invitees.

171 (4) The provisions of this section are supplemental and
 172 additional to the powers of municipalities and counties.

173 Section 2. Section 287.05705, Florida Statutes, is created
 174 to read:

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175 287.05705 Procurements of road, bridge, and other specified
 176 public construction services.-

177 (1) With respect to competitive solicitations for the
 178 procurement of contractual services that are limited to the
 179 classes of work for which the Department of Transportation
 180 issues certificates of qualification pursuant to s. 337.14, and
 181 which services do not involve the construction, remodeling,
 182 repair, or improvement of any building, a governmental entity
 183 procuring such services may not prohibit a response from a
 184 vendor possessing a valid certificate of qualification under s.
 185 337.14 or license under chapter 489 corresponding to the
 186 contractual services being procured.

187 (2) This section applies to all competitive solicitations
 188 issued by a governmental entity on or after October 1, 2021.

189 Section 3. Subsections (5) and (7) of section 316.2397,
 190 Florida Statutes, are amended to read:

191 316.2397 Certain lights prohibited; exceptions.-

192 (5) Road maintenance and construction equipment and
 193 vehicles may display flashing white lights or flashing white
 194 strobe lights when in operation and where a hazard exists.
 195 Construction equipment in a work zone on roadways with a posted
 196 speed limit of 55 miles per hour or higher may show or display a
 197 combination of flashing green, amber, and red lights in
 198 conjunction with periods when workers are present. Additionally,
 199 school buses and vehicles that are used to transport farm
 200 workers may display flashing white strobe lights.

201 (7) Flashing lights are prohibited on vehicles except:

202 (a) As a means of indicating a right or left turn, to
 203 change lanes, or to indicate that the vehicle is lawfully

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204 stopped or disabled upon the highway;

205 (b) When a motorist intermittently flashes his or her
 206 vehicle's headlamps at an oncoming vehicle notwithstanding the
 207 motorist's intent for doing so;

208 (c) During periods of extremely low visibility on roadways
 209 with a posted speed limit of 55 miles per hour or higher; and

210 (d)-(e) For the lamps authorized under subsections (1), (2),
 211 (3), (4), and (9), s. 316.2065, or s. 316.235(6) which may
 212 flash.

213 Section 4. Paragraph (b) of subsection (3) of section
 214 319.30, Florida Statutes, is amended to read:

215 319.30 Definitions; dismantling, destruction, change of
 216 identity of motor vehicle or mobile home; salvage.-

217 (3)

218 (b) The owner, including persons who are self-insured, of a
 219 motor vehicle or mobile home that is considered to be salvage
 220 shall, within 72 hours after the motor vehicle or mobile home
 221 becomes salvage, forward the title to the motor vehicle or
 222 mobile home to the department for processing. However, an
 223 insurance company that pays money as compensation for the total
 224 loss of a motor vehicle or mobile home shall obtain the
 225 certificate of title for the motor vehicle or mobile home, make
 226 the required notification to the National Motor Vehicle Title
 227 Information System, and, within 72 hours after receiving such
 228 certificate of title, forward such title by the United States
 229 Postal Service, by another commercial delivery service, or by
 230 electronic means, when such means are made available by the
 231 department, to the department for processing. The owner or
 232 insurance company, as applicable, may not dispose of a vehicle

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233 or mobile home that is a total loss before it obtains a salvage
 234 certificate of title or certificate of destruction from the
 235 department. Effective January 1, 2020:

236 1. Thirty days after payment of a claim for compensation
 237 pursuant to this paragraph, the insurance company may receive a
 238 salvage certificate of title or certificate of destruction from
 239 the department if the insurance company is unable to obtain a
 240 properly assigned certificate of title from the owner or
 241 lienholder of the motor vehicle or mobile home, if the motor
 242 vehicle or mobile home does not carry an electronic lien on the
 243 title and the insurance company:

244 a. Has obtained the release of all liens on the motor
 245 vehicle or mobile home;

246 b. Has attested on a form provided by the department that
 247 ~~provided proof of~~ payment of the total loss claim has been
 248 distributed; and

249 c. Has attested on a form provided by the department and
 250 ~~provided an affidavit on letterhead~~ signed by the insurance
 251 company or its authorized agent stating the attempts that have
 252 been made to obtain the title from the owner or lienholder and
 253 further stating that all attempts are to no avail. The form
 254 ~~affidavit~~ must include a request that the salvage certificate of
 255 title or certificate of destruction be issued in the insurance
 256 company's name due to payment of a total loss claim to the owner
 257 or lienholder. The attempts to contact the owner may be by
 258 written request delivered in person or by first-class mail with
 259 a certificate of mailing to the owner's or lienholder's last
 260 known address.

261 2. If the owner or lienholder is notified of the request

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262 for title in person, the insurance company must provide an
 263 affidavit attesting to the in-person request for a certificate
 264 of title.

265 3. The request to the owner or lienholder for the
 266 certificate of title must include a complete description of the
 267 motor vehicle or mobile home and the statement that a total loss
 268 claim has been paid on the motor vehicle or mobile home.

269 Section 5. Paragraph (b) of subsection (1) of section
 270 320.06, Florida Statutes, as amended by section 1 of chapter
 271 2020-181, Laws of Florida, is amended to read:

272 320.06 Registration certificates, license plates, and
 273 validation stickers generally.—

274 (1)

275 (b)1. Registration license plates bearing a graphic symbol
 276 and the alphanumeric system of identification shall be issued
 277 for a 10-year period. At the end of the 10-year period, upon
 278 renewal, the plate shall be replaced. The department shall
 279 extend the scheduled license plate replacement date from a 6-
 280 year period to a 10-year period. The fee for such replacement is
 281 \$28, \$2.80 of which shall be paid each year before the plate is
 282 replaced, to be credited toward the next \$28 replacement fee.
 283 The fees shall be deposited into the Highway Safety Operating
 284 Trust Fund. A credit or refund may not be given for any prior
 285 years' payments of the prorated replacement fee if the plate is
 286 replaced or surrendered before the end of the 10-year period,
 287 except that a credit may be given if a registrant is required by
 288 the department to replace a license plate under s.

289 320.08056(8)(a). With each license plate, a validation sticker
 290 shall be issued showing the owner's birth month, license plate

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291 number, and the year of expiration or the appropriate renewal
 292 period if the owner is not a natural person. The validation
 293 sticker shall be placed on the upper right corner of the license
 294 plate. The license plate and validation sticker shall be issued
 295 based on the applicant's appropriate renewal period. The
 296 registration period is 12 months, the extended registration
 297 period is 24 months, and all expirations occur based on the
 298 applicant's appropriate registration period. Rental vehicles
 299 taxed pursuant to s. 320.08(6)(a) may elect a permanent
 300 registration period, provided payment of the appropriate license
 301 taxes and fees occurs annually. A vehicle that has an
 302 apportioned registration shall be issued an annual license plate
 303 and a cab card that denote the declared gross vehicle weight for
 304 each apportioned jurisdiction in which the vehicle is authorized
 305 to operate.

306 2. In order to retain the efficient administration of the
 307 taxes and fees imposed by this chapter, the 80-cent fee increase
 308 in the replacement fee imposed by chapter 2009-71, Laws of
 309 Florida, is negated as provided in s. 320.0804.

310 Section 6. Subsection (3) and paragraph (a) of subsection
 311 (10) of section 320.27, Florida Statutes, are amended to read:
 312 320.27 Motor vehicle dealers.—

313 (3) APPLICATION AND FEE.—The application for the license
 314 shall be in such form as may be prescribed by the department and
 315 shall be subject to such rules with respect thereto as may be so
 316 prescribed by it. Such application shall be verified by oath or
 317 affirmation and shall contain a full statement of the name and
 318 birth date of the person or persons applying therefor; the name
 319 of the firm or copartnership, with the names and places of

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320 residence of all members thereof, if such applicant is a firm or
 321 copartnership; the names and places of residence of the
 322 principal officers, if the applicant is a body corporate or
 323 other artificial body; the name of the state under whose laws
 324 the corporation is organized; the present and former place or
 325 places of residence of the applicant; and prior business in
 326 which the applicant has been engaged and the location thereof.
 327 Such application shall describe the exact location of the place
 328 of business and shall state whether the place of business is
 329 owned by the applicant and when acquired, or, if leased, a true
 330 copy of the lease shall be attached to the application. The
 331 applicant shall certify that the location provides an adequately
 332 equipped office and is not a residence; that the location
 333 affords sufficient unoccupied space upon and within which
 334 adequately to store all motor vehicles offered and displayed for
 335 sale; and that the location is a suitable place where the
 336 applicant can in good faith carry on such business and keep and
 337 maintain books, records, and files necessary to conduct such
 338 business, which shall be available at all reasonable hours to
 339 inspection by the department or any of its inspectors or other
 340 employees. The applicant shall certify that the business of a
 341 motor vehicle dealer is the principal business which shall be
 342 conducted at that location. The application shall contain a
 343 statement that the applicant is either franchised by a
 344 manufacturer of motor vehicles, in which case the name of each
 345 motor vehicle that the applicant is franchised to sell shall be
 346 included, or an independent (nonfranchised) motor vehicle
 347 dealer. The application shall contain other relevant information
 348 as may be required by the department, including evidence that

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349 the applicant is insured under a garage liability insurance
 350 policy or a general liability insurance policy coupled with a
 351 business automobile policy, which shall include, at a minimum,
 352 \$25,000 combined single-limit liability coverage including
 353 bodily injury and property damage protection and \$10,000
 354 personal injury protection. However, a salvage motor vehicle
 355 dealer as defined in subparagraph (1)(c)5. is exempt from the
 356 requirements for garage liability insurance and personal injury
 357 protection insurance on those vehicles that cannot be legally
 358 operated on roads, highways, or streets in this state. Franchise
 359 dealers must submit a garage liability insurance policy, and all
 360 other dealers must submit a garage liability insurance policy or
 361 a general liability insurance policy coupled with a business
 362 automobile policy. Such policy shall be for the license period,
 363 and evidence of a new or continued policy shall be delivered to
 364 the department at the beginning of each license period. A
 365 licensee shall deliver to the department, in the manner
 366 prescribed by the department, within 10 calendar days after any
 367 renewal or continuation of or change in such policy or within 10
 368 calendar days after any issuance of a new policy, a copy of the
 369 renewed, continued, changed, or new policy. Upon making initial
 370 application, the applicant shall pay to the department a fee of
 371 \$300 in addition to any other fees required by law. Applicants
 372 may choose to extend the licensure period for 1 additional year
 373 for a total of 2 years. An initial applicant shall pay to the
 374 department a fee of \$300 for the first year and \$75 for the
 375 second year, in addition to any other fees required by law. An
 376 applicant for renewal shall pay to the department \$75 for a 1-
 377 year renewal or \$150 for a 2-year renewal, in addition to any

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378 other fees required by law. Upon making an application for a
 379 change of location, the person shall pay a fee of \$50 in
 380 addition to any other fees now required by law. The department
 381 shall, in the case of every application for initial licensure,
 382 verify whether certain facts set forth in the application are
 383 true. Each applicant, general partner in the case of a
 384 partnership, or corporate officer and director in the case of a
 385 corporate applicant, must file a set of fingerprints with the
 386 department for the purpose of determining any prior criminal
 387 record or any outstanding warrants. The department shall submit
 388 the fingerprints to the Department of Law Enforcement for state
 389 processing and forwarding to the Federal Bureau of Investigation
 390 for federal processing. The actual cost of state and federal
 391 processing shall be borne by the applicant and is in addition to
 392 the fee for licensure. The department may issue a license to an
 393 applicant pending the results of the fingerprint investigation,
 394 which license is fully revocable if the department subsequently
 395 determines that any facts set forth in the application are not
 396 true or correctly represented.

397 (10) SURETY BOND OR IRREVOCABLE LETTER OF CREDIT REQUIRED.-
 398 (a) Annually, before any license shall be issued to a motor
 399 vehicle dealer, the applicant-dealer of new or used motor
 400 vehicles shall deliver to the department a good and sufficient
 401 surety bond or irrevocable letter of credit, executed by the
 402 applicant-dealer as principal, in the sum of \$25,000. A licensee
 403 shall deliver to the department, in the manner prescribed by the
 404 department, within 10 calendar days after any renewal or
 405 continuation of or change in such surety bond or irrevocable
 406 letter of credit or within 10 calendar days after any issuance

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407 of a new surety bond or irrevocable letter of credit, a copy of
 408 such renewed, continued, changed, or new surety bond or
 409 irrevocable letter of credit.

410 Section 7. Section 337.025, Florida Statutes, is amended to
 411 read:

412 337.025 Innovative transportation projects; department to
 413 establish program.—

414 (1) The department may establish a program for
 415 transportation projects demonstrating innovative techniques of
 416 highway and bridge design, construction, maintenance, and
 417 finance which have the intended effect of measuring resiliency
 418 and structural integrity and controlling time and cost increases
 419 on construction projects. Such techniques may include, but are
 420 not limited to, state-of-the-art technology for pavement,
 421 safety, and other aspects of highway and bridge design,
 422 construction, and maintenance; innovative bidding and financing
 423 techniques; accelerated construction procedures; and those
 424 techniques that have the potential to reduce project life cycle
 425 costs. To the maximum extent practical, the department must use
 426 the existing process to award and administer construction and
 427 maintenance contracts. When specific innovative techniques are
 428 to be used, the department is not required to adhere to those
 429 provisions of law that would prevent, preclude, or in any way
 430 prohibit the department from using the innovative technique.
 431 However, before using an innovative technique that is
 432 inconsistent with another provision of law, the department must
 433 document in writing the need for the exception and identify what
 434 benefits the traveling public and the affected community are
 435 anticipated to receive. The department may enter into no more

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436 than \$120 million in contracts awarded annually for the purposes
 437 authorized by this section.

438 (2) The annual cap on contracts provided in subsection (1)
 439 ~~does shall~~ not apply to:

440 (a) Turnpike enterprise projects, ~~and turnpike enterprise~~
 441 ~~projects shall not be counted toward the department's annual~~
 442 ~~cap.~~

443 (b) Low-bid design-build milling and resurfacing contracts
 444 ~~Transportation projects funded by the American Recovery and~~
 445 ~~Reinvestment Act of 2009.~~

446 Section 8. Section 337.0262, Florida Statutes, is created
 447 to read:

448 337.0262 Purchase and use of clay, peat, gravel, sand, or
 449 any other solid substance extracted from borrow pits.—

450 (1) The department, and any contractor or subcontractor of
 451 the department, may not purchase or use any clay, peat, gravel,
 452 sand, or other solid substance extracted from a borrow pit as
 453 defined in s. 378.403 unless:

454 (a) Certification is provided to the department,
 455 contractor, or subcontractor by the operator of the borrow pit
 456 that it is in compliance with the notice requirements and
 457 substantive requirements of s. 378.801; and

458 (b) The operator of the borrow pit is in compliance with
 459 the performance standards in s. 378.803, including, but not
 460 limited to, providing proof of currently valid permits required
 461 by the Department of Environmental Protection and the
 462 appropriate water management district.

463 (2) All contracts and purchase orders executed by the
 464 department, and all subcontracts and purchase orders executed by

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465 contractors or subcontractors after July 1, 2021, must include
 466 specific requirements for compliance with this section.

467 (3) In the event that the department determines that
 468 substances are being obtained and used from a borrow pit that is
 469 not in compliance with this section, the department must cease
 470 to accept any substances from that borrow pit within 48 hours
 471 after such determination. The department may resume acceptance
 472 of substances from the borrow pit once the borrow pit is in
 473 compliance with this section.

474 Section 9. Subsections (1), (4), and (7) of section 337.14,
 475 Florida Statutes, are amended to read:

476 337.14 Application for qualification; certificate of
 477 qualification; restrictions; request for hearing.—

478 (1) Any contractor desiring to bid for the performance of
 479 any construction contract in excess of \$250,000 which the
 480 department proposes to let must first be certified by the
 481 department as qualified pursuant to this section and rules of
 482 the department. The rules of the department must address the
 483 qualification of contractors to bid on construction contracts in
 484 excess of \$250,000 and must include requirements with respect to
 485 the equipment, past record, experience, financial resources, and
 486 organizational personnel of the applying contractor which are
 487 necessary to perform the specific class of work for which the
 488 contractor seeks certification. Any contractor who desires to
 489 bid on contracts in excess of \$50 million and who is not
 490 qualified and in good standing with the department as of January
 491 1, 2019, must first be certified by the department as qualified
 492 and ~~desires to bid on contracts in excess of \$50 million~~ must
 493 have satisfactorily completed two projects, each in excess of

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494 \$15 million, for the department or for any other state
 495 department of transportation. The department may limit the
 496 dollar amount of any contract upon which a contractor is
 497 qualified to bid or the aggregate total dollar volume of
 498 contracts such contractor is allowed to have under contract at
 499 any one time. Each applying contractor seeking qualification to
 500 bid on construction contracts in excess of \$250,000 shall
 501 furnish the department a statement under oath, on such forms as
 502 the department may prescribe, setting forth detailed information
 503 as required on the application. Each application for
 504 certification must be accompanied by audited, certified
 505 financial statements prepared in accordance with generally
 506 accepted accounting principles and auditing standards by a
 507 certified public accountant licensed in this state or another
 508 state. The audited, certified financial statements must be for
 509 the applying contractor and must have been prepared ~~the latest~~
 510 annual financial statement of the applying contractor completed
 511 within the ~~immediately preceding last~~ 12 months. The department
 512 may not consider any financial information of the parent entity
 513 of the applying contractor, if any. The department may not
 514 certify as qualified any applying contractor who fails to submit
 515 the audited, certified financial statements required by this
 516 subsection. If the application or the annual financial statement
 517 shows the financial condition of the applying contractor more
 518 than 4 months ~~before prior to~~ the date on which the application
 519 is received by the department, ~~the applicant must also submit a~~
 520 interim audited, certified financial statements prepared in
 521 accordance with generally accepted accounting principles and
 522 auditing standards by a certified public accountant licensed in

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523 ~~this state or another state statement and an updated application~~
 524 ~~must be submitted.~~ The interim financial statements ~~statement~~
 525 must cover the period from the end date of the annual statement
 526 and must show the financial condition of the applying contractor
 527 no more than 4 months ~~before~~ ~~prior to~~ the date that the interim
 528 financial statements are ~~statement is~~ received by the
 529 department. However, upon the request of the applying
 530 contractor, an application and accompanying annual or interim
 531 financial statement received by the department within 15 days
 532 after either 4-month period under this subsection shall be
 533 considered timely. ~~Each required annual or interim financial~~
 534 ~~statement must be audited and accompanied by the opinion of a~~
 535 ~~certified public accountant.~~ An applying contractor desiring to
 536 bid exclusively for the performance of construction contracts
 537 with proposed budget estimates of less than \$1 million may
 538 submit reviewed annual or reviewed interim financial statements
 539 prepared by a certified public accountant. The information
 540 required by this subsection is confidential and exempt from s.
 541 119.07(1). The department shall act upon the application for
 542 qualification within 30 days after the department determines
 543 that the application is complete. The department may waive the
 544 requirements of this subsection for projects having a contract
 545 price of \$500,000 or less if the department determines that the
 546 project is of a noncritical nature and the waiver will not
 547 endanger public health, safety, or property.

548 (4) If the applicant is found to possess the prescribed
 549 qualifications, the department shall issue to him or her a
 550 certificate of qualification that, unless thereafter revoked by
 551 the department for good cause, will be valid for a period of 18

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552 months after the date of the applicant's financial statement or
 553 such shorter period as the department prescribes. Submission of
 554 an application and subsequent approval do shall not affect
 555 expiration of the certificate of qualification, the ability
 556 factor of the applicant, or the maximum capacity rating of the
 557 applicant. If the department finds that an application is
 558 incomplete or contains inadequate information or information
 559 that cannot be verified, the department may request in writing
 560 that the applicant provide the necessary information to complete
 561 the application or provide the source from which any information
 562 in the application may be verified. If the applicant fails to
 563 comply with the initial written request within a reasonable
 564 period of time as specified therein, the department shall
 565 request the information a second time. If the applicant fails to
 566 comply with the second request within a reasonable period of
 567 time as specified therein, the application shall be denied.

568 (7) A "contractor" as defined in s. 337.165(1)(d) or his or
 569 her "affiliate" as defined in s. 337.165(1)(a) qualified with
 570 the department under this section may not also qualify under s.
 571 287.055 or s. 337.105 to provide testing services, construction,
 572 engineering, and inspection services to the department. This
 573 limitation does not apply to any design-build prequalification
 574 under s. 337.11(7) and does not apply when the department
 575 otherwise determines by written order entered at least 30 days
 576 before advertisement that the limitation is not in the best
 577 interests of the public with respect to a particular contract
 578 for testing services, construction, engineering, and inspection
 579 services. This subsection does not authorize a contractor to
 580 provide testing services, or provide construction, engineering,

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581 and inspection services, to the department in connection with a
 582 construction contract under which the contractor is performing
 583 any work. Notwithstanding any other provision of law to the
 584 contrary, for a project that is wholly or partially funded by
 585 the department and administered by a local governmental entity,
 586 except for a seaport listed in s. 311.09 or an airport as
 587 defined in s. 332.004, the entity performing design and
 588 construction engineering and inspection services may not be the
 589 same entity.

590 Section 10. Section 337.185, Florida Statutes, is amended
 591 to read:

592 (Substantial rewording of section. See
 593 s. 337.185, F.S., for present text.)
 594 337.185 State Arbitration Board.-

595 (1) To facilitate the prompt resolution of claims arising
 596 out of or in connection with a construction or maintenance
 597 contract with the department, the Legislature establishes the
 598 State Arbitration Board, referred to in this section as the
 599 "board."

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

601 (a) "Claim" means the aggregate of all outstanding written
 602 requests for additional monetary compensation, time, or other
 603 adjustments to the contract, the entitlement or impact of which
 604 is disputed by the department and could not be resolved by
 605 negotiation between the department and the contractor.

606 (b) "Contractor" means a person or firm having a contract
 607 for rendering services to the department relating to the
 608 construction or maintenance of a transportation facility.

609 (c) "Final acceptance" means that the contractor has

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610 completely performed the work provided for under the contract,
 611 the department or its agent has determined that the contractor
 612 has satisfactorily completed the work provided for under the
 613 contract, and the department or its agent has submitted written
 614 notice of final acceptance to the contractor.

615 (3) Every claim in an amount of up to \$250,000 per contract
 616 that could not be resolved by negotiation between the department
 617 and the contractor must be arbitrated by the board. An award
 618 issued by the board pursuant to this section is final and
 619 enforceable by a court of law.

620 (4) The contractor may submit a claim greater than \$250,000
 621 up to \$1 million per contract or, upon agreement of the parties,
 622 up to \$2 million per contract to be arbitrated by the board. An
 623 award issued by the board pursuant to this subsection is final
 624 if a request for a trial de novo is not filed within the time
 625 provided by Rule 1.830, Florida Rules of Civil Procedure. At the
 626 trial de novo, the court may not admit evidence that there has
 627 been an arbitration proceeding, the nature or amount of the
 628 award, or any other matter concerning the conduct of the
 629 arbitration proceeding, except that testimony given at an
 630 arbitration hearing may be used for any purpose otherwise
 631 permitted by the Florida Evidence Code. If a request for trial
 632 de novo is not filed within the time provided, the award issued
 633 by the board is final and enforceable by a court of law.

634 (5) An arbitration request may not be made to the board
 635 before final acceptance but must be made to the board within 820
 636 days after final acceptance.

637 (6) The board shall schedule a hearing within 45 days after
 638 an arbitration request and, if possible, shall conduct the

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639 hearing within 90 days after the request. The board may
 640 administer oaths and conduct the proceedings as provided by the
 641 rules of the court. The hearing shall be conducted informally.
 642 Presentation of testimony and evidence shall be kept to a
 643 minimum, and matters shall be presented to the arbitrators
 644 primarily through the statements and arguments of counsel. The
 645 board shall address the scope of discovery, presentation of
 646 testimony, and evidence at a preliminary hearing by considering
 647 the size, subject matter, and complexity of the dispute. Any
 648 party to the arbitration may petition the board, for good cause
 649 shown, to issue subpoenas for the attendance of witnesses and
 650 the production of books, records, documents, and other evidence
 651 at the arbitration and may petition the board for orders
 652 compelling such attendance and production at the arbitration.
 653 Subpoenas shall be served and are enforceable in the manner
 654 provided by law.

655 (7) The board must issue an award within 45 days after the
 656 conclusion of the arbitration hearing. If all three members of
 657 the board do not agree, the award agreed to by the majority
 658 shall constitute the award of the board.

659 (8) The board shall be composed of three members. The first
 660 member shall be appointed by the Secretary of Transportation,
 661 and the second member shall be elected by those construction or
 662 maintenance companies that are under contract with the
 663 department. The third member shall be chosen by agreement of the
 664 first and second members. If the first or second member has a
 665 conflict of interest regarding affiliation with one of the
 666 parties to an arbitration hearing, the appointing entity shall
 667 appoint an alternate member for that hearing. If the third

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668 member has such a conflict of interest, the first and second
 669 members shall select an alternate member. Each member shall
 670 serve a 4-year term. The board shall elect a chair for each
 671 term, who shall be the administrator of the board and custodian
 672 of its records.

673 (9) The presence of all board members is required to
 674 conduct a meeting in person or via videoconferencing.

675 (10) The members of the board shall receive compensation
 676 for the performance of their duties from deposits made by the
 677 parties based on an estimate of compensation by the board,
 678 except that an employee of the department may not receive
 679 compensation from the board. All deposits will be held in escrow
 680 by the chair in advance of the hearing. Each member eligible for
 681 compensation shall be compensated at \$200 per hour, up to a
 682 maximum of \$1,500 per day. A member shall be reimbursed for the
 683 actual cost of his or her travel expenses. The board may
 684 allocate funds annually for clerical and other administrative
 685 services.

686 (11) To cover the cost of administration and initial
 687 compensation of the board, the party requesting arbitration
 688 shall pay a filing fee to the board, according to a schedule
 689 established by the board, of:

690 (a) Up to \$500 for a claim that is \$25,000 or less.

691 (b) Up to \$1,000 for a claim that is more than \$25,000 but
 692 is \$50,000 or less.

693 (c) Up to \$1,500 for a claim that is more than \$50,000 but
 694 is \$100,000 or less.

695 (d) Up to \$2,000 for a claim that is more than \$100,000 but
 696 is \$200,000 or less.

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697 (e) Up to \$3,000 for a claim that is more than \$200,000 but
 698 is \$300,000 or less.

699 (f) Up to \$4,000 for a claim that is more than \$300,000 but
 700 is \$400,000 or less.

701 (g) Up to \$5,000 for a claim that is more than \$400,000.

702
 703 The board may apportion the filing fees and the cost of
 704 recording and preparing a transcript of the hearing among the
 705 parties in its award.

706 Section 11. Subsection (3) of section 338.166, Florida
 707 Statutes, is amended to read:

708 338.166 High-occupancy toll lanes or express lanes.-

709 (3) Any remaining toll revenue from the high-occupancy toll
 710 lanes or express lanes shall be used by the department for the
 711 construction, maintenance, or improvement of any road or to
 712 support public transportation projects that benefit the
 713 operation of high-occupancy toll lanes or express lanes on the
 714 State Highway System within the county or counties in which the
 715 toll revenues were collected or to support express bus service
 716 on the facility where the toll revenues were collected.

717 Section 12. Paragraph (f) of subsection (6) of section
 718 339.175, Florida Statutes, is amended to read:

719 339.175 Metropolitan planning organization.-

720 (6) POWERS, DUTIES, AND RESPONSIBILITIES.-The powers,
 721 privileges, and authority of an M.P.O. are those specified in
 722 this section or incorporated in an interlocal agreement
 723 authorized under s. 163.01. Each M.P.O. shall perform all acts
 724 required by federal or state laws or rules, now and subsequently
 725 applicable, which are necessary to qualify for federal aid. It

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726 is the intent of this section that each M.P.O. shall be involved
 727 in the planning and programming of transportation facilities,
 728 including, but not limited to, airports, intercity and high-
 729 speed rail lines, seaports, and intermodal facilities, to the
 730 extent permitted by state or federal law.

731 (f)~~1-~~ The department shall allocate to each M.P.O., for the
 732 purpose of accomplishing its transportation planning and
 733 programming duties, an appropriate amount of federal
 734 transportation planning funds.

735 ~~2. In a county as defined in s. 125.011(1), the M.P.O. may~~
 736 ~~not assess any fees for municipalities, counties, or other~~
 737 ~~governmental entities that are members of the M.P.O.~~

738 Section 13. Part III of chapter 343, Florida Statutes,
 739 consisting of sections 343.80, 343.805, 343.81, 343.82, 343.83,
 740 343.835, 343.836, 343.84, 343.85, 343.87, 343.875, 343.88,
 741 343.881, 343.884, and 343.89, Florida Statutes, is repealed.

742 Section 14. Paragraph (c) of subsection (1) of section
 743 348.754, Florida Statutes, is amended to read:

744 348.754 Purposes and powers.-

745 (1)

746 (c) Notwithstanding any other provision of this section to
 747 the contrary, to ensure the continued financial feasibility of
 748 the portion of the Wekiva Parkway to be constructed by the
 749 department, the authority may not, without ~~the~~ prior
 750 consultation with consent of the secretary of the department,
 751 construct any extensions, additions, or improvements to the
 752 expressway system in Lake County.

753 Section 15. Paragraph (d) of subsection (2) of section
 754 349.04, Florida Statutes, is amended to read:

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755 349.04 Purposes and powers.—

756 (2) The authority is hereby granted, and shall have and may
757 exercise all powers necessary, appurtenant, convenient, or
758 incidental to the carrying out of the aforesaid purposes,
759 including, but without being limited to, the right and power:

760 (d) To enter into and make leases for terms not exceeding
761 99 ~~40~~ years, as either lessee or lessor, in order to carry out
762 the right to lease as set forth in this chapter.

763 Section 16. Present subsections (3) through (19) of section
764 378.403, Florida Statutes, are redesignated as subsections (4)
765 through (20), respectively, and a new subsection (3) is added to
766 that section, to read:

767 378.403 Definitions.—As used in this part, the term:

768 (3) "Borrow pit" means an area of land upon which
769 excavation of surface resources has been conducted, is being
770 conducted, or is planned to be conducted, as the term is
771 commonly used in the mining trade, and is not considered a mine.
772 Such resources are limited to soil, organic soil, sand, or clay
773 that can be removed with construction excavating equipment and
774 loaded on a haul truck with no additional processing.

775 Section 17. Section 378.801, Florida Statutes, is amended
776 to read:

777 378.801 Other resources; notice of intent to extract mine
778 required.—

779 (1) An ~~Ne~~ operator may not begin the operation of a borrow
780 pit, or the process of extracting clay, peat, gravel, sand, or
781 any other solid substance of commercial value found in natural
782 deposits or in the earth, except fuller's earth clay, heavy
783 minerals, limestone, or phosphate, which are regulated elsewhere

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784 in this chapter, at a new location mine without notifying the
785 secretary of the intention to extract mine.

786 (2) The operator's notice of intent to extract mine shall
787 consist of the operator's estimated life of the extraction
788 location mine and the operator's signed acknowledgment of the
789 performance standards provided by s. 378.803.

790 Section 18. Section 378.802, Florida Statutes, is amended
791 to read:

792 378.802 Existing extraction locations mines.—After January
793 1, 1989, all operators of existing locations mines for the
794 extraction of resources as described in s. 378.801 shall meet
795 the performance standards provided by s. 378.803 for any new
796 surface area disturbed at such locations mines.

797 Section 19. Subsection (5) of section 479.07, Florida
798 Statutes, is amended to read:

799 479.07 Sign permits.—

800 (5) (a) For each permit issued, the department shall furnish
801 to the applicant a serially numbered permanent metal permit tag.
802 The permittee is responsible for maintaining a valid permit tag
803 on each permitted sign facing at all times. The tag shall be
804 securely attached to the upper 50 percent of the sign structure,
805 and attached in such a manner as to be plainly visible from the
806 main-traveled way. The permit tag must be properly and
807 permanently displayed at the permitted site within 30 days after
808 the date of permit issuance. If the permittee fails to erect a
809 completed sign on the permitted site within 270 days after the
810 date on which the permit was issued, the permit will be void,
811 and the department may not issue a new permit to that permittee
812 for the same location for 270 days after the date on which the

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813 permit becomes void.

814 (b) If a permit tag is lost, stolen, or destroyed, the
 815 permittee to whom the tag was issued must apply to the
 816 department for a replacement tag. The department shall establish
 817 a service fee for replacement tags in an amount that will
 818 recover the actual cost of providing the replacement tag. Upon
 819 receipt of the application accompanied by the service fee, the
 820 department shall issue a replacement permit tag.

821 (c)1. As soon as practicable, the department shall create
 822 and implement a publicly accessible electronic database to
 823 include all permits issued by the department. At a minimum, the
 824 database must include the name and contact information of the
 825 permit operator, the structure identification number or numbers,
 826 the panel or face identification number or numbers, the latitude
 827 and longitude of the permitted sign, the compass bearing, images
 828 of the permitted sign once constructed, and the most recent date
 829 the department visually inspected the permitted sign.

830 2. Once the department creates and implements the publicly
 831 accessible electronic database:

832 a. The department may not furnish permanent metal permit
 833 tags or replacement tags to permittees;

834 b. The department may not enforce the provisions relating
 835 to permanent metal permit tags or replacement tags specified in
 836 paragraphs (a) and (b); and

837 c. Permittees are not required to return permit tags to the
 838 department as provided in subsection (8).

839 Section 20. Notwithstanding any other law, the Northwest
 840 Florida Transportation Corridor Authority is dissolved. The
 841 authority shall discharge or make provision for the authority's

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842 debts, obligations, and other liabilities; settle and close the
 843 authority's activities and affairs; and provide for distribution
 844 of the authority's assets, or the proceeds of such assets, such
 845 that each local general-purpose government represented on the
 846 authority's board receives a distribution generally in
 847 proportion to each entity's contribution to the acquisition of
 848 the assets.

849 Section 21. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 30, 2021

I respectfully request that **Senate Bill # 1194**, relating to Transportation, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 15, 2021

Meeting Date

1194

Bill Number (if applicable)

Topic Transportation

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title _____

Address 537 East Park Ave.

Phone 8502102525

Street

Tallahassee

FL

32301

Email eric@teamjb.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Airports 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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-15-21
Meeting Date

1194
Bill Number (if applicable)
944220
Amendment Barcode (if applicable)

Topic MPO/TPO - MIAMI-DADE

Name RON BOOK RANA BROWN

Job Title _____

Address 104 W JEFFERSON ST.
Street

Phone 850.224.3427

TALLAHASSEE, FL 32301
City State Zip

Email RON@RLBOOKPA.COM

Speaking: For Against Information

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

Representing MIAMI DADE TPO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.15-21

Meeting Date

1194

Bill Number (if applicable)

795108

Amendment Barcode (if applicable)

Topic MPO/TPO - MIAMI-DADE

Name RON BOOK RANA BROWN

Job Title _____

Address 104 W JEFFERSON ST

Street

Phone 850 224 3427

TALLA HASSEE FL 32301

City

State

Zip

Email RON@RLBOOKAA.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.

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 Appropriations

BILL: SB 1324

INTRODUCER: Senator Harrell

SUBJECT: Digital Driver Licenses and Identification Cards

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	Favorable
2.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1324 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards. The DHSMV may contract with one or more private entities to develop an electronic credentialing system. The electronic credentialing system may not retain internet protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system.

The bill prohibits a private entity who contracts for data verification through an electronic credentialing system with the DHSMV from storing, selling, or sharing personal information collected by scanning a digital proof of driver license or identification card unless consent has been provided by the individual. The bill creates a civil penalty of up to \$5,000 per occurrence for violations of these provisions.

Notwithstanding any law prescribing the design for, or information required to be displayed on, a driver license or identification card, a digital proof of driver license or identification may comprise a limited profile that includes only information necessary to conduct a specific transaction on the electronic credentialing system.

A person may not be issued a digital proof of driver license or identification card until the person satisfies all requirements for issuance of the respective driver license or identification card and has been issued a printed driver license or identification card. Related to false digital identification cards, the bill creates a third degree felony for a person who manufactures a false card and a second degree misdemeanor for a person who possesses a false card, similar to current penalties related to false digital driver licenses.

The bill may have an insignificant fiscal impact on state government. The bill has an effective date of July 1, 2021.

II. Present Situation:

Digital Driver License

Eleven states are testing mobile driver's licenses or planning pilot projects, including Florida, Arkansas, Colorado, Oklahoma, Louisiana, Iowa, Delaware, Idaho, Maryland, Wyoming and the District of Columbia. New Jersey and Texas have passed legislation to start the process. "A digital driver's license would come in the form of a phone app protected by biometrics or a PIN. Instead of handing over a physical license to a police officer or store clerk, an individual could display the relevant information or send it electronically."¹

Florida Digital Proof of Driver License

Current Florida law provides for the establishment of a digital proof of driver license. Specifically, current law requires the DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. The statute authorizes the DHSMV to contract with one or more private entities to develop a digital proof of driver license system.²

The digital proof of driver license developed by the DHSMV or by an entity contracted by DHSMV must be in a format that allows law enforcement to verify the authenticity of the digital proof of driver license.³ The DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.⁴ A person may not be issued a digital proof of driver license until he or she has satisfied all of the statutory requirements relating to the issuance of a physical driver license.⁵

False Digital Proof of Driver License

Current law also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license.⁶ Specifically, a person who:

- Manufactures a false digital proof of driver license commits a third degree felony, punishable by up to five years in prison⁷ and a fine not to exceed \$5,000,⁸ or punishable under the habitual felony offender statute.⁹
- Possesses a false digital proof of driver license commits a second degree misdemeanor, punishable by up to 60 days in prison¹⁰ and a fine not to exceed \$500.¹¹

¹ Veronica Combs, *Mobile Driver's License Would Replace the Physical Card With a Digital Identity*, Tech Republic, April 15, 2020, <https://www.techrepublic.com/article/mobile-drivers-license-would-replace-the-physical-card-with-a-digital-identity/> (last visited March 12, 2021).

² Section 322.032(1), F.S.

³ Section 322.032(2), F.S.

⁴ *Id.*

⁵ Section 322.032(3), F.S.

⁶ Section 322.032(4), F.S.

⁷ Section 775.082, F.S.

⁸ Section 775.083(1)(c), F.S.

⁹ Section 775.084, F.S.

¹⁰ *Supra* note 7.

¹¹ Section 775.083(1)(e), F.S.

AAMVA and Mobile Driver Licenses

The American Association of Motor Vehicle Administrators (AAMVA) has worked since 2012 to develop identity credential standards, cross-jurisdictional use, authentication, data privacy protection, and other uses of mobile driver licenses. AAMVA has collaborated with Underwriter Laboratories to establish international guidelines and interoperability for industry leaders to test their mobile driver license solutions with one another.¹²

Motorist Modernization

The DHSMV's Motorist Modernization Project is a multi-phased program to modernize legacy applications and processes. The Motorist Modernization Project has committed resources and approved funding to procure a mobile driver license solution as part of Phase II of the Motorist Modernization effort. The Fiscal Year 2020-2021 appropriation for Motorist Modernization Phase II was \$9,877,400. Of this amount, \$400,000 was allocated for mobile driver license. The mobile driver license includes a digital identification, which is a digital representation of a person's identity; however, the actual mobile driver license is a digital representation of a physical credential and driving privileges. The DHSMV has branded this effort as the "Florida Smart ID." Below is an overview of the Florida Smart ID timeline:

- Received legislative authority to implement in 2014;
- AAMVA standards completed in 2019;
- Vendor awarded contract in June 2020;
- Started work in July 2020; and
- Pilot program slated to start March 25, 2021, and planned to run for 90 days.¹³

Florida Smart ID

The Florida Smart ID has multiple interactions occurring between the systems components comprising the Florida Smart ID solution, including a credential service provider (CSP),¹⁴ the Florida Smart ID device, and an associated verifier device.¹⁵

The CSP is the gateway or broker between the Florida Smart ID and verifier device interactions with the DHSMV. The CSP uses open data standards and public key infrastructure¹⁶ to

¹² Department of Highway Safety and Motor Vehicles, *2021 Agency Legislative Bill Analysis SB 1324*, (March 5, 2021), p. 2 (on file with the Senate Committee on Transportation).

¹³ *Id.* at p. 3.

¹⁴ A credential service provider (CSP) is a trusted entity that issues or registers subscriber tokens and issues electronic credentials to subscribers. The CSP may encompass registration authorities and verifiers that it operates. A CSP may be an independent third party, or may issue credentials for its own use. National Information Technology Laboratory, Computer Security Resource Center, *Glossary*, https://csrc.nist.gov/glossary/term/credential_service_provider (last visited March 12, 2021).

¹⁵ Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, Email to Senate Committee on Transportation, *Mobile DL info*, February 23, 2021.

¹⁶ "Public Key Infrastructure (PKI) is the combination of software, encryption technologies, and services that enables entities to protect the security of their communications and business transactions on networks. Using a combination of private (e.g., secret) key and public key cryptography, PKI enables a number of other security services, including data confidentiality, data integrity and non-repudiation. PKI integrates digital certificates, public key cryptography, and certification authorities into one complete network security architecture." U.S. General Services Administration, Fed ID Card, *What is PKI (Public Key*

accomplish the required communications and security. Interactions from the Florida Smart ID, the verifier device, and the CSP are performed over secure web communications.¹⁷

The Florida Smart ID is used by customers to present proof of identity or age. The application is downloaded from the Apple App or Google Play store and installed on a smart device, such as a smartphone or tablet. Once downloaded, a secure enrollment process occurs using the DHSMV's Virtual Office website. The DHSMV validates the identity and eligibility to activate the Florida Smart ID for use on the device.¹⁸

Once activated, the Florida Smart ID can be used to interact with retailer or law enforcement verifier devices. This interaction occurs at the consent of the customer and uses Bluetooth, near field communication,¹⁹ or Wi-Fi Direct to communicate with the verifier device. The communication method is determined by a "handshake" between the devices where one device displays a QR code²⁰ to the other device's camera, which signals how the devices can communicate to each other. The customer selects the type of verification needed (proof of age or law enforcement) and presents a QR to be scanned by the verifier device.²¹

The Florida Smart ID Verifier application may also be integrated into a point of sale system for a seamless interaction with customers to verify a customer's identity or proof of age. When the customer's QR code is scanned, the required information displays on the verifier device. The interaction with the customer device does not store any data, which is protected using encryption within the process.²²

Verification can be performed in an offline or online mode depending on the verification type. For example, age verification by a retailer is completely offline and does not need to "call back" or interact with the CSP, and would utilize methods, such as Bluetooth, to communicate with the customer's Florida Smart ID. Law enforcement online verification could interact with the CSP to receive the customer's most current driving record.²³

Infrastructure) and why do I need it?, <https://www.fedidcard.gov/faq/what-pki-public-key-infrastructure-and-why-do-i-need-it#> (last visited March 12, 2021).

¹⁷ *Supra* note 15.

¹⁸ *Id.*

¹⁹ Near field communication (NFC) is a set of short-range wireless technologies, typically requiring a distance of 4 cm or less to initiate a connection. Developers, *Documentation Guides, Near field communication overview*, <https://developer.android.com/guide/topics/connectivity/nfc> (last visited March 11, 2021).

²⁰ QR codes or quick response codes are two-dimensional codes that are scanned with a smartphone, connecting individuals to additional online content or information. They are made up of modules arranged on a contrasting background. Digital.gov, *QR Codes*, <https://digital.gov/2013/02/14/qr-codes/> (last visited March 11, 2021).

²¹ *Supra* note 15.

²² *Id.*

²³ *Id.*

III. Effect of Proposed Changes:

Digital Proof of Driver License or Identification Card

The bill revises the current law related to DHSMV review and development of an optional digital proof of driver license to require the DHSMV to establish a secure and uniform system that also includes identification cards.²⁴

Section 1 amends s. 322.032, F.S., to authorize the DHSMV to contract with one or more private entities to develop an electronic credentialing system, which is defined as a computer system accessed using a computer, a cellphone, or any other personal device which queries the DHSMV's driver license and identification card records, displays or transmits digital proofs of driver licenses and identification cards, and verifies the authenticity of those electronic credentials. The electronic credentialing system may not retain internet protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system.

A digital proof of driver license or identification card established by the DHSMV or by a contracted entity must be in a format that allows verification of the authenticity of the digital proof of driver license or identification card. The bill removes the limitation on the use of the digital proof of driver license or identification card to only law enforcement verification.

Unlike the requirements for a physical driver license or identification card, the bill allows a digital proof of driver license or identification card to comprise a limited profile that includes only information necessary to conduct a specific transaction on the electronic credentialing system.²⁵

A person may not be issued a digital proof of driver license or identification card until the person satisfies all requirements for issuance of the respective driver license or identification card and has been issued a printed driver license or identification card. The electronic credentialing system must, upon each presentation of a digital driver license or identification card, display or transmit current records for the driver license or identification card. If a licensee's driving privilege is suspended, revoked, or disqualified, or if the person's driver license is otherwise canceled or expired, a digital proof of driver license may not be issued; however, a digital proof of identification card may be issued if the licensee is otherwise eligible for an identification card.

Personal Information

The DHSMV may use a telephone number submitted by a licensee or cardholder in connection with a digital driver license or identification card only for purposes of communication regarding the digital proof of driver license or identification card or the motor vehicle records of the licensee or cardholder.

²⁴ The bill defines the terms "digital proof of driver license" and "digital proof of identification card" to mean an electronic credential viewable on an electronic credentialing system.

²⁵ The bill defines the term "limited profile" to mean an electronic credential containing some, but not all, of the information displayed on a printed driver license or identification card.

The bill authorizes the DHSMV to enter into a contract with a private entity that authorizes online data calls or offline data verification through the electronic credentialing system that queries the DHSMV's driver license and identification card records, displays or transmits digital proofs of driver licenses or identification cards, or verifies the authenticity of such electronic credentials.

An individual may consent to allow a private entity to collect and store personal information obtained by scanning²⁶ the individual's digital proof of driver license or identification card. However, the individual must be informed of what information is collected and the purpose or purposes for which the information will be used. If the individual does not want the private entity to scan the digital proof of the individual's driver license or identification card, the private entity may manually collect personal information from the individual.

Except as provided above, a private entity that contracts with the DHSMV and that scans a digital proof of driver license or identification card may not store, sell, or share personal information collected from such scanning of the digital proof of driver license or identification card.

A private entity that violates these provisions is subject to a civil penalty not to exceed \$5,000 per occurrence. However, this does not apply to a financial institution as defined in s. 655.005(1)(i), F.S.²⁷

SB 1326, which is linked to this bill, creates public records exemptions for:

- Secure login credentials held by the DHSMV; and
- Internet protocol addresses, geolocation data, and other information held by the DHSMV which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal.

False Digital Proof of Identification Card

The bill establishes penalties for a person who manufactures or possesses a false digital identification card. Specifically, a person who:

- Manufactures a false digital proof of identification card commits a third degree felony, punishable by up to five years in prison²⁸ and a fine not to exceed \$5,000,²⁹ or punishable under the habitual felony offender statute.³⁰

²⁶ The bill defines the term "scanning" to mean obtaining data from a digital proof of driver license or identification card in an electronic format.

²⁷ Section 655.005(1)(i), F.S., defines "financial institution" to mean a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

²⁸ Section 775.082, F.S.

²⁹ Section 775.083(1)(c), F.S.

³⁰ Section 775.084, F.S.

- Possesses a false digital proof of identification card commits a second degree misdemeanor, punishable by up to 60 days in prison³¹ and a fine not to exceed \$500.³²

Rulemaking Authority

The bill authorizes the DHSMV to adopt rules to ensure valid authentication of digital driver licenses and identification cards.

Other Related Changes

Section 2 amends s. 322.14, F.S., to clarify that upon successful completion of all required examinations and payment of the required fee the DHSMV will issue to every qualified applicant a *printed* driver license.

Section 3 amends s. 322.15, F.S., to provide that if a law enforcement officer or authorized representative of the DHSMV is unable to immediately verify the digital proof of driver license, upon the demand of the law enforcement officer or authorized representative of the DHSMV, the licensee must present or submit the licensee's printed driver license.

Section 4 reenacts s. 322.15(2), F.S., to incorporate changes made by the bill.

Effective Date

Section 5 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill does not change any current public records exemptions. SB 1326, which is linked to this bill, creates a public records exemption for certain information related to the credentialing system.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³¹ Section 775.082, F.S.

³² Section 775.083(1)(e), F.S.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate fiscal impact on the private sector. Businesses who wish to provide electronic verification of Florida Smart ID will need the retail reader application installed on a mobile device that supports either the android or IOS operating systems. Additionally, if the business prefers to integrate the verification process into its point of sale systems rather than use a mobile device it would require development to be done by the business to integrate a retail reader application into the point of sale systems.³³

The bill creates a civil penalty of up to \$5,000 for each violation of provisions related to personal information and data collection.

C. Government Sector Impact:

State and local law enforcement agencies will need to train their members and update associated enforcement policies for the Florida Smart ID. This may have an indeterminate, likely insignificant fiscal impact on state and local government.³⁴

The DHSMV has already undertaken development of the Florida Smart ID through existing law and therefore already has the resources to continue with the expanded requirements of the bill. Due to this, the fiscal impact on the DHSMV is minimal and can be handled within existing resources.³⁵

The Criminal Justice Estimating Conference met on March 24, 2021, and estimated that the bill would have an impact of an increase of 10 or fewer prison beds (positive insignificant impact). The bill creates a third degree felony for manufacturing a false digital proof of driver license.

VI. Technical Deficiencies:

None.

³³ *Supra* note 12 at p. 7.

³⁴ *Id.* at p. 6.

³⁵ *Id.*

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to ensure valid authentication of digital driver licenses and identification cards.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 322.032, 322.14, and 322.15.

The bill reenacts section 322.121 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Harrell

25-01611A-21

20211324__

1 A bill to be entitled
 2 An act relating to digital driver licenses and
 3 identification cards; amending s. 322.032, F.S.;
 4 defining terms; requiring the Department of Highway
 5 Safety and Motor Vehicles to establish a secure and
 6 uniform system for issuing optional digital proofs of
 7 driver licenses and identification cards; authorizing
 8 the department to contract with one or more private
 9 entities to develop an electronic credentialing
 10 system; prohibiting such electronic credentialing
 11 system from retaining certain information; revising
 12 requirements for digital proofs of driver licenses and
 13 providing requirements for digital proofs of
 14 identification cards; revising the department's
 15 rulemaking authority; revising requirements for the
 16 issuance of digital proofs of driver licenses and
 17 identification cards; authorizing the department to
 18 use telephone numbers submitted by licensees and
 19 cardholders for specified purposes only; authorizing
 20 the department to enter into contracts with private
 21 entities for a specified purpose; prohibiting such
 22 private entities from storing, selling, or sharing
 23 personal information collected from scanning the
 24 digital proofs of driver licenses and identification
 25 cards; providing an exception by authorizing
 26 individuals to consent to allow private entities to
 27 collect and store such personal information; requiring
 28 that an individual is informed what information is
 29 collected in such scans and the purposes for which the

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30 information will be used; authorizing private entities
 31 to manually collect personal information from
 32 individuals under certain circumstances; providing a
 33 civil penalty; providing applicability; conforming
 34 provisions to changes made by the act; amending s.
 35 322.14, F.S.; conforming a provision to changes made
 36 by the act; amending s. 322.15, F.S.; conforming a
 37 provision to changes made by the act; requiring a
 38 licensee to present or submit his or her printed
 39 driver license to a law enforcement officer or an
 40 authorized representative of the department under
 41 specified circumstances; reenacting s. 322.121(2),
 42 F.S., relating to periodic reexamination of all
 43 drivers, to incorporate the amendment made to s.
 44 322.15, F.S., in a reference thereto; providing an
 45 effective date.

46
 47 Be It Enacted by the Legislature of the State of Florida:

48
 49 Section 1. Section 322.032, Florida Statutes, is amended to
 50 read:

51 322.032 Digital proof of driver license or identification
 52 card.-

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

54 (a) "Digital proof of driver license" means an electronic
 55 credential viewable on an electronic credentialing system.

56 (b) "Digital proof of identification card" means an
 57 electronic credential viewable on an electronic credentialing
 58 system.

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59 (c) "Electronic credentialing system" means a computer
 60 system accessed using a computer, a cellular telephone, or any
 61 other personal device which queries the department's driver
 62 license and identification card records, displays or transmits
 63 digital proofs of driver licenses and identification cards, and
 64 verifies the authenticity of those electronic credentials.

65 (d) "Limited profile" means an electronic credential
 66 containing some, but not all, of the information displayed on a
 67 printed driver license or identification card.

68 (e) "Scanning" means obtaining data from a digital proof of
 69 driver license or identification card in an electronic format.

70 (2) (a) The department shall establish ~~begin to review and~~
 71 ~~prepare for the development of~~ a secure and uniform system for
 72 issuing an optional digital proof of driver license or
 73 identification card. The department may contract with one or
 74 more private entities to develop an electronic credentialing a
 75 digital proof of driver license system.

76 (b) The electronic credentialing system may not retain
 77 Internet protocol addresses, geolocation data, or other
 78 information that describes the location, computer, computer
 79 system, or computer network from which a customer accesses the
 80 system.

81 (3) (a) ~~(2)~~ The digital proof of driver license or
 82 identification card established ~~developed~~ by the department or
 83 by an entity contracted by the department must be in such a
 84 format as to allow verification of law enforcement to verify the
 85 authenticity of the digital proof of driver license or
 86 identification card. The department may adopt rules to ensure
 87 valid authentication of digital driver licenses and

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88 identification cards by law enforcement.

89 (b)1. Notwithstanding ss. 322.14, 322.141, 322.142, and any
 90 other law prescribing the design for, or information required to
 91 be displayed on, a driver license, a digital proof of driver
 92 license may comprise a limited profile that includes only
 93 information necessary to conduct a specific transaction on the
 94 electronic credentialing system.

95 2. Notwithstanding ss. 322.051, 322.141, and any other law
 96 prescribing the design for, or information required to be
 97 displayed on, an identification card, a digital proof of
 98 identification card may comprise a limited profile that includes
 99 only information necessary to conduct a specific transaction on
 100 the electronic credentialing system.

101 (4) ~~(3)~~ A person may not be issued a digital proof of driver
 102 license or identification card until he or she satisfies all ~~has~~
 103 ~~satisfied all of the~~ requirements of this chapter for issuance
 104 of the respective a physical driver license or identification
 105 card and has been issued a printed driver license or
 106 identification card. The electronic credentialing system must,
 107 upon each presentation of a digital driver license or
 108 identification card, display or transmit current records for the
 109 driver license or identification card. If a licensee's driving
 110 privilege is suspended, revoked, or disqualified, or if his or
 111 her driver license is otherwise canceled or expired, a digital
 112 proof of driver license may not be issued; however, a digital
 113 proof of identification card may be issued if the licensee is
 114 otherwise eligible for an identification card under s. 322.051
 115 as ~~provided in this chapter.~~

116 (5) The department may use a telephone number submitted by

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117 a licensee or cardholder in connection with a digital driver
 118 license or identification card only for purposes of
 119 communication regarding the digital proof of driver license or
 120 identification card or the motor vehicle records, as defined in
 121 s. 119.0712(2) (a), of the licensee or cardholder.

122 (6) The department may enter into a contract with a private
 123 entity which authorizes online data calls or offline data
 124 verification through the electronic credentialing system that
 125 queries the department's driver license and identification card
 126 records, displays or transmits digital proofs of driver licenses
 127 or identification cards, or verifies the authenticity of such
 128 electronic credentials.

129 (7) (a) Except as provided in paragraph (b), a private
 130 entity that contracts with the department and that scans a
 131 digital proof of driver license or identification card may not
 132 store, sell, or share personal information collected from such
 133 scanning of the digital proof of driver license or
 134 identification card.

135 (b) An individual may consent to allow a private entity to
 136 collect and store personal information obtained by scanning his
 137 or her digital proof of driver license or identification card.
 138 However, the individual must be informed what information is
 139 collected and the purpose or purposes for which the information
 140 will be used. If the individual does not want the private entity
 141 to scan his or her digital proof of the individual's driver
 142 license or identification card, the private entity may manually
 143 collect personal information from the individual.

144 (c) A private entity that violates this subsection is
 145 subject to a civil penalty not to exceed \$5,000 per occurrence.

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146 (d) This subsection does not apply to a financial
 147 institution as defined in s. 655.005(1) (i).

148 ~~(8)-(4)~~ A person who:

149 (a) Manufactures a false digital proof of driver license or
 150 identification card commits a felony of the third degree,
 151 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

152 (b) Possesses a false digital proof of driver license or
 153 identification card commits a misdemeanor of the second degree,
 154 punishable as provided in s. 775.082.

155 Section 2. Paragraph (a) of subsection (1) of section
 156 322.14, Florida Statutes, is amended to read:
 157 322.14 Licenses issued to drivers.—

158 (1) (a) The department shall, upon successful completion of
 159 all required examinations and payment of the required fee, issue
 160 to every qualified applicant a printed driver license that must
 161 bear a color photograph or digital image of the licensee; the
 162 name of the state; a distinguishing number assigned to the
 163 licensee; and the licensee's full name, date of birth, and
 164 residence address; a brief description of the licensee,
 165 including, but not limited to, the licensee's gender and height;
 166 and the dates of issuance and expiration of the license. A space
 167 shall be provided upon which the licensee shall affix his or her
 168 usual signature. A license is invalid until it has been signed
 169 by the licensee except that the signature of the licensee is not
 170 required if it appears thereon in facsimile or if the licensee
 171 is not present within the state at the time of issuance.

172 Section 3. Subsection (1) of section 322.15, Florida
 173 Statutes, is amended to read:
 174 322.15 License to be carried and exhibited on demand;

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175 fingerprint to be imprinted upon a citation.-

176 (1) Every licensee shall have his or her driver license,
 177 which must be fully legible with no portion of such license
 178 faded, altered, mutilated, or defaced, in his or her immediate
 179 possession at all times when operating a motor vehicle and shall
 180 present or submit the same upon the demand of a law enforcement
 181 officer or an authorized representative of the department. A
 182 licensee may present or submit a digital proof of driver license
 183 as provided in s. 322.032 in lieu of his or her printed a
 184 physical driver license; however, if the law enforcement officer
 185 or authorized representative of the department is unable to
 186 immediately verify the digital proof of driver license, upon the
 187 demand of the law enforcement officer or authorized
 188 representative of the department, the licensee must present or
 189 submit his or her printed driver license.

190 Section 4. For the purpose of incorporating the amendment
 191 made by this act to section 322.15, Florida Statutes, in a
 192 reference thereto, subsection (2) of section 322.121, Florida
 193 Statutes, is reenacted to read:

194 322.121 Periodic reexamination of all drivers.-

195 (2) For each licensee whose driving record does not show
 196 any revocations, disqualifications, or suspensions for the
 197 preceding 7 years or any convictions for the preceding 3 years
 198 except for convictions of the following nonmoving violations:

199 (a) Failure to exhibit a vehicle registration certificate,
 200 rental agreement, or cab card pursuant to s. 320.0605;

201 (b) Failure to renew a motor vehicle or mobile home
 202 registration that has been expired for 6 months or less pursuant
 203 to s. 320.07(3)(a);

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204 (c) Operating a motor vehicle with an expired license that
 205 has been expired for 6 months or less pursuant to s. 322.065;

206 (d) Failure to carry or exhibit a license pursuant to s.
 207 322.15(1); or

208 (e) Failure to notify the department of a change of address
 209 or name within 10 days pursuant to s. 322.19,

210

211 the department shall cause such licensee's license to be
 212 prominently marked with the notation "Safe Driver."

213 Section 5. This act shall take effect July 1, 2021.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 18, 2021

Senator Kelli Stargel
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Stargel,

I respectfully request that **SB 1324 – Digital Drivers Licenses and Identification Cards** be placed on the next available agenda for the Appropriations Committee Meeting.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

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 Appropriations

BILL: CS/SB 1326

INTRODUCER: Transportation Committee and Senator Harrell

SUBJECT: Public Records/Department of Highway Safety and Motor Vehicles

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1326 creates public record exemptions related to creation of a digital proof of driver license and identification card and an electronic credentialing system to use such digital cards. The bill makes the following information exempt from public records:

- Secure login credentials held by the Department of Highway Safety and Motor Vehicles (DHSMV); and
- Internet protocol addresses, geolocation data, and other information held by the DHSMV which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses the public-facing portal.

The bill is subject to the Open Government Sunset Review Act and the new exemptions will be repealed on October 2, 2026, unless reviewed and reenacted by the Legislature. The bill contains a public necessity statement as required by the Florida Constitution. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each chamber of the Legislature is required for passage.

The bill takes effect on the same date that SB 1324 or similar legislation takes effect (July 1, 2021), if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Access to Public Records - Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each chamber of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

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

¹ FLA. CONST. art. I, s. 24(a).

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.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

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

Open Government Sunset Review Act

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

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

⁸ Section 119.07(1)(a), F.S.

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

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

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

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

¹⁶ Section 119.15, F.S.

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

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

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

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

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

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

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

Driver Privacy Protection Act of 1994

Motorist personal information, when held by the DHSMV in motor vehicle records, is confidential pursuant to the Driver's Privacy Protection Act of 1994.²⁷ Personal information covered by the act includes: access to an individual's social security number, driver license or identification card number, name, address (except the zip code), telephone number, and medical or disability information contained in motor vehicle and driver license records. Additionally, emergency contact information and email addresses are restricted pursuant to s. 119.0712(2), F.S.²⁸

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The 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?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ 18 USC 2721 et seq., and s. 119.0712(2), F.S.

²⁸ DHSMV, *Privacy Statement: Driver Privacy Protection Act*, available at <https://www.flhsmv.gov/privacy-statement/driver-privacy-protection-act/> (last visited on April 8, 2021).

Information that is not covered by the Driver's Privacy Protection Act, and therefore considered public information, includes non-personal information contained in motor vehicle and driver license records such as vehicular crash records, driving violations, and driver status information.²⁹

The Driver's Privacy Protection Act allows the release of personal information in motor vehicle and driver license records for specific permissible uses. These include uses for:³⁰

- Matters related to motor vehicle or driver safety and theft, motor vehicle recalls;
- By any government agency, including any court or law enforcement agency, in carrying out its functions;
- Verifying personal information submitted in the normal course of business by a legitimate business or its agents, employees, or contractors;
- Claims investigation activities, antifraud activities, rating, or underwriting by insurers;
- Other activities when there is consent of the individual to whom the information pertains; and
- Other specifically authorized activities under state law if such use is related to the operation of a motor vehicle or public safety.

SB 1324 – Digital Driver Licenses and Identification Cards

SB 1324 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards. The bill amends s. 322.032, F.S., to authorize the DHSMV to contract with one or more private entities to develop an electronic credentialing system, which is defined as a computer system accessed using a computer, a cellphone, or any other personal device which queries the DHSMV's driver license and identification card records, displays or transmits digital proofs of driver licenses and identification cards, and verifies the authenticity of those electronic credentials. The electronic credentialing system may not retain internet protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system. The bill prohibits a private entity who contracts for data verification through an electronic credentialing system with the DHSMV from storing, selling, or sharing personal information collected by scanning a digital proof of driver license or identification card unless consent has been provided by the individual.

III. Effect of Proposed Changes:

The bill amends s. 119.0712, F.S., creating public record exemptions for the following information held by the DHSMV before, on, or after the effective date of the exemption (July 1, 2021):

- Secure login credentials; and
- Internet protocol addresses, geolocation data, and other information held by the DHSMV that describes the location, computer, computer system, or computer network from which a user

²⁹ *Id.*

³⁰ 18 USC 2721(b) (2000). See also Driver's Privacy Protection Act exemptions listed in DHSMV forms *Driver License Records Request*, HSMV 90511 (Revised 11/19), available at <https://www.flhsmv.gov/pdf/forms/90511.pdf> and *Motor Vehicle, Vessel, and Mobile Home Records Request*, HSMV 90510 (Revised 03/19), available at <https://www.flhsmv.gov/pdf/forms/90510.pdf> (both last visited April 8, 2021).

accesses a public-facing portal and the dates and times that a user accesses a public-facing portal.

The bill defines “secure login credentials” as:

- Information collected or issued by the DHSMV to authenticate a user logging into an account on a computer, computer system, computer network, or an electronic device; or
- An online user account accessible over the Internet by a mobile device, website, or other electronic means.
- The term includes user identifications and passwords; personal identification numbers; security questions and answers; and e-mail addresses, telephone numbers, and human biometric information used for authentication or password recovery.

The bill defines “public-facing portal” as a web portal or computer application accessible by the public over the Internet, whether through a mobile device, website, or other electronic means, which is established for administering motor vehicle titles and registrations, driver licenses, identification cards, vessel titles and registrations, or any other provision of law conferring duties upon the DHSMV.

The bill is subject to the Open Government Sunset Review Act and the exemptions will be repealed on October 2, 2026, unless reviewed and reenacted by the Legislature. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each chamber of the Legislature is required for passage.

The bill contains a public necessity statement as required by the Florida Constitution. It provides that the Legislature finds that:

- Safeguarding the integrity and accuracy of data systems maintained by the DHSMV is of paramount public importance. Because the data systems contain critical information related to driver licenses, state identification cards, motor vehicles and vessels, and Florida Highway Patrol law enforcement records, some of which is also protected from disclosure by the federal Driver’s Privacy Protection Act, unauthorized access to the systems poses a serious threat to the integrity and accuracy of the data contained therein. Additionally, unauthorized disclosure of personal information contained in those systems may subject users to identity theft, financial harm, or other adverse impacts.
- Development in information technology allows the DHSMV to make secure transactions more readily available to the public through expanded use of online user accounts accessible over the Internet. However, public release of users secure login credentials, Internet protocol addresses, and geolocation data could make the data systems vulnerable to unauthorized access.
- To safeguard user accounts from unauthorized access and avert the unauthorized disclosure of personal information it is a public necessity that secure login credentials, Internet protocol addresses, and geolocation data be exempt from public records requirements. Without the public records exemption, the effective and efficient administration of user accounts would be hindered.

The bill is effective on the same date that SB 1324 or similar legislation takes effect (July 1, 2021), if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

None.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for secure login credentials held by the DHSMV and Internet protocol addresses, geolocation data, and other information held by the DHSMV that describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal and the dates and times that a user accesses a public-facing portal. 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 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

The purpose of the law is to protect secure login credentials and certain Internet protocol addresses, geolocation data, and other information held by the DHSMV. This bill exempts only that specific 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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.0712 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Transportation on March 10, 2021:

- Amends the effective date to reflect the linked bill SB 1324.

B. Amendments:

None.

By the Committee on Transportation; and Senator Harrell

596-02656-21

20211326c1

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.0712, F.S.; providing exemptions from public
 4 records requirements for secure login credentials,
 5 Internet protocol addresses, and geolocation data held
 6 by the Department of Highway Safety and Motor
 7 Vehicles; providing retroactive application; defining
 8 the terms "secure login credentials" and "public-
 9 facing portal"; providing for future legislative
 10 review and repeal of the exemptions; providing a
 11 statement of public necessity; providing a contingent
 12 effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraph (e) is added to subsection (2) of
 17 section 119.0712, Florida Statutes, to read:
 18 119.0712 Executive branch agency-specific exemptions from
 19 inspection or copying of public records.-
 20 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.-
 21 (e)1. Secure login credentials held by the Department of
 22 Highway Safety and Motor Vehicles are exempt from s. 119.07(1)
 23 and s. 24(a), Art. I of the State Constitution. This exemption
 24 applies to secure login credentials held by the department
 25 before, on, or after the effective date of the exemption. For
 26 purposes of this subparagraph, the term "secure login
 27 credentials" means information collected or issued by the
 28 department for purposes of authenticating a user logging into a
 29 user account on a computer, a computer system, a computer

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596-02656-21

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30 network, or an electronic device; or an online user account
 31 accessible over the Internet, whether through a mobile device, a
 32 website, or any other electronic means. The term includes, but
 33 is not limited to, user identifications and passwords; personal
 34 identification numbers; security questions and answers; and e-
 35 mail addresses, telephone numbers, and human biometric
 36 information used for authentication or password recovery.
 37 2. Internet protocol addresses, geolocation data, and other
 38 information held by the Department of Highway Safety and Motor
 39 Vehicles which describes the location, computer, computer
 40 system, or computer network from which a user accesses a public-
 41 facing portal, and the dates and times that a user accesses a
 42 public-facing portal, are exempt from s. 119.07(1) and s. 24(a),
 43 Art. I of the State Constitution. This exemption applies to such
 44 information held by the department before, on, or after the
 45 effective date of the exemption. For purposes of this
 46 subparagraph, the term "public-facing portal" means a web portal
 47 or computer application accessible by the public over the
 48 Internet, whether through a mobile device, website, or other
 49 electronic means, which is established for administering chapter
 50 319, chapter 320, chapter 322, chapter 328, or any other
 51 provision of law conferring duties upon the department.
 52 3. This paragraph is subject to the Open Government Sunset
 53 Review Act in accordance with s. 119.15 and shall stand repealed
 54 on October 2, 2026, unless reviewed and saved from repeal
 55 through reenactment by the Legislature.
 56 Section 2. The Legislature finds that it is a public
 57 necessity that secure login credentials, Internet protocol
 58 addresses, and geolocation data held by the Department of

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59 Highway Safety and Motor Vehicles for purposes of authenticating
60 a user logging into a user account be exempt from s. 119.07(1),
61 Florida Statutes, and s. 24(a), Article I of the State
62 Constitution. The Legislature finds that safeguarding the
63 integrity and accuracy of data systems maintained by the
64 Department of Highway Safety and Motor Vehicles is of paramount
65 public importance. Those systems comprise critical information
66 related to driver licenses, state identification cards, motor
67 vehicles and vessels, and Florida Highway Patrol law enforcement
68 records. Those systems also comprise personal information
69 restricted from public disclosure by the federal Driver's
70 Privacy Protection Act of 1994. Accordingly, unauthorized access
71 to those systems poses a serious threat to the integrity and
72 accuracy of the data contained therein. Moreover, the
73 unauthorized disclosure of personal information contained in
74 those systems may subject users to identity theft, financial
75 harm, or other adverse impacts. The Legislature further finds
76 that development in information technology allows the Department
77 of Highway Safety and Motor Vehicles to make secure transactions
78 more readily available to the public through expanded use of
79 online user accounts accessible over the Internet, including
80 applications such as digital driver licenses. The public release
81 of secure login credentials, Internet protocol addresses, and
82 geolocation data would render these data systems vulnerable to
83 unauthorized access. The Legislature finds that, to safeguard
84 user accounts from unauthorized access and avert the
85 unauthorized disclosure of personal information, it is a public
86 necessity that secure login credentials, Internet protocol
87 addresses, and geolocation data be exempt from public records

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88 requirements and, without the public records exemption, the
89 effective and efficient administration of user accounts would be
90 hindered.
91 Section 3. This act shall take effect on the same date that
92 SB 1324 or similar legislation takes effect, if such legislation
93 is adopted in the same legislative session or an extension
94 thereof and becomes a law.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:
Select Committee on Pandemic
Preparedness and Response

SENATOR GAYLE HARRELL

25th District

March 18, 2021

Senator Kelli Stargel
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Chair Stargel,

I respectfully request that **SB 1326 – Public Records – Department of Highway Safety and Motor Vehicles** be placed on the next available agenda for the Appropriations Committee Meeting.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:

215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

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 Appropriations

BILL: CS/SB 1372

INTRODUCER: Appropriations Committee; and Senator Burgess

SUBJECT: Literacy Improvement

DATE: April 21, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1372 establishes the New Worlds Reading Initiative to improve literacy skills and instill a love of reading by providing high-quality free books to students in kindergarten through grade 5 who are reading below grade level. Specifically, the bill requires:

- The Department of Education (DOE) to designate a state-level administrator of the program.
- School districts to partner with local nonprofit organizations to provide free monthly book deliveries to students in kindergarten through grade 5 who exhibit a substantial deficiency in reading and choose to participate in the program.
- The DOE to publish information on its website about the program, including the process for a tax payer to contribute to the program through taking a tax credit.

The bill provides for tax credit contributions to the program.

The cost of the book distribution initiative created by this bill are to be funded through tax credit contributions. See Section V.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Forty-three percent of the students entering kindergarten in 2020 demonstrated literacy skills that fell below grade-level expectations.¹ Forty-two percent of third grade students were assessed as reading below grade level in 2019.² Students who read below grade level at the end of third grade are less likely to graduate high school by age 19.³

The availability of learning materials in the home supports children's language and literacy skills.⁴ Children who participate in free book distribution programs between birth to age five experience a positive effect on literacy development.⁵

Student Reading Progression

Each district school board is required to establish a comprehensive plan for student progression, which must provide for a student's progression from one grade to another based on the student's mastery of English Language Arts, mathematics, science, and social studies standards.⁶ The plan must include criteria that emphasize student reading proficiency in kindergarten through grade 3. Students in kindergarten through grade 3, who exhibit a substantial deficiency in reading based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations, must be provided intensive, explicit, systematic, and multisensory reading interventions immediately following the identification of the reading deficiency.⁷

Research-Based Reading Instruction Allocation

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12.⁸ Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including, for example:⁹

¹ Florida Department of Education (DOE), FLKRS Statewide Results, *Fall 2020 Florida Kindergarten Readiness Screener (FLKRS)*, available at <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/flkrs-sw-results.stml> (download excel file "Fall 2020 FLKRS Results by District") (last visited Mar. 5, 2021).

² DOE, *Florida Standards Assessments* (2019), available at <http://www.fldoe.org/core/fileparse.php/5668/urlt/80FSAResults19.pdf>, at 4.

³ Donald J. Hernandez, The Annie E. Casey Foundation, *Double Jeopardy: How Third-Grade Reading Skills and Poverty Influence High School Graduation* (2012), available at <https://www.aecf.org/m/resourcedoc/AECF-DoubleJeopardy-2012-Full.pdf#page=3> (last visited Mar. 5, 2021).

⁴ Eileen T. Rodriguez & Catherine S. Tamis-LeMonda, *Trajectories of the Home Learning Environment Across the First 5 Years: Associations with Children's Vocabulary and Literacy Prekindergarten*, 82 CHILD DEVELOPMENT 1058, 1059 (2011).

⁵ Merel de Bondt et al., *Do Book Giveaway Programs Promote Home Literacy Environment and Children's Literacy-Related Behavior and Skills?*, 90 Review of Education Research 349 (2020), available at <https://journals.sagepub.com/doi/pdf/10.3102/0034654320922140>.

⁶ Section 1008.25(2), F.S.

⁷ Section 1008.25(5)(a), F.S. Students in kindergarten through grade 2 do not participate in statewide, standardized assessments.

⁸ Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, ch. 2020-111, s. 2, Laws of Fla.

⁹ Section 1011.62(9)(c), F.S. The state also appropriated \$236.6 million to school districts for instructional materials for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, ch. 2020-111, s. 2, Laws of Fla. School districts are authorized to use half of the funds allocated for instructional materials for library books. Section 1006.40(3)(b), F.S. School district expenditures for library books in the 2019-2020 fiscal year totaled \$63.4 million. DOE, *School District Annual Financial*

- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.¹⁰
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office.¹¹
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized English Language Arts assessment.

District school boards must develop K-12 comprehensive reading plans that detail the specific uses of the research-based reading instruction allocation. The plans must provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the Just Read, Florida! Office and are delivered by a teacher who is certified or endorsed in reading.¹² In the 2020-2021 fiscal year, school districts allocated \$36.9 million of the total \$130 million appropriated under the research-based reading instruction allocation¹³ for elementary reading intervention teachers, supplemental reading materials and interventions, and summer reading camps.¹⁴

Parental Notification and Choice

The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the deficiency and of all available services and proposed interventions, and be provided with a “read at home plan,” which outlines strategies that parents can use to help their children improve in reading.¹⁵

Students enrolled in public school in grades 3 through 5 and score below grade level on the statewide, standardized English Language Arts (ELA) assessment in the prior school year may also be eligible for a reading scholarship account of \$500.¹⁶ A total of 6,763 students received reading scholarship accounts in the 2019-2020 school year.¹⁷ The state appropriated \$7.6 million for reading scholarship accounts for the 2020-2021 school year.¹⁸

In the 2020-2021 school year, 112,295 students enrolled in public schools in kindergarten through grade 5 were identified as having substantial deficiencies in reading and receiving Tier III supports.¹⁹

Reports (2019-2020), available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/1920afrStateSummary.PDF>, at 23 (last visited Mar. 5, 2021).

¹⁰ All students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment. Section 1011.62(9)(c)5., F.S.

¹¹ Just Read, Florida! is an office within the DOE established to help students read at their highest potential. Section 1001.215, F.S.

¹² Section 1011.62(9)(d)1., F.S.

¹³ *Supra*, note 8.

¹⁴ Email, DOE (Mar. 11, 2021) (on file with the Senate Education Committee).

¹⁵ Section 1008.25(5)(c), F.S.

¹⁶ Section 1002.411, F.S.

¹⁷ Email, Office of Program Policy Analysis and Government Accountability, *School Choice Landscape*, at 34 (March 5, 2021) (on file with the Senate Education Committee).

¹⁸ Specific Appropriation 112, ch. 2020-111, s. 2, Laws of Fla.

¹⁹ Email, DOE (Mar. 11, 2021) (on file with the Senate Education Committee).

Book Distribution Programs

An Act to amend the national reading program in 1975²⁰ authorized the federal government to contract with a third-party entity to subcontract with local agencies to establish, operate, and provide an equal share of the cost of reading motivational programs that include the distribution of books to schoolchildren.²¹ The inexpensive book distribution program was last financed with \$25 million in 2010.²² The Every Student Succeeds Act of 2015²³ repealed the inexpensive book distribution program.²⁴

In 2020, the Tennessee Governor's Early Literacy Foundation (GELF) and the Tennessee Department of Education, in collaboration with Scholastic, the global children's publishing, education and media company, announced the launch of a new K-3 Book Delivery program to deliver 580,000 books to 58,000 kindergarten through third grade students and teachers across the state.²⁵ The GELF has operated a book distribution program in collaboration with Dolly Parton's Imagination Library to distribute books to children from birth to the age of five since 2004.²⁶ The Tennessee Legislature appropriated \$4,525,000 for the Governor's Books from Birth Fund for the 2019 fiscal year,²⁷ and the Books from Birth program mailed 3.4 million books.²⁸

III. Effect of Proposed Changes:

The bill creates s. 1003.485, F.S., to establish the New Worlds Reading Initiative to improve literacy skills and instill a love of reading by providing high-quality free books to students in kindergarten through grade 5 who are reading below grade level expectations.

Under the initiative, a high-quality, hardcopy book is delivered on a monthly basis to eligible students. Parents of students who participate in the program are provided resources to help improve their student's reading skills and instill a love of reading.

State Tax Credits

The bill provides tax credits for contributions to the New Worlds Reading Initiative. The credits are authorized against taxes under:

- Section 624.509, related to insurance premium tax.
- Section 175.101, related to state excise tax on property insurance premiums
- Section 185.08, related to state excise tax on casualty insurance premiums

²⁰ Pub. L. No. 94-194, 89 Stat. 1103.

²¹ *Id.* at 89 Stat. 1105.

²² U.S. Office of Management and Budget, *Appendix, Budget of the United States Government, Fiscal Year 2012*, available at <https://www.govinfo.gov/content/pkg/BUDGET-2012-APP/pdf/BUDGET-2012-APP.pdf>, at 344.

²³ Pub. L. 114-95, 129 Stat. 1802.

²⁴ *Id.* at 129 Stat. 1967.

²⁵ Governor's Early Literacy Foundation, *Press Release* (Oct. 21, 2020), <https://governorsfoundation.org/governors-early-literacy-foundation-scholastic-and-tn-department-of-education-to-provide-580000-books-to-k-3-students-and-teachers-in-tennessee/> (last visited Mar. 11, 2020).

²⁶ Governor's Books from Birth Foundation, *2019 Year in Review*, available at <https://gelf.app.box.com/s/z7w8nj75b82ofkbs0pkq1f9sij1826ho> (last visited Mar. 11, 2021).

²⁷ 2019 Tenn. Pub. Ch. 405 page no. 3, available at <https://legiscan.com/TN/text/HB1508/2019> (last visited Mar. 11, 2021).

²⁸ Governor's Books from Birth Foundation, *2019 Year in Review*, available at <https://gelf.app.box.com/s/z7w8nj75b82ofkbs0pkq1f9sij1826ho>, at 9 (last visited Mar. 11, 2021).

- Chapter 220, related to corporate income tax.
- Section 211.02, related to oil production tax
- Section 211.025, related to gas production tax
- Section 212.183, related to direct pay permit-holders (aka toilet paper tax, unlikely to apply to book publishers).
- Section 563.05, related to excise taxes on malt beverages
- Section 564.06, related to excise taxes on wines and beverages
- Section 565.12, related to excise tax on liquors and beverages

A tax credit cap in the amount of \$10 million is established for the 2021-2022 state fiscal year, \$30 million for the 2022-2023 state fiscal year, and \$50 million in each state fiscal year

The Department of Revenue may adopt rules necessary to administer the tax credit provisions of the bill, which include establishing application forms, procedures governing the approval of tax credits and carryforward tax credits, and procedures for taxpayers when claiming approved tax credits on their returns.

State-Level Administrator

Implementation of the initiative is split between school districts, in partnership with local nonprofit organizations, and a state administrator. The state administrator is a state university designated by the DOE who must have an academic innovation institution with extensive experience in:

- Conducting academic research in early literacy instruction.
- Implementing online delivery of early learning and literacy training for educators nationally.
- Developing online support materials that assist parents and caregivers in developing early literacy skills.
- Conducting fundraising and public awareness campaigns to support the development and growth of evidence-based educational initiatives that support learning at home and in schools.

The bill requires the state-level administrator to:

- Develop, in consultation with the Just Read, Florida! Office, a selection of high-quality books, encompassing diverse subjects and genres, appropriate for each grade level to be mailed to students in the initiative.
- Facilitate book distribution directly or through an agreement with a book distribution company.
- Develop and provide marketing materials to help school districts and their local partners raise funding and awareness of the initiative, including through the use of partnerships between public libraries and participating entities to implement family engagement events, such as family library nights, library card drives, summer access, and other activities.
- Maintain a clearinghouse for information on national, state, and local nonprofit organizations that support efforts to provide books to children.
- Develop online support materials that assist parents and caregivers in developing early literacy skills.

- Periodically distribute to participating families helpful tips and hyperlinks to video modules via text message and e-mail.
- Annually submit to the DOE an annual financial report that, at a minimum, includes:
 - Amount of eligible contributions received;
 - Amount spent on each activity required of the administrator in law; and
 - Number of students and households served.
- Maintain separate accounts for operating funds and funds for purchase and delivery of books.
- Expend eligible contributions received only for the purchase and delivery of books, and an administrative fee not to exceed two percent of total eligible contributions.
- Provide taxpayers with a certificate of contribution upon receipt of a contribution.

Reporting Requirements

Beginning September 30, 2022, and annually thereafter, the DOE must report on its website the number of students in the initiative in each school district, the academic achievement and learning gains of participating students based on available data provided by school districts. The DOE is required to establish a date by which the administrator and school districts must annually provide the necessary data to complete the report.

In addition, the DOE is required to publish information about the initiative and tax credits on its website, including the process for a taxpayer to select the administrator as the recipient of funding through the tax credit.

Student Participation

A student in kindergarten through grade 5 must be provided books through the initiative if the student has a substantial reading deficiency or scored below a level 3 on the prior year's statewide, standardized English Language Arts (ELA) assessment. The bill requires each school district to notify the parents of eligible students that the student is eligible to receive books at no cost through the New Worlds Reading Initiative and provide the parent with the application form developed by the administrator, which must allow for the selection of specific book topics or genres for the student.

After a student is identified, the bill requires the school district to coordinate with the administrator to initiate monthly book delivery during the school year, which must begin no later than December 31. Students remain in the initiative until they are promoted to sixth grade or their parent opts out, whichever is earlier.

School districts and partnering nonprofit organizations are required by the bill to raise awareness of the initiative, including information on eligibility and video training modules, through:

- The student handbook.
- The read-at-home plan provided to the parents of students identified with a substantial reading deficiency. The bill also amends s. 1008.25, F.S., to require that the parents of students with a substantial reading deficiency be provided information about the student's eligibility for the New Worlds Reading Initiative, and information on parent training modules and other reading engagement resources available through the initiative.

- Curriculum or parent nights or separate initiative awareness events at each elementary school.
- Events held jointly with the local public library. The bill specifies that library events should coincide with similar family engagement initiatives, such as library card drives.

The bill requires books to be delivered at no cost to students.

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:

The revenue estimating conference has not yet reviewed the fiscal impact of this bill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost of the book distribution initiative created by this bill will be funded through tax credit contributions. The Department of Education estimates that the total cost to provide books free of charge is \$48,512,740. This estimate is based on 551,294 eligible students identified who would receive a free book mailed to them monthly for nine months of the school year, at an average cost of \$8 a book.²⁹

²⁹ DOE, *Senate Bill 1372 Legislative Bill Analysis* (Feb. 23, 2021) (on file with the Senate Appropriations Subcommittee on Education).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 220.02, 220.13, 220.186, and 1008.25.

The bill creates the following sections of the Florida Statutes: 211.0252, 212.1833, 220.1876, 561.1212, 624.51056, and 1003.485.

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 Appropriations on April 19, 2021:

The committee substitute:

- Adds legislative findings, including that programs that deliver books directly to students' homes and support engagement in reading enable parents to develop their child's reading skills and enjoyment of reading and foster improved outcomes for students.
- Makes mandatory the provision of the bill authorizing school districts to participate in the program.
- Removes the specification that funding be shared equally by the state administrator and the local funding source on a pro rata basis for each enrolled student.
- Provides tax credits for contributions to the New Worlds Reading Initiative, which provides monthly books to students at no cost to families, and authorizes the state administrator to use 2% for administrative expenses.
- Establishes a tax credit cap amount of \$10 million for the 2021-2022 state fiscal year, \$30 million for the 2022-2023 state fiscal year, and \$50 million in each state fiscal year thereafter.
- Requires the DOE to designate an experienced academic innovation institution as the state administrator.
- Requires the DOE to publish information about the initiative and tax credits on its website.
- Removes requirement for the DOE to submit an annual report to the Governor and the Legislature and instead requires the administrator to submit an annual report to the DOE.
- Requires the Department of Education to set the annual date for school districts to provide data to enable the Department to report on the program.
- Establishes the process by which the Department of Revenue must administer the tax credit provisions.

- Postpones to December 31, 2021, the first required book delivery but still requires nine books to be delivered before the 2022-2023 school year.
- Authorizes the DOR to adopt rules and emergency rules.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/20/2021	.	
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The Committee on Appropriations (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. The Legislature finds that the ability to read is fundamental to a productive, fulfilling, culturally rewarding, and civically engaged life. Furthermore, a literacy-rich home environment helps develop reading and writing skills in young learners to prepare them for future academic and career success. Research shows that students who read more perform



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11 better academically than those who do not. Unfortunately,
12 statistics show students who have fewer books and literacy-based
13 interactions at home than their peers have lower educational
14 attainment and lifetime income-earning potential. Programs that
15 deliver books directly to students' homes and support engagement
16 in reading enable parents to develop their child's reading
17 skills and enjoyment of reading and foster improved outcomes for
18 students.

19 Section 2. Section 1003.485, Florida Statutes, is created
20 to read:

21 1003.485 The New Worlds Reading Initiative.-

22 (1) The New Worlds Reading Initiative is established under
23 the Department of Education to improve literacy skills and
24 instill a love of reading by providing high-quality, free books
25 to students in kindergarten through grade 5 who are reading
26 below grade level.

27 (2) DEFINITIONS.-As used in this section, the term:

28 (a) "Administrator" means the Department of Education or a
29 third-party entity contracted to administer the initiative.

30 (b) "Initiative" means the New Worlds Reading Initiative.

31 (3) The administrator shall:

32 (a) Develop, in consultation with the Just Read, Florida!
33 Office under s. 1001.215, a selection of high-quality books
34 encompassing diverse subjects and genres for each grade level to
35 be mailed to students in the initiative.

36 (b) Facilitate the distribution of books as provided in
37 paragraph (5)(c) either directly or through an agreement with a
38 book distribution company.

39 (c) Assist local implementation of the initiative by:



40 1. Providing assistance to local communities to raise
41 awareness of the initiative, including through the use of
42 partnerships between public libraries and school districts to
43 implement events such as family library nights, library card
44 drives, summer access and activities, and other activities
45 designed to increase family engagement and instill a love of
46 reading in students.

47 2. Developing and providing marketing materials to school
48 districts and any partnering nonprofit organizations to assist
49 with public awareness campaigns.

50 (d) Maintain a clearinghouse for information on national,
51 state, and local nonprofit organizations that support efforts to
52 provide books to children.

53 (e) Develop training materials for parents of students in
54 the initiative, including brief video training modules, which
55 engage families in reading and assist with improving student
56 literacy skills. The administrator shall periodically send, via
57 text message and e-mail, tips for facilitating reading at home
58 and hyperlinks to the video training modules.

59
60 Beginning September 30, 2022, and annually thereafter, the
61 Department of Education shall report to the President of the
62 Senate, the Speaker of the House of Representatives, and the
63 Commissioner of Education the number of students participating
64 in the initiative in each school district and the academic
65 achievement and learning gains, as applicable, of participating
66 students based on data provided by school districts as permitted
67 under s. 1002.22. The department shall establish a date by which
68 each school district must annually provide the data necessary to



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69 complete the report.

70 (4) Each school district shall participate in the
71 initiative by partnering with local nonprofit organizations,
72 raising awareness of the initiative using marketing materials
73 developed by the administrator, coordinating book delivery, and
74 identifying students and notifying parents pursuant to
75 subsection (5).

76 (5) (a) A student in kindergarten through grade 5 must be
77 provided books through the initiative if the student has a
78 substantial reading deficiency identified under s. 1008.25(5) (a)
79 or scored below a Level 3 on the preceding year's statewide,
80 standardized English Language Arts assessment under s. 1008.22.

81 (b) Each school district shall notify the parent of a
82 student who meets the criteria under paragraph (a) that the
83 student is eligible to receive books at no cost through the New
84 Worlds Reading Initiative and provide the parent with the
85 application form developed by the administrator, which must
86 allow for the selection of specific book topics or genres for
87 the student.

88 (c) Once an eligible student is identified, the school
89 district shall coordinate with the administrator to initiate
90 book delivery on a monthly basis during the school year, which
91 must begin no later than October and continue through at least
92 June.

93 (d) At the beginning of each school year, students must be
94 provided options for specific book topics or genres in order to
95 maximize student interest in reading.

96 (e) A student's eligibility for the initiative continues
97 until promotion to grade 6 or until the student's parent opts



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98 out of the initiative.

99 (6) School districts and partnering nonprofit organizations
100 shall raise awareness of the initiative, including information
101 on eligibility and video training modules under paragraph
102 (3) (e), through, at least, the following:

103 (a) The student handbook and the read-at-home plan under s.
104 1008.25 (5) (c).

105 (b) A parent or curriculum night or separate initiative
106 awareness event at each elementary school.

107 (c) Partnering with the county library to host awareness
108 events, which should coincide with other initiatives such as
109 library card drives and other family engagement programming.

110 (7) Books must be provided under this section at no cost to
111 families.

112 (8) If the department contracts with a third-party entity
113 to act as administrator, the entity must be capable of
114 coordinating statewide marketing, dissemination of books, and
115 development of video training modules, as well as completing all
116 other duties of the administrator.

117 Section 3. Paragraph (c) of subsection (5) of section
118 1008.25, Florida Statutes, is amended to read:

119 1008.25 Public school student progression; student support;
120 reporting requirements.—

121 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

122 (c) The parent of any student who exhibits a substantial
123 deficiency in reading, as described in paragraph (a), must be
124 notified in writing of the following:

125 1. That his or her child has been identified as having a
126 substantial deficiency in reading, including a description and



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127 explanation, in terms understandable to the parent, of the exact
128 nature of the student's difficulty in learning and lack of
129 achievement in reading.

130 2. A description of the current services that are provided
131 to the child.

132 3. A description of the proposed intensive interventions
133 and supports that will be provided to the child that are
134 designed to remediate the identified area of reading deficiency.

135 4. That if the child's reading deficiency is not remediated
136 by the end of grade 3, the child must be retained unless he or
137 she is exempt from mandatory retention for good cause.

138 5. Strategies, including multisensory strategies, through a
139 read-at-home plan the parent can use in helping his or her child
140 succeed in reading.

141 6. That the statewide, standardized English Language Arts
142 assessment is not the sole determiner of promotion and that
143 additional evaluations, portfolio reviews, and assessments are
144 available to the child to assist parents and the school district
145 in knowing when a child is reading at or above grade level and
146 ready for grade promotion.

147 7. The district's specific criteria and policies for a
148 portfolio as provided in subparagraph (6)(b)4. and the evidence
149 required for a student to demonstrate mastery of Florida's
150 academic standards for English Language Arts. A parent of a
151 student in grade 3 who is identified anytime during the year as
152 being at risk of retention may request that the school
153 immediately begin collecting evidence for a portfolio.

154 8. The district's specific criteria and policies for
155 midyear promotion. Midyear promotion means promotion of a



156 retained student at any time during the year of retention once
157 the student has demonstrated ability to read at grade level.

158 9. Information about the student's eligibility for the New
159 Worlds Reading Initiative under s. 1003.485 and information on
160 parent training modules and other reading engagement resources
161 available through the initiative.

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

163

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

165 And the title is amended as follows:

166 Delete everything before the enacting clause

167 and insert:

168 A bill to be entitled

169 An act relating to literacy improvement; providing
170 legislative findings; creating s. 1003.485, F.S.;
171 establishing the New Worlds Reading Initiative under
172 the Department of Education; defining terms; providing
173 duties of the administrator; requiring the
174 administrator, in consultation with a specified
175 entity, to develop a selection of books; requiring the
176 administrator to facilitate distribution of books;
177 requiring the administrator to assist with local
178 implementation of the initiative; requiring the
179 administrator to maintain a clearinghouse for
180 specified information; requiring the administrator to
181 develop and disseminate certain training materials by
182 specified means; establishing reporting requirements;
183 establishing student eligibility requirements;
184 requiring school districts to partner with certain



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185 entities; requiring school districts to identify
186 eligible students and notify the students' parents;
187 requiring school districts to coordinate with the
188 administrator to initiate book delivery; providing
189 requirements for book delivery; requiring that
190 students be offered certain options relating to books;
191 specifying when student eligibility ends; requiring
192 school districts to raise awareness of the initiative;
193 requiring that books be delivered at no cost to
194 families; authorizing the Department of Education to
195 contract with a third-party entity; providing
196 requirements for such third-party entity; amending s.
197 1008.25, F.S.; requiring that a certain notification
198 include information about the initiative; providing an
199 effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2021	.	
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The Committee on Appropriations (Burgess) recommended the following:

1 **Senate Substitute for Amendment (409158) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. The Legislature finds that the ability to read
7 is fundamental to a productive, fulfilling, culturally
8 rewarding, and civically engaged life. Furthermore, a literacy-
9 rich home environment helps develop reading and writing skills
10 in young learners to prepare them for future academic and career



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11 success. Research shows that students who read frequently
12 perform better academically than those who do not.
13 Unfortunately, statistics show students who have fewer books and
14 literacy-based interactions at home than their peers have lower
15 educational attainment and lifetime income-earning potential.
16 Programs that deliver books directly to students' homes and
17 support engagement in reading enable parents to develop their
18 child's reading skills and enjoyment of reading and foster
19 improved outcomes for students.

20 Section 2. Section 211.0252, Florida Statutes, is created
21 to read:

22 211.0252 Credit for contributions to the New Worlds Reading
23 Initiative.—Beginning January 1, 2022, there is allowed a credit
24 of 100 percent of an eligible contribution made to the New
25 Worlds Reading Initiative under s. 1003.485 against any tax due
26 under s. 211.02 or s. 211.025. However, the combined credit
27 allowed under this section and s. 211.0251 may not exceed 50
28 percent of the tax due on the return on which the credit is
29 taken. If the combined credit allowed under this section and s.
30 211.0251 exceeds 50 percent of the tax due on the return, the
31 credit must first be taken under s. 211.0251. Any remaining
32 liability must be taken under this section but may not exceed 50
33 percent of the tax due. For purposes of the distributions of tax
34 revenue under s. 211.06, the department shall disregard any tax
35 credits allowed under this section to ensure that any reduction
36 in tax revenue received which is attributable to the tax credits
37 results only in a reduction in distributions to the General
38 Revenue Fund. Section 1003.485 applies to the credit authorized
39 by this section.



40 Section 3. Section 212.1833, Florida Statutes, is created
41 to read:

42 212.1833 Credit for contributions to the New Worlds Reading
43 Initiative.—Beginning January 1, 2022, there is allowed a credit
44 of 100 percent of an eligible contribution made to the New
45 Worlds Reading Initiative under s. 1003.485 against any tax
46 imposed by the state and due under this chapter from a direct
47 pay permitholder as a result of the direct pay permit held
48 pursuant to s. 212.183. For purposes of the dealer's credit
49 granted for keeping prescribed records, filing timely tax
50 returns, and properly accounting and remitting taxes under s.
51 212.12, the amount of tax due used to calculate the credit shall
52 include any eligible contribution made to the New Worlds Reading
53 Initiative from a direct pay permitholder. For purposes of the
54 distributions of tax revenue under s. 212.20, the department
55 shall disregard any tax credits allowed under this section to
56 ensure that any reduction in tax revenue received which is
57 attributable to the tax credits results only in a reduction in
58 distributions to the General Revenue Fund. Section 1003.485
59 applies to the credit authorized by this section. A dealer who
60 claims a tax credit under this section must file his or her tax
61 returns and pay his or her taxes by electronic means under s.
62 213.755.

63 Section 4. Subsection (8) of section 220.02, Florida
64 Statutes, is amended to read:

65 220.02 Legislative intent.—

66 (8) It is the intent of the Legislature that credits
67 against either the corporate income tax or the franchise tax be
68 applied in the following order: those enumerated in s. 631.828,



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69 those enumerated in s. 220.191, those enumerated in s. 220.181,
70 those enumerated in s. 220.183, those enumerated in s. 220.182,
71 those enumerated in s. 220.1895, those enumerated in s. 220.195,
72 those enumerated in s. 220.184, those enumerated in s. 220.186,
73 those enumerated in s. 220.1845, those enumerated in s. 220.19,
74 those enumerated in s. 220.185, those enumerated in s. 220.1875,
75 those enumerated in s. 220.1876, those enumerated in s. 220.193,
76 those enumerated in s. 288.9916, those enumerated in s.
77 220.1899, those enumerated in s. 220.194, and those enumerated
78 in s. 220.196.

79 Section 5. Paragraph (a) of subsection (1) of section
80 220.13, Florida Statutes, is amended to read:

81 220.13 "Adjusted federal income" defined.—

82 (1) The term "adjusted federal income" means an amount
83 equal to the taxpayer's taxable income as defined in subsection
84 (2), or such taxable income of more than one taxpayer as
85 provided in s. 220.131, for the taxable year, adjusted as
86 follows:

87 (a) *Additions*.—There shall be added to such taxable income:

88 1.a. The amount of any tax upon or measured by income,
89 excluding taxes based on gross receipts or revenues, paid or
90 accrued as a liability to the District of Columbia or any state
91 of the United States which is deductible from gross income in
92 the computation of taxable income for the taxable year.

93 b. Notwithstanding sub-subparagraph a., if a credit taken
94 under s. 220.1875 or s. 220.1876 is added to taxable income in a
95 previous taxable year under subparagraph 11. and is taken as a
96 deduction for federal tax purposes in the current taxable year,
97 the amount of the deduction allowed shall not be added to



98 taxable income in the current year. The exception in this sub-
99 subparagraph is intended to ensure that the credit under s.
100 220.1875 or s. 220.1876 is added in the applicable taxable year
101 and does not result in a duplicate addition in a subsequent
102 year.

103 2. The amount of interest which is excluded from taxable
104 income under s. 103(a) of the Internal Revenue Code or any other
105 federal law, less the associated expenses disallowed in the
106 computation of taxable income under s. 265 of the Internal
107 Revenue Code or any other law, excluding 60 percent of any
108 amounts included in alternative minimum taxable income, as
109 defined in s. 55(b)(2) of the Internal Revenue Code, if the
110 taxpayer pays tax under s. 220.11(3).

111 3. In the case of a regulated investment company or real
112 estate investment trust, an amount equal to the excess of the
113 net long-term capital gain for the taxable year over the amount
114 of the capital gain dividends attributable to the taxable year.

115 4. That portion of the wages or salaries paid or incurred
116 for the taxable year which is equal to the amount of the credit
117 allowable for the taxable year under s. 220.181. This
118 subparagraph shall expire on the date specified in s. 290.016
119 for the expiration of the Florida Enterprise Zone Act.

120 5. That portion of the ad valorem school taxes paid or
121 incurred for the taxable year which is equal to the amount of
122 the credit allowable for the taxable year under s. 220.182. This
123 subparagraph shall expire on the date specified in s. 290.016
124 for the expiration of the Florida Enterprise Zone Act.

125 6. The amount taken as a credit under s. 220.195 which is
126 deductible from gross income in the computation of taxable



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127 income for the taxable year.

128 7. That portion of assessments to fund a guaranty
129 association incurred for the taxable year which is equal to the
130 amount of the credit allowable for the taxable year.

131 8. In the case of a nonprofit corporation which holds a
132 pari-mutuel permit and which is exempt from federal income tax
133 as a farmers' cooperative, an amount equal to the excess of the
134 gross income attributable to the pari-mutuel operations over the
135 attributable expenses for the taxable year.

136 9. The amount taken as a credit for the taxable year under
137 s. 220.1895.

138 10. Up to nine percent of the eligible basis of any
139 designated project which is equal to the credit allowable for
140 the taxable year under s. 220.185.

141 11. Any ~~The~~ amount taken as a credit for the taxable year
142 under s. 220.1875 or s. 220.1876. The addition in this
143 subparagraph is intended to ensure that the same amount is not
144 allowed for the tax purposes of this state as both a deduction
145 from income and a credit against the tax. This addition is not
146 intended to result in adding the same expense back to income
147 more than once.

148 12. The amount taken as a credit for the taxable year under
149 s. 220.193.

150 13. Any portion of a qualified investment, as defined in s.
151 288.9913, which is claimed as a deduction by the taxpayer and
152 taken as a credit against income tax pursuant to s. 288.9916.

153 14. The costs to acquire a tax credit pursuant to s.
154 288.1254(5) that are deducted from or otherwise reduce federal
155 taxable income for the taxable year.



156 15. The amount taken as a credit for the taxable year
157 pursuant to s. 220.194.

158 16. The amount taken as a credit for the taxable year under
159 s. 220.196. The addition in this subparagraph is intended to
160 ensure that the same amount is not allowed for the tax purposes
161 of this state as both a deduction from income and a credit
162 against the tax. The addition is not intended to result in
163 adding the same expense back to income more than once.

164 Section 6. Subsection (2) of section 220.186, Florida
165 Statutes, is amended to read:

166 220.186 Credit for Florida alternative minimum tax.—

167 (2) The credit pursuant to this section shall be the amount
168 of the excess, if any, of the tax paid based upon taxable income
169 determined pursuant to s. 220.13(2)(k) over the amount of tax
170 which would have been due based upon taxable income without
171 application of s. 220.13(2)(k), before application of this
172 credit without application of any credit under s. 220.1875 or s.
173 220.1876.

174 Section 7. Section 220.1876, Florida Statutes, is created
175 to read:

176 220.1876 Credit for contributions to the New Worlds Reading
177 Initiative.—

178 (1) For taxable years beginning on or after January 1,
179 2022, there is allowed a credit of 100 percent of an eligible
180 contribution made to the New Worlds Reading Initiative under s.
181 1003.485 against any tax due for a taxable year under this
182 chapter after the application of any other allowable credits by
183 the taxpayer. An eligible contribution must be made to the New
184 Worlds Reading Initiative on or before the date the taxpayer is



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185 required to file a return pursuant to s. 220.222. The credit
186 granted by this section shall be reduced by the difference
187 between the amount of federal corporate income tax, taking into
188 account the credit granted by this section, and the amount of
189 federal corporate income tax without application of the credit
190 granted by this section.

191 (2) A taxpayer who files a Florida consolidated return as a
192 member of an affiliated group pursuant to s. 220.131(1) may be
193 allowed the credit on a consolidated return basis; however, the
194 total credit taken by the affiliated group is subject to the
195 limitation established under subsection (1).

196 (3) Section 1003.485 applies to the credit authorized by
197 this section.

198 (4) If a taxpayer applies and is approved for a credit
199 under s. 1003.485 after timely requesting an extension to file
200 under s. 220.222(2):

201 (a) The credit does not reduce the amount of tax due for
202 purposes of the department's determination as to whether the
203 taxpayer was in compliance with the requirement to pay tentative
204 taxes under ss. 220.222 and 220.32.

205 (b) The taxpayer's noncompliance with the requirement to
206 pay tentative taxes shall result in the revocation and
207 rescindment of any such credit.

208 (c) The taxpayer shall be assessed for any taxes,
209 penalties, or interest due from the taxpayer's noncompliance
210 with the requirement to pay tentative taxes.

211 Section 8. Section 561.1212, Florida Statutes, is created
212 to read:

213 561.1212 Credit for contributions to the New Worlds Reading



214 Initiative.—Beginning January 1, 2022, there is allowed a credit
215 of 100 percent of an eligible contribution made to the New
216 Worlds Reading Initiative under s. 1003.485 against any tax due
217 under s. 563.05, s. 564.06, or s. 565.12, except excise taxes
218 imposed on wine produced by manufacturers in this state from
219 products grown in this state. However, a credit allowed under
220 this section may not exceed 90 percent of the tax due on the
221 return on which the credit is taken. For purposes of the
222 distributions of tax revenue under ss. 561.121 and 564.06(10),
223 the division shall disregard any tax credits allowed under this
224 section to ensure that any reduction in tax revenue received
225 which is attributable to the tax credits results only in a
226 reduction in distributions to the General Revenue Fund. The
227 provisions of s. 1003.485 apply to the credit authorized by this
228 section.

229 Section 9. Section 624.51056, Florida Statutes, is created
230 to read:

231 624.51056 Credit for contributions to the New Worlds
232 Reading Initiative.—

233 (1) For taxable years beginning on or after January 1,
234 2022, there is allowed a credit of 100 percent of an eligible
235 contribution made to the New Worlds Reading Initiative under s.
236 1003.485 against any tax due for a taxable year under s.
237 624.509(1) after deducting from such tax deductions for
238 assessments made pursuant to s. 440.51, credits for taxes paid
239 under ss. 175.101 and 185.08, credits for income taxes paid
240 under chapter 220, and the credit allowed under s. 624.509(5),
241 as such credit is limited by s. 624.509(6). An eligible
242 contribution must be made to the New Worlds Reading Initiative



243 on or before the date the taxpayer is required to file a return
244 pursuant to ss. 624.509 and 624.5092. An insurer claiming a
245 credit against premium tax liability under this section is not
246 required to pay any additional retaliatory tax levied under s.
247 624.5091 as a result of claiming such credit. Section 624.5091
248 does not limit such credit in any manner.

249 (2) Section 1003.485 applies to the credit authorized by
250 this section.

251 Section 10. Section 1003.485, Florida Statutes, is created
252 to read:

253 1003.485 The New Worlds Reading Initiative.-

254 (1) DEFINITIONS.-As used in this section, the term:

255 (a) "Administrator" means a state university registered
256 with the department under s. 1002.395(15) (i) and designated to
257 administer the initiative under paragraph (2) (a).

258 (b) "Annual tax credit amount" means, for any state fiscal
259 year, the sum of the amount of tax credits approved under
260 paragraph (3) (b), including tax credits to be taken under s.
261 211.0252, s. 212.1833, s. 220.1876, s. 561.1212, or s.
262 624.51056, which are approved for taxpayers whose taxable years
263 begin on or after January 1 of the calendar year preceding the
264 start of the applicable state fiscal year.

265 (c) "Department" means the Department of Education.

266 (d) "Division" means the Division of Alcoholic Beverages
267 and Tobacco of the Department of Business and Professional
268 Regulation.

269 (e) "Eligible contribution" means a monetary contribution
270 from a taxpayer, subject to the restrictions provided in this
271 section, to the administrator.



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272 (f) "Initiative" means the New Worlds Reading Initiative.
273 (2) NEW WORLDS READING INITIATIVE; ADMINISTRATION.—The New
274 Worlds Reading Initiative is established under the department to
275 improve literacy skills and instill a love of reading by
276 providing high-quality, free books to students in kindergarten
277 through grade 5 who are reading below grade level.
278 (a) The department shall:
279 1. Designate an administrator to implement the initiative
280 and to receive funding as provided in this section. The
281 administrator must have an academic innovation institution with
282 extensive experience in:
283 a. Conducting academic research in early literacy
284 instruction.
285 b. Implementing online delivery of early learning and
286 literacy training for educators nationally.
287 c. Developing online support materials that assist parents
288 and caregivers in developing early literacy skills.
289 d. Conducting fundraising and public awareness campaigns to
290 support the development and growth of evidence-based educational
291 initiatives that support learning at home and in schools.
292 2. Publish information about the initiative and tax credits
293 under subsection (3) on its website, including the process for a
294 taxpayer to select the administrator as the recipient of funding
295 through a tax credit.
296 3. Beginning September 30, 2022, and annually thereafter,
297 report on its website the number of students participating in
298 the initiative in each school district, information from the
299 annual financial report under subparagraph (b)6., and the
300 academic achievement and learning gains, as applicable, of



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301 participating students based on data provided by school
302 districts as permitted under s. 1002.22. The department shall
303 establish a date by which the administrator and each school
304 district must annually provide the data necessary to complete
305 the report.

306 (b) The administrator shall:

307 1. Develop, in consultation with the Just Read, Florida!
308 Office under s. 1001.215, a selection of high-quality books
309 encompassing diverse subjects and genres for each grade level to
310 be mailed to students in the initiative.

311 2. Distribute books at no cost to students as provided in
312 paragraph (4) (c) either directly or through an agreement with a
313 book distribution company.

314 3. Assist local implementation of the initiative by
315 providing marketing materials to school districts and any
316 partnering nonprofit organizations to assist with public
317 awareness campaigns and other activities designed to increase
318 family engagement and instill a love of reading in students.

319 4. Maintain a clearinghouse for information on national,
320 state, and local nonprofit organizations that support efforts to
321 improve literacy and provide books to children.

322 5. Develop training materials for parents of students in
323 the initiative, including brief video training modules, which
324 engage families in reading and assist with improving student
325 literacy skills. The administrator shall periodically send, via
326 text message and e-mail, tips for facilitating reading at home
327 and hyperlinks to the video training modules.

328 6. Annually submit to the department an annual financial
329 report that includes, at a minimum, the amount of eligible



330 contributions received by the administrator; the amount spent on
331 each activity required by this paragraph, including
332 administrative expenses; and the number of students and
333 households served under the initiative.

334 7. Maintain separate accounts for operating funds and funds
335 for the purchase and delivery of books.

336 8. Expend eligible contributions received only for the
337 purchase and delivery of books and to implement the requirements
338 of this section, as well as for administrative expenses not to
339 exceed 2 percent of total eligible contributions.

340 Notwithstanding s. 1002.395(6)(j)2., the administrator may carry
341 forward up to 25 percent of eligible contributions to the
342 following state fiscal year for purposes authorized by this
343 subsection. Any eligible contributions in excess of the 25
344 percent carry forward not used to provide additional books
345 throughout the year to eligible students shall revert to the
346 state treasury.

347 9. Upon receipt of a contribution, provide the taxpayer
348 that made the contribution with a certificate of contribution. A
349 certificate of contribution must include the taxpayer's name
350 and, if available, its federal employer identification number,
351 the amount contributed, the date of contribution, and the name
352 of the administrator.

353 (3) NEW WORLDS READING INITIATIVE TAX CREDITS;
354 APPLICATIONS, TRANSFERS, AND LIMITATIONS.-

355 (a) The tax credit cap amount is \$10 million for the 2021-
356 2022 state fiscal year, \$30 million for the 2022-2023 state
357 fiscal year, and \$50 million in each state fiscal year
358 thereafter.



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359 (b) Beginning October 1, 2021, a taxpayer may submit an
360 application to the Department of Revenue for a tax credit or
361 credits to be taken under one or more of s. 211.0252, s.
362 212.1833, s. 220.1876, s. 561.1212, or s. 624.51056.

363 1. The taxpayer shall specify in the application each tax
364 for which the taxpayer requests a credit and the applicable
365 taxable year for a credit under s. 220.1876 or s. 624.51056 or
366 the applicable state fiscal year for a credit under s. 211.0252,
367 s. 212.1833, or s. 561.1212. For purposes of s. 220.1876, a
368 taxpayer may apply for a credit to be used for a prior taxable
369 year before the date the taxpayer is required to file a return
370 for that year pursuant to s. 220.222. For purposes of s.
371 624.51056, a taxpayer may apply for a credit to be used for a
372 prior taxable year before the date the taxpayer is required to
373 file a return for that prior taxable year pursuant to ss.
374 624.509 and 624.5092. The Department of Revenue shall approve
375 tax credits on a first-come, first-served basis and must obtain
376 the division's approval before approving a tax credit under s.
377 561.1212.

378 2. Within 10 days after approving or denying an
379 application, the Department of Revenue shall provide a copy of
380 its approval or denial letter to the administrator.

381 (c) If a tax credit approved under paragraph (b) is not
382 fully used within the specified state fiscal year for credits
383 under s. 211.0252, s. 212.1833, or s. 561.1212 or against taxes
384 due for the specified taxable year for credits under s. 220.1876
385 or s. 624.51056 because of insufficient tax liability on the
386 part of the taxpayer, the unused amount must be carried forward
387 for a period not to exceed 10 years. For purposes of s.



388 220.1876, a credit carried forward may be used in a subsequent
389 year after applying the other credits and unused carryovers in
390 the order provided in s. 220.02(8).

391 (d) A taxpayer may not convey, transfer, or assign an
392 approved tax credit or a carryforward tax credit to another
393 entity unless all of the assets of the taxpayer are conveyed,
394 assigned, or transferred in the same transaction. However, a tax
395 credit under s. 211.0252, s. 212.1833, s. 220.1876, s. 561.1212,
396 or s. 624.51056 may be conveyed, transferred, or assigned
397 between members of an affiliated group of corporations if the
398 type of tax credit under s. 211.0252, s. 212.1833, s. 220.1876,
399 s. 561.1212, or s. 624.51056 remains the same. A taxpayer shall
400 notify the Department of Revenue of its intent to convey,
401 transfer, or assign a tax credit to another member within an
402 affiliated group of corporations. The amount conveyed,
403 transferred, or assigned is available to another member of the
404 affiliated group of corporations upon approval by the Department
405 of Revenue. The Department of Revenue shall obtain the
406 division's approval before approving a conveyance, transfer, or
407 assignment of a tax credit under s. 561.1212.

408 (e) Within any state fiscal year, a taxpayer may rescind
409 all or part of a tax credit approved under paragraph (b). The
410 amount rescinded shall become available for that state fiscal
411 year to another eligible taxpayer approved by the Department of
412 Revenue if the taxpayer receives notice from the Department of
413 Revenue that the rescindment has been accepted by the Department
414 of Revenue. The Department of Revenue must obtain the division's
415 approval before accepting the rescindment of a tax credit under
416 s. 561.1212. Any amount rescinded under this paragraph must



417 become available to an eligible taxpayer on a first-come, first-
418 served basis based on tax credit applications received after the
419 date the rescindment is accepted by the Department of Revenue.

420 (f) Within 10 days after approving or denying the
421 conveyance, transfer, or assignment of a tax credit under
422 paragraph (d), or the rescindment of a tax credit under
423 paragraph (e), the Department of Revenue shall provide a copy of
424 its approval or denial letter to the administrator. The
425 Department of Revenue shall also include the administrator on
426 all letters or correspondence of acknowledgment for tax credits
427 under s. 212.1833.

428 (g) For purposes of calculating the underpayment of
429 estimated corporate income taxes under s. 220.34 and tax
430 installment payments for taxes on insurance premiums or
431 assessments under s. 624.5092, the final amount due is the
432 amount after credits earned under s. 220.1876 or s. 624.51056
433 for contributions to the administrator are deducted.

434 1. For purposes of determining if a penalty or interest
435 under s. 220.34(2)(d)1. will be imposed for underpayment of
436 estimated corporate income tax, a taxpayer may, after earning a
437 credit under s. 220.1876, reduce any estimated payment in that
438 taxable year by the amount of the credit.

439 2. For purposes of determining if a penalty under s.
440 624.5092 will be imposed, an insurer, after earning a credit
441 under s. 624.51056 for a taxable year, may reduce any
442 installment payment for such taxable year of 27 percent of the
443 amount of the net tax due as reported on the return for the
444 preceding year under s. 624.5092(2)(b) by the amount of the
445 credit.



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446 (4) ELIGIBILITY; NOTIFICATION; SCHOOL DISTRICT
447 OBLIGATIONS.—

448 (a) A student in kindergarten through grade 5 must be
449 provided books through the initiative if the student has a
450 substantial reading deficiency identified under s. 1008.25(5) (a)
451 or scored below a Level 3 on the preceding year's statewide,
452 standardized English Language Arts assessment under s. 1008.22.

453 (b) Each school district shall notify the parent of a
454 student who meets the criteria under paragraph (a) that the
455 student is eligible to receive books at no cost through the New
456 Worlds Reading Initiative and provide the parent with the
457 application form developed by the administrator, which must
458 allow for the selection of specific book topics or genres for
459 the student.

460 (c) Once an eligible student is identified, the school
461 district shall coordinate with the administrator to initiate
462 book delivery on a monthly basis during the school year, which
463 must begin no later than October and continue through at least
464 June. However, for the 2021-2022 school year only, delivery may
465 begin no later than December 31, 2021, provided that no fewer
466 than 9 books are delivered to each student before book
467 deliveries begin for the 2022-2023 school year.

468 (d) At the beginning of each school year, students must be
469 provided options for specific book topics or genres in order to
470 maximize student interest in reading.

471 (e) A student's eligibility for the initiative continues
472 until promotion to grade 6 or until the student's parent opts
473 out of the initiative.

474 (f) Each school district shall participate in the



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475 initiative by partnering with local nonprofit organizations,
476 raising awareness of the initiative using marketing materials
477 developed by the administrator, coordinating book delivery, and
478 identifying students and notifying parents pursuant to this
479 subsection.

480 (g) Each school district shall coordinate with each charter
481 school it sponsors for purposes of identifying eligible
482 students, notifying parents, coordinating book delivery,
483 providing the opportunity to annually select book topics and
484 genres, and raising awareness of the initiative as provided by
485 this section.

486 (h) School districts and partnering nonprofit organizations
487 shall raise awareness of the initiative, including information
488 on eligibility and video training modules under subparagraph
489 (2)(b)5., through, at least, the following:

490 1. The student handbook and the read-at-home plan under s.
491 1008.25(5)(c).

492 2. A parent or curriculum night or separate initiative
493 awareness event at each elementary school.

494 3. Partnering with the county library to host awareness
495 events, which should coincide with other initiatives such as
496 library card drives, family library nights, summer access
497 events, and other family engagement programming.

498 (5) ADMINISTRATION; RULES.-

499 (a) The Department of Revenue, the division, and the
500 Department of Education may develop a cooperative agreement to
501 assist in the administration of this section, as needed.

502 (b) The Department of Revenue may adopt rules necessary to
503 administer this section and ss. 211.0252, 212.1833, 220.1876,



504 561.1212, and 624.51056, including rules establishing
505 application forms, procedures governing the approval of tax
506 credits and carryforward tax credits under subsection (3), and
507 procedures to be followed by taxpayers when claiming approved
508 tax credits on their returns.

509 (c) The division may adopt rules necessary to administer
510 its responsibilities under this section and s. 561.1212.

511 (d) The Department of Education may adopt rules necessary
512 to administer this section.

513 (e) Notwithstanding any provision of s. 213.053 to the
514 contrary, sharing information with the division related to this
515 tax credit is considered the conduct of the Department of
516 Revenue's official duties as contemplated in s. 213.053(8)(c),
517 and the Department of Revenue and the division are specifically
518 authorized to share information as needed to administer this
519 section.

520 Section 11. Paragraph (c) of subsection (5) of section
521 1008.25, Florida Statutes, is amended to read:

522 1008.25 Public school student progression; student support;
523 reporting requirements.—

524 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

525 (c) The parent of any student who exhibits a substantial
526 deficiency in reading, as described in paragraph (a), must be
527 notified in writing of the following:

528 1. That his or her child has been identified as having a
529 substantial deficiency in reading, including a description and
530 explanation, in terms understandable to the parent, of the exact
531 nature of the student's difficulty in learning and lack of
532 achievement in reading.



533 2. A description of the current services that are provided
534 to the child.

535 3. A description of the proposed intensive interventions
536 and supports that will be provided to the child that are
537 designed to remediate the identified area of reading deficiency.

538 4. That if the child's reading deficiency is not remediated
539 by the end of grade 3, the child must be retained unless he or
540 she is exempt from mandatory retention for good cause.

541 5. Strategies, including multisensory strategies, through a
542 read-at-home plan the parent can use in helping his or her child
543 succeed in reading.

544 6. That the statewide, standardized English Language Arts
545 assessment is not the sole determiner of promotion and that
546 additional evaluations, portfolio reviews, and assessments are
547 available to the child to assist parents and the school district
548 in knowing when a child is reading at or above grade level and
549 ready for grade promotion.

550 7. The district's specific criteria and policies for a
551 portfolio as provided in subparagraph (6)(b)4. and the evidence
552 required for a student to demonstrate mastery of Florida's
553 academic standards for English Language Arts. A parent of a
554 student in grade 3 who is identified anytime during the year as
555 being at risk of retention may request that the school
556 immediately begin collecting evidence for a portfolio.

557 8. The district's specific criteria and policies for
558 midyear promotion. Midyear promotion means promotion of a
559 retained student at any time during the year of retention once
560 the student has demonstrated ability to read at grade level.

561 9. Information about the student's eligibility for the New



562 Worlds Reading Initiative under s. 1003.485 and information on
563 parent training modules and other reading engagement resources
564 available through the initiative.

565 Section 12. The Department of Revenue is authorized, and
566 all conditions are deemed met, to adopt emergency rules under s.
567 120.54(4), Florida Statutes, for the purpose of implementing
568 provisions related to the New Worlds Reading Initiative Tax
569 Credit created by this act. Notwithstanding any other law,
570 emergency rules adopted under this section are effective for 6
571 months after adoption and may be renewed during the pendency of
572 procedures to adopt permanent rules addressing the subject of
573 the emergency rules.

574 Section 13. This act shall take effect upon becoming a law.

575
576 ===== T I T L E A M E N D M E N T =====

577 And the title is amended as follows:

578 Delete everything before the enacting clause
579 and insert:

580 A bill to be entitled
581 An act relating to home book delivery for elementary
582 students; providing legislative findings; creating ss.
583 211.0252 and 212.1833, F.S.; providing credits against
584 oil and gas production taxes and sales taxes payable
585 by direct pay permitholders, respectively, under the
586 New Worlds Reading Initiative Tax Credit; specifying
587 requirements and procedures for, and limitations on,
588 the credits; amending s. 220.02, F.S.; revising the
589 order in which tax credits against the corporate
590 income tax credit or the franchise tax are applied;



591 amending s. 220.13, F.S.; revising the definition of
592 the term "adjusted federal income"; amending s.
593 220.186, F.S.; revising the calculation of the
594 corporate income tax credit for the Florida
595 alternative minimum tax; creating s. 220.1876, F.S.;
596 providing a credit against the corporate income tax
597 under the New Worlds Reading Initiative Tax Credit;
598 specifying requirements and procedures for, and
599 limitations on, the credit; creating ss. 561.1212 and
600 624.51056, F.S.; providing credits against excise
601 taxes on certain alcoholic beverages and the insurance
602 premium tax, respectively, under the New Worlds
603 Initiative Tax Credit; specifying requirements and
604 procedures for, and limitations on, the credits;
605 creating s. 1003.485 F.S.; providing definitions;
606 establishing the New Worlds Reading Initiative under
607 the Department of Education; requiring the department
608 to contract with a state university to administer the
609 initiative; providing duties of the department and
610 administrator; requiring the administrator, in
611 consultation with a specified entity, to develop a
612 selection of books; requiring the administrator to
613 facilitate distribution of books; requiring the
614 administrator to assist with local implementation of
615 the initiative; requiring the administrator to
616 maintain a clearinghouse of specified information;
617 requiring the administrator to develop and disseminate
618 certain training materials by specified means;
619 requiring the administrator to annually submit an



620 audit report; requiring the administrator to maintain
621 specified accounts for program funds; providing
622 spending requirements; requiring the administrator to
623 provide a certificate of contribution in certain
624 circumstances; establishing reporting requirements;
625 establishing a tax credit cap amount; authorizing a
626 taxpayer to apply for a tax credit; providing
627 requirements for the application; specifying a
628 limitation on, and application procedures for, the tax
629 credit; specifying requirements and procedures for,
630 and restrictions on, the carryforward, conveyance,
631 transfer, assignment, and rescindment of credits;
632 specifying requirements and procedures for the
633 Department of Revenue; establishing student
634 eligibility requirements; requiring school districts
635 to identify eligible students and notify parents;
636 requiring school districts to coordinate with the
637 administrator to initiate book delivery; providing
638 requirements for book delivery; requiring that
639 students be offered certain options relating to books;
640 specifying when student eligibility ends; requiring
641 school districts raise awareness of the initiative;
642 authorizing the Department of Revenue, the Division of
643 Alcoholic Beverages and Tobacco of the Department of
644 Business and Professional Regulation, and the
645 Department of Education to develop a cooperative
646 agreement and adopt rules; amending s. 1008.25, F.S.;
647 requiring that a certain notification include
648 information about the initiative; authorizing the



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Department of Revenue to adopt emergency rules;
providing an effective date.

By Senator Burgess

20-01401B-21

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1 A bill to be entitled
 2 An act relating to literacy improvement; creating s.
 3 1003.485, F.S.; establishing the New Worlds Reading
 4 Initiative under the Department of Education;
 5 providing definitions; providing duties of the
 6 administrator; requiring the administrator to develop
 7 an application process; requiring the administrator,
 8 in consultation with a specified entity, to develop a
 9 selection of books; requiring the administrator to
 10 coordinate monthly book distribution to certain
 11 students; requiring the administrator to assist with
 12 local implementation of the initiative; requiring the
 13 administrator to maintain a clearinghouse of specified
 14 information; requiring the administrator to develop
 15 and disseminate certain training materials by
 16 specified means; establishing reporting requirements;
 17 providing that certain entities may participate in the
 18 initiative by completing an application; providing
 19 that participating school districts must allow public
 20 school students to enroll in the program; establishing
 21 student eligibility requirements; requiring
 22 participating entities to notify parents of eligible
 23 students; requiring participating entities to
 24 coordinate with the administrator to initiate book
 25 delivery; providing requirements for book delivery;
 26 allowing local funds to be used to purchase books
 27 during certain months; requiring that students be
 28 offered certain options relating to books; specifying
 29 when student enrollment ends; requiring participating

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

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30 entities and certain nonprofits to perform certain
 31 actions to raise awareness of the initiative;
 32 requiring that books be delivered at no cost to
 33 families; providing requirements for funding;
 34 authorizing the department to contract with a third-
 35 party entity; providing requirements for such third-
 36 party entity; amending s. 1008.25, F.S.; requiring
 37 that a certain notification include information about
 38 the initiative; providing an effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. Section 1003.485, Florida Statutes, is created
 43 to read:
 44 1003.485 The New Worlds Reading Initiative.-
 45 (1) The New Worlds Reading Initiative is established under
 46 the Department of Education to improve literacy skills and
 47 instill a love of reading by providing high-quality free books
 48 to students in kindergarten through grade 5 who are reading
 49 below grade level.
 50 (2) DEFINITIONS.- As used in this section the term:
 51 (a) "Administrator" means the Department of Education or a
 52 third-party entity contracted to administer the initiative.
 53 (b) "Initiative" means the New Worlds Reading Initiative.
 54 (c) "Participating entity" means a school district
 55 participating in the initiative or a charter school located in a
 56 nonparticipating school district which is participating in the
 57 initiative, as specified in subsection (4).
 58 (3) The administrator shall:

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

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59 (a) Develop an application process for participating
60 entities that identifies:

61 1. At least one partnership with a nonprofit organization
62 to raise public awareness of the initiative, perform
63 fundraising, and conduct or facilitate family literacy
64 engagement activities.

65 2. Local funding sources to meet the requirements of
66 subsection (7).

67 (b) Develop, in consultation with the Just Read, Florida!
68 Office under s. 1001.215, a selection of high-quality books
69 encompassing diverse subjects and genres for each grade level to
70 be mailed to students enrolled in the initiative.

71 (c) Facilitate the distribution of books as provided in
72 paragraph (5) (c) either directly or through an agreement with a
73 book distribution company.

74 (d) Assist local implementation of the initiative by:

75 1. Providing assistance to local communities to raise
76 awareness of the initiative, including through the use of
77 partnerships between public libraries and participating entities
78 to implement events such as family library nights, library card
79 drives, summer access and activities, and other activities
80 designed to increase family engagement and instill a love of
81 reading in students.

82 2. Developing and providing marketing materials to
83 participating entities and partnering nonprofit organizations to
84 assist with public awareness campaigns.

85 (e) Maintain a clearinghouse for information on national,
86 state, and local nonprofit organizations that support efforts to
87 provide books to children.

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88 (f) Develop training materials for parents of students
89 enrolled in the initiative, including brief video training
90 modules, which engage families in reading and assist with
91 improving student literacy skills. The administrator shall
92 periodically send, via text message and e-mail, tips for
93 facilitating reading at home and hyperlinks to the video
94 training modules.

95 (g) Beginning September 30, 2022, and annually thereafter,
96 report to the President of the Senate, the Speaker of the House
97 of Representatives, and the Commissioner of Education the number
98 of students enrolled in the initiative in each participating
99 entity, the academic performance of enrolled students based on
100 data provided by participating entities as permitted under s.
101 1002.22, and the amount of funds raised by any local nonprofit
102 organization identified by the participating entity in the
103 application.

104 (4) A school district or a charter school located in a
105 nonparticipating school district may participate in the
106 initiative by completing the application process under paragraph
107 (3) (a). A participating school district must allow a student at
108 any public school, including a charter school, in the district
109 to enroll in the program.

110 (5) (a) A student in kindergarten through grade 5 who is
111 enrolled in a participating entity is eligible to receive books
112 through the initiative if the student has a substantial reading
113 deficiency identified under s. 1008.25(5) (a) or scored below a
114 level 3 on the preceding year's statewide, standardized English
115 Language Arts assessment under s. 1008.22.

116 (b) The participating entity shall notify the parent of a

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117 student who meets the criteria under paragraph (a) that the
 118 student is eligible to receive books at no cost through the New
 119 Worlds Reading Initiative and provide the parent the opportunity
 120 to enroll his or her child using an application form developed
 121 by the administrator.

122 (c) Once an eligible student is enrolled in the initiative,
 123 the participating entity shall coordinate with the administrator
 124 to initiate book delivery on a monthly basis during the school
 125 year, which must begin no later than October 31 and continue
 126 through at least June 30. The participating entity may use local
 127 funds to continue the initiative through the summer months.

128 (d) At the beginning of each school year, students must be
 129 provided options for specific book topics or genres in order to
 130 maximize student interest in reading.

131 (e) A student's enrollment in the initiative continues
 132 until promotion to grade 6 or until the student's parent opts
 133 out of the initiative.

134 (6) Participating entities and partnering nonprofit
 135 organizations shall raise awareness of the initiative, including
 136 information on eligibility and video training modules under
 137 paragraph (3)(f), through, at least, the following:

138 (a) The student handbook and the read-at-home plan under s.
 139 1008.25(5)(c).

140 (b) A parent or curriculum night or separate initiative
 141 awareness event at each elementary school.

142 (c) Partnering with the county library to host awareness
 143 events, which should coincide with other initiatives such as
 144 library card drives and other family engagement programming.

145 (7) Books must be provided under this section at no cost to

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146 families. The administrator shall pay 50 percent of the costs,
 147 with the remaining funds coming from the local funding source
 148 identified by the participating entity in the application.
 149 Funding will be on a pro rata basis for each enrolled student,
 150 taking into consideration total student enrollment in the
 151 initiative and available funding. The administrator may solicit
 152 donations and apply for grants to supplement funds for the
 153 purpose of implementing this section.

154 (8) If the department contracts with a third-party entity
 155 to act as administrator, the entity must be capable of
 156 coordinating statewide marketing, dissemination of books, and
 157 development of video training modules, as well as completing all
 158 other duties of the administrator.

159 Section 2. Paragraph (c) of subsection (5) of section
 160 1008.25, Florida Statutes, is amended to read:

161 1008.25 Public school student progression; student support;
 162 reporting requirements.—

163 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

164 (c) The parent of any student who exhibits a substantial
 165 deficiency in reading, as described in paragraph (a), must be
 166 notified in writing of the following:

167 1. That his or her child has been identified as having a
 168 substantial deficiency in reading, including a description and
 169 explanation, in terms understandable to the parent, of the exact
 170 nature of the student's difficulty in learning and lack of
 171 achievement in reading.

172 2. A description of the current services that are provided
 173 to the child.

174 3. A description of the proposed intensive interventions

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175 and supports that will be provided to the child that are
 176 designed to remediate the identified area of reading deficiency.

177 4. That if the child's reading deficiency is not remediated
 178 by the end of grade 3, the child must be retained unless he or
 179 she is exempt from mandatory retention for good cause.

180 5. Strategies, including multisensory strategies, through a
 181 read-at-home plan the parent can use in helping his or her child
 182 succeed in reading.

183 6. That the statewide, standardized English Language Arts
 184 assessment is not the sole determiner of promotion and that
 185 additional evaluations, portfolio reviews, and assessments are
 186 available to the child to assist parents and the school district
 187 in knowing when a child is reading at or above grade level and
 188 ready for grade promotion.

189 7. The district's specific criteria and policies for a
 190 portfolio as provided in subparagraph (6)(b)4. and the evidence
 191 required for a student to demonstrate mastery of Florida's
 192 academic standards for English Language Arts. A parent of a
 193 student in grade 3 who is identified anytime during the year as
 194 being at risk of retention may request that the school
 195 immediately begin collecting evidence for a portfolio.

196 8. The district's specific criteria and policies for
 197 midyear promotion. Midyear promotion means promotion of a
 198 retained student at any time during the year of retention once
 199 the student has demonstrated ability to read at grade level.

200 9. If applicable, information about the student's
 201 eligibility for the New Worlds Reading Initiative under s.
 202 1003.485 and information on parent training modules and other
 203 reading engagement resources available through the initiative.

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

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20211372__

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

Page 8 of 8

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 6, 2021

I respectfully request that **Senate Bill #1372**, relating to Literacy Improvement, be placed on the:

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

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

Senator Danny Burgess
Florida Senate, District 20

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

1372

Bill Number (if applicable)

Topic Literacy Improvement

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Florida Advocacy Director

Address 215 S Monroe Street, Suite 420

Phone 850-391-4090

Street

Tallahassee

FL

32301

Email Debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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

4/15/21

Meeting Date

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

SB 1372

Bill Number (if applicable)

Topic Literacy Improvement

Amendment Barcode (if applicable)

Name Karen Mazzola

Job Title Legislation Committee Chair

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Orlando FL 32809
City State Zip

Email legislations@floridapta.org

Speaking: For Against Information

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

Representing Florida Parent Teacher 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)

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 Appropriations

BILL: CS/CS/CS/SB 1382

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee;
Community Affairs Committee; and Senator Perry

SUBJECT: Building Inspections

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1382 requires local building code enforcement agencies to allow requests for inspections to be submitted electronically. Such requests for inspections may also be submitted in person in a non-electronic format at the building official's discretion.

The bill defines the term "virtual inspection" and provides that any government entity with the authority to enforce the Florida Building Code may perform virtual inspections, except for certain structural inspections, at their own discretion.

The bill requires a local enforcement agency to refund 10 percent of the permit and inspection fees to a permit holder who fails an inspection if the inspector or building official fails to provide a reason based on compliance with code or ordinance for why the work failed inspection within five business days after the inspection. If any permit and inspection fees are refunded, the Department of Business and Professional Regulation surcharges must be recalculated to reflect the refund.

The bill provides that the act fulfills an important state interest.

The bill will have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

Florida Building Code

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (building code). The purpose and intent of the building code is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The building code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹

The Florida Building Commission (commission), housed within the Department of Business and Professional Regulation (DBPR), implements the building code. The commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes to determine if the building code needs to be updated. The commission adopts an updated building code every three years.

Building Code Administrators, Inspectors, and Plans Examiners

Building officials, inspectors, and plans examiners are regulated by the Building Code Administrators and Inspectors Board (BCAIB) within the DBPR. A building code administrator, otherwise known as a building official, is a local government employee, or a person contracted by a local government, who supervises building code activities, including plans review, enforcement, and inspection.² A building code inspector (inspector) is a local government employee, or a person contracted by a local government, who inspects construction that requires permits to determine compliance with building codes and state accessibility laws.³

Building Code Enforcement

Local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.⁴ Every local government must enforce the building code and issue building permits.⁵ A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.⁶ State agencies may also enforce the building code if current law specifically authorizes them to do so, unless they have delegated responsibility to another public entity.⁷

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁸

¹ Section 553.72(1), F.S.

² Section 468.603(2), F.S.

³ Section 468.603(4), F.S.

⁴ Section 553.72(2), F.S.

⁵ Sections 125.01(1)(bb), 125.56(4)(a), and 553.80(1), F.S.

⁶ Section 202, Florida Building Code, Seventh Edition.

⁷ Section 553.80(1), F.S.

⁸ Sections 125.56(4)(a) and 553.79(1), F.S.

To obtain a permit, an applicant must complete an application for the proposed work on the form furnished by the government entity.⁹ A local enforcement agency¹⁰ must allow applicants to submit permit applications electronically to the local enforcement agency, which must provide accepted methods of electronic submission. Accepted methods of electronic submission include, but are not limited to, email, fill-in forms available online, or third-party submission software.¹¹

If a building official or plans reviewer denies a permit application or revokes a building permit, the building official or plans reviewer must give the permit applicant a reason for denying or revoking the permit. The reason must be based on compliance with the building code or a local ordinance. Failing to provide a reason for denying or revoking a building permit, which is based on compliance with the building code or a local ordinance, is grounds for discipline against the building official or plans reviewer's license.¹²

Building Inspections

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the building code. The building code requires certain building, electrical, plumbing, mechanical, and gas inspections. Construction work may not be done beyond a certain point until it passes an inspection.

In addition to the inspections required by the building code, a building official may require other inspections of any construction work to ascertain compliance with the provisions of the building code and other laws that are enforced by the government entity.¹³

Inspection Fees

Each government entity may provide a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the building code. The basis for a local government's fee structure must relate to the level of service provided by the local government. Fees charged must be consistently applied. Each local government must post its permit and inspection fee schedule on its website.¹⁴

A local government's permit and inspection fees must be used solely for carrying out that local government entity's responsibilities in enforcing the building code. This includes:¹⁵

- The direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing;
- Building code enforcement;
- Fire inspections associated with new construction; and

⁹ Section 713.135, F.S.

¹⁰ A local enforcement agency is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the building code. Section 553.71(5), F.S.

¹¹ Sections 125.56(4)(b) and 553.79(1)(b), F.S.

¹² Section 553.79(1)(a), F.S.

¹³ Section 110.3.9, Florida Building Code, Seventh Edition.

¹⁴ Sections 125.56(2), 166.222, 553.79(1)(a), and 553.80(7)(a), F.S.

¹⁵ Section 553.80(7), F.S.

- Training costs associated with the enforcement of the building code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

DBPR Surcharges

All local governments are required to assess and collect a one percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the building code. The local jurisdictions collect the assessment and remit the surcharge fees to the DBPR to fund the activities of the Florida Building Commission, the DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.¹⁶

Additionally, all local governments are required to assess and collect a separate 1.5 percent surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the building code. Local governments collect the assessment and remit the surcharge fees to the DBPR, where it is divided equally to fund the activities of the BCAIB and the Florida Homeowners' Construction Recovery Fund.¹⁷

Local government building departments are authorized to retain 10 percent of the amount of the surcharges they collect to fund participation of their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.¹⁸

Electronic Requests for Inspections

All local enforcement agencies are required to allow contractors to apply for permits electronically. However, there is no provision requiring local enforcement agencies to allow contractors to request inspections electronically. Multiple building departments in Florida already allow permit holders to electronically request inspections, while others do not.¹⁹ Instead, they require permit holders to call the building department during its business hours, which limits the time when a permit holder can request an inspection, or use an interactive voice response.²⁰

¹⁶ Section 553.721, F.S.

¹⁷ Section 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. Section 489.1401(2), F.S.

¹⁸ Sections 468.631, and 553.721, F.S.

¹⁹ See Orange County Government Florida, Division of Building Safety, <https://www.orangecountyfl.net/PermitsLicenses/DivisionOfBuildingSafety.aspx#inspections> (last visited Mar. 5, 2021); Brevard County, Brevard County Building Inspection Request, <https://www.brevardfl.gov/PlanningDev/BuildingPermits/InspectionRequest> (last visited Mar. 5, 2021); Town of Davie Florida, Online Self Service, <https://www.davie-fl.gov/213/Online-Self-Service> (last visited Mar. 5, 2021); Fort Myers Community Development, Building, Permitting & Inspections (BPI), <https://cityftmyers.com/1293/Building-PermittingInspections> (last visited Mar. 5, 2021); Monroe County, Building and Permitting Quick Links, <https://www.monroecountyfl.gov/149/Building-and-Permitting> (last visited Mar. 5, 2021)

²⁰ *Id.*

Virtual Building Inspections

As a result of COVID-19, many building departments in Florida began performing virtual inspections in order to prevent a shut down and to protect building department staff, contractors, and property owners. Virtual inspections allow a building official or inspector to perform an inspection without having to be physically present at the jobsite. They also allow building departments to continue operating during the COVID-19 pandemic, which allows contractors to keep working.²¹

Virtual inspections can range from roofing inspections, windows and doors inspections, to A/C change outs depending on the jurisdiction. Virtual inspections can be more efficient than in-person inspections by reducing jobsite travel time, allowing contractors to immediately request an inspection once they finish work, and allowing the contractor to remain on the jobsite.²²

Current law does not specifically prohibit building departments from performing virtual inspections, but it also does not specifically allow building departments to perform virtual inspections.

Reasons for Failing an Inspection

A building official or plans reviewer, who denies or revokes a building permit, must provide the permit applicant or permit holder a reason for denying or revoking the permit. The reason must be based on compliance with the building code or a local ordinance. If a building official or plans reviewer fails to provide a reason for denying or revoking a building permit based on compliance with the building code or a local ordinance, the building official or plans reviewer's license may be disciplined.²³

The building code requires an inspector to notify the permit holder or his or her agent if there are any violations that need to be corrected in order to comply with the building code.²⁴ However, current law does not require a building official or inspector to provide the permit holder a specific reason for failing the inspection.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 125.56 and 553.79, F.S., respectively, to require local enforcement agencies to allow requests for inspections to be submitted electronically. Accepted methods of electronic submission include, but are not limited to, email, fill-in forms available online, through a third-party submission management software, or application that can be downloaded on a mobile device. Requests for inspections may be submitted in person in nonelectronic form at the discretion of the local building official.

²¹ Monica Casey, Tallahassee creates virtual building inspections to save jobs and keep social distancing, WCTV.tv (Apr. 8, 2020) <https://www.wctv.tv/content/news/Tallahassee-creates-virtual-building-inspections-to-save-jobs-and-keep-social-distancing-569485561.html> (last visited Apr. 5, 2021).

²² Miami Beach, Modified Procedures for Building Code Inspections During COVID-19 Emergency Period, <https://www.miamibeachfl.gov/wp-content/uploads/2020/05/Virtual-inspections-procedures-2.pdf> (last visited Apr. 5, 2021); Boca Raton, Virtual Inspections, <https://myboca.us/1846/Virtual-Inspections> (last visited Apr. 5, 2021).

²³ Section 553.79(1)(a), F.S.

²⁴ Section 110.3, Florida Building Code, Seventh Edition.

In addition, this section authorizes a state or local enforcement agency to perform virtual inspections to enforce the Florida Building Code at the enforcement agency's discretion. A virtual inspection may not be performed for structural inspections on a threshold building.²⁵ "Virtual inspection" is defined as a form of visual inspection using visual or electronic aids to allow a building code administrator or inspector, or team of inspectors, to perform an inspection without having to be physically present at the job site during the inspection.

Section 2 requires a local enforcement agency to refund 10 percent of the permit and inspection fees to a permit holder if:

- The inspector or building official determines that the work, which requires the permit, fails an inspection; and
- The inspector or building official fails to provide a reason based on compliance with the building code, the Florida Fire Prevention Code, or local ordinance for why the work failed inspection within five business days after the inspection.

If any permit and inspection fees are refunded because of the above, the DBPR surcharges for funding the Building Commission, the BCAIB, and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit and inspection fees after the refund.

Sections 3 and 4 amend s. 440.103 and 553.80, F.S., respectively, to correct cross references.

Section 5 provides that the act fulfills an important state interest.

Section 6 provides that the bill will take effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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

The bill may implicate this constitutional restriction to the extent that local governments are required to expend funds (i) to update processing systems to allow permit holders to electronically request building inspections; and (ii) to refund permit and inspection fees in certain instances. However, a portion of these expenses may be offset by any

²⁵ A threshold building is a building that is greater than three stories or 50 feet in height, exceeds 5,000 square feet, has an occupancy of greater than 500 persons, and is for the gathering of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption, or awaiting transportation. A special inspector, who is licensed as an architect or engineer, must perform structural inspections on threshold buildings. Section 553.71(12), F.S.

efficiencies gained by allowing electronic requests. As currently drafted, Section 5 includes a legislative finding that the bill fulfills an important state interest.

Article VII, s. 18(d) of the State Constitution provides that the mandate requirements do not apply to laws having an insignificant impact,²⁶ which for Fiscal Year 2020-2021 is forecast at \$2.2 million.²⁷ If the total cost of this legislation is less than \$2.2 million, then the mandate requirements do not apply. If costs imposed by the bill are determined to exceed \$2.2 million in the aggregate, the bill may be binding on cities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in State Constitution (e.g., enactment by vote of two-thirds of the membership of each house).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The ability for permit holders to electronically request building inspections and for government entities to perform virtual inspections, in limited circumstances, may create efficiencies and reduce the time needed to complete construction projects. The provisions in the bill that incentivize local governments to timely provide the reasons for which a permit holder failed an inspection may also lead to greater efficiencies and cost savings for permit holders.

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Apr. 6, 2021).

²⁷ Based on the Florida Demographic Estimating Conference's Nov. 13, 2020 population forecast for 2021 of 21,893,919, available at <http://edr.state.fl.us/content/conferences/population/demographicsummary.pdf> (last visited Mar. 10, 2021).

C. Government Sector Impact:

Local governments that do not already allow permit holders to electronically request building inspections may need to expend funds to update their processing systems to accommodate such requests. However, this expense may be offset by any efficiencies gained by allowing electronic requests.

The bill requires permit fee amounts to be refunded by local governments for failing to timely provide the reasons for which a permit holder failed an inspection. To the extent an enforcement agency fails to timely provide reasons for failure of inspection or is required to increase staff to protect against this failure, such entity will experience a negative fiscal impact. Additionally, if the refund provision is triggered and enforcement agencies are required to recalculate the surcharge, there will be a negative indeterminate fiscal impact on the surcharges received by the DBPR.

Government entities may experience cost savings associated with performing certain building inspections virtually, at their discretion.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.56, 553.79, 440.103, and 553.80.

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 Appropriations on April 15, 2021:

The committee substitute provides that if any permit and inspection fees are refunded due to an inspector or building code administrator's failure to provide a reason for why work has failed an inspection within five days, surcharges provided in s. 468.631, F.S., for the Building Code Administrators and Inspectors Fund, are recalculated and lowered in addition to surcharges provided in s. 553.721, F.S.

CS/CS by Governmental Oversight and Accountability on March 31, 2021:

The committee substitute adds a statement that the act fulfills an important state interest.

CS by Community Affairs on March 10, 2021:

The committee substitute clarifies that 10 percent of permit and inspection fees must

refunded after both a failed inspection *and* the inspector fails to provide a reason for such failure within three business days. The committee substitute also specifies three *business* 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.



860116

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment

Delete line 119
and insert:
paragraph (a), the surcharges provided in s. 468.631 or s. 553.721 must be



248302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment

Delete line 113
and insert:
provide, within 5 business days after the inspection, the

By the Committees on Governmental Oversight and Accountability;
and Community Affairs; and Senator Perry

585-03625-21

20211382c2

1 A bill to be entitled
2 An act relating to building inspections; amending s.
3 125.56, F.S.; requiring that certain counties allow
4 requests for inspections to be submitted
5 electronically; providing acceptable methods of
6 electronic submission; amending s. 553.79, F.S.;
7 requiring that local enforcement agencies allow
8 requests for inspections to be submitted
9 electronically; providing acceptable methods of
10 electronic submission; authorizing enforcement
11 agencies to perform virtual inspections; providing an
12 exception; providing a definition; requiring a refund
13 of certain fees in certain circumstances; requiring
14 that certain surcharges be recalculated under certain
15 conditions; amending ss. 440.103 and 553.80, F.S.;
16 conforming cross-references; providing a declaration
17 of important state interest; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraph (f) is added to subsection (4) of
23 section 125.56, Florida Statutes, to read:

24 125.56 Enforcement and amendment of the Florida Building
25 Code and the Florida Fire Prevention Code; inspection fees;
26 inspectors; etc.—

27 (4)

28 (f) A county that issues building permits must allow
29 requests for inspections to be submitted electronically to the

Page 1 of 8

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30 county building department. Acceptable methods of electronic
31 submission include, but are not limited to, e-mail or fill-in
32 form available on the website of the building department or
33 through a third-party submission management software or
34 application that can be downloaded on a mobile device. Requests
35 for inspections may be submitted in person in a nonelectronic
36 format, at the discretion of the building official.

37 Section 2. Present subsections (6) through (22) of section
38 553.79, Florida Statutes, are redesignated as subsections (8)
39 through (24), respectively, paragraph (d) is added to subsection
40 (1) of that section, new subsections (6) and (7) are added to
41 that section, and subsection (2) of that section is amended, to
42 read:

43 553.79 Permits; applications; issuance; inspections.—

44 (1)

45 (d) A local enforcement agency must allow requests for
46 inspections to be submitted electronically to the local
47 enforcement agency's appropriate building department. Acceptable
48 methods of electronic submission include, but are not limited
49 to, e-mail or fill-in form available on the website of the
50 building department or through a third-party submission
51 management software or application that can be downloaded on a
52 mobile device. Requests for inspections may be submitted in
53 person in a nonelectronic format, at the discretion of the
54 building official.

55 (2) Except as provided in subsection (8) ~~subsection (6)~~, an
56 enforcing agency may not issue any permit for construction,
57 erection, alteration, modification, repair, or demolition of any
58 building or structure until the local building code

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59 administrator or inspector has reviewed the plans and
 60 specifications required by the Florida Building Code, or local
 61 amendment thereto, for such proposal and found the plans to be
 62 in compliance with the Florida Building Code. If the local
 63 building code administrator or inspector finds that the plans
 64 are not in compliance with the Florida Building Code, the local
 65 building code administrator or inspector shall identify the
 66 specific plan features that do not comply with the applicable
 67 codes, identify the specific code chapters and sections upon
 68 which the finding is based, and provide this information to the
 69 local enforcing agency. The local enforcing agency shall provide
 70 this information to the permit applicant. In addition, an
 71 enforcing agency may not issue any permit for construction,
 72 erection, alteration, modification, repair, or demolition of any
 73 building until the appropriate firesafety inspector certified
 74 pursuant to s. 633.216 has reviewed the plans and specifications
 75 required by the Florida Building Code, or local amendment
 76 thereto, for such proposal and found that the plans comply with
 77 the Florida Fire Prevention Code and the Life Safety Code. Any
 78 building or structure which is not subject to a firesafety code
 79 shall not be required to have its plans reviewed by the
 80 firesafety inspector. Any building or structure that is exempt
 81 from the local building permit process may not be required to
 82 have its plans reviewed by the local building code
 83 administrator. Industrial construction on sites where design,
 84 construction, and firesafety are supervised by appropriate
 85 design and inspection professionals and which contain adequate
 86 in-house fire departments and rescue squads is exempt, subject
 87 to local government option, from review of plans and

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88 inspections, providing owners certify that applicable codes and
 89 standards have been met and supply appropriate approved drawings
 90 to local building and firesafety inspectors. The enforcing
 91 agency shall issue a permit to construct, erect, alter, modify,
 92 repair, or demolish any building or structure when the plans and
 93 specifications for such proposal comply with the Florida
 94 Building Code and the Florida Fire Prevention Code and the Life
 95 Safety Code as determined by the local authority in accordance
 96 with this chapter and chapter 633.

97 (6) A state or local enforcement agency may perform virtual
 98 inspections at the discretion of the enforcement agency.
 99 However, a state or local enforcement agency may not perform
 100 virtual inspections for structural inspections on a threshold
 101 building. For purposes of this subsection, the term "virtual
 102 inspection" means a form of visual inspection which uses visual
 103 or electronic aids to allow a building code administrator or an
 104 inspector, or team of inspectors, to perform an inspection
 105 without having to be physically present at the job site during
 106 the inspection.

107 (7) (a) A local enforcement agency must refund 10 percent of
 108 the permit and inspection fees to a permit holder if:

109 1. The inspector or building code administrator determines
 110 that the work, which requires the permit, fails an inspection;
 111 and

112 2. The inspector or building code administrator fails to
 113 provide, within 3 business days after the inspection, the
 114 permit holder or his or her agent with a reason, based on
 115 compliance with the Florida Building Code, Florida Fire
 116 Prevention Code, or local ordinance, for why the work failed the

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117 inspection.

118 (b) If any permit and inspection fees are refunded under
 119 paragraph (a), the surcharges provided in s. 553.721 must be
 120 recalculated based on the amount of the permit and inspection
 121 fees after the refund.

122 Section 3. Section 440.103, Florida Statutes, is amended to
 123 read:

124 440.103 Building permits; identification of minimum premium
 125 policy.—Every employer shall, as a condition to applying for and
 126 receiving a building permit, show proof and certify to the
 127 permit issuer that it has secured compensation for its employees
 128 under this chapter as provided in ss. 440.10 and 440.38. Such
 129 proof of compensation must be evidenced by a certificate of
 130 coverage issued by the carrier, a valid exemption certificate
 131 approved by the department, or a copy of the employer's
 132 authority to self-insure and shall be presented, electronically
 133 or physically, each time the employer applies for a building
 134 permit. As provided in s. 553.79(23) ~~s. 553.79(21)~~, for the
 135 purpose of inspection and record retention, site plans or
 136 building permits may be maintained at the worksite in the
 137 original form or in the form of an electronic copy. These plans
 138 and permits must be open to inspection by the building official
 139 or a duly authorized representative, as required by the Florida
 140 Building Code. As provided in s. 627.413(5), each certificate of
 141 coverage must show, on its face, whether or not coverage is
 142 secured under the minimum premium provisions of rules adopted by
 143 rating organizations licensed pursuant to s. 627.221. The words
 144 "minimum premium policy" or equivalent language shall be typed,
 145 printed, stamped, or legibly handwritten.

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146 Section 4. Subsection (1) of section 553.80, Florida
 147 Statutes, is amended to read:

148 553.80 Enforcement.—

149 (1) Except as provided in paragraphs (a)-(g), each local
 150 government and each legally constituted enforcement district
 151 with statutory authority shall regulate building construction
 152 and, where authorized in the state agency's enabling
 153 legislation, each state agency shall enforce the Florida
 154 Building Code required by this part on all public or private
 155 buildings, structures, and facilities, unless such
 156 responsibility has been delegated to another unit of government
 157 under s. 553.79(11), pursuant to s. 553.79(9).

158 (a) Construction regulations relating to correctional
 159 facilities under the jurisdiction of the Department of
 160 Corrections and the Department of Juvenile Justice are to be
 161 enforced exclusively by those departments.

162 (b) Construction regulations relating to elevator equipment
 163 under the jurisdiction of the Bureau of Elevators of the
 164 Department of Business and Professional Regulation shall be
 165 enforced exclusively by that department.

166 (c) In addition to the requirements of s. 553.79 and this
 167 section, facilities subject to the provisions of chapter 395 and
 168 parts II and VIII of chapter 400 shall have facility plans
 169 reviewed and construction surveyed by the state agency
 170 authorized to do so under the requirements of chapter 395 and
 171 parts II and VIII of chapter 400 and the certification
 172 requirements of the Federal Government. Facilities subject to
 173 the provisions of part IV of chapter 400 may have facility plans
 174 reviewed and shall have construction surveyed by the state

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175 agency authorized to do so under the requirements of part IV of
 176 chapter 400 and the certification requirements of the Federal
 177 Government.

178 (d) Building plans approved under s. 553.77(3) and state-
 179 approved manufactured buildings, including buildings
 180 manufactured and assembled offsite and not intended for
 181 habitation, such as lawn storage buildings and storage sheds,
 182 are exempt from local code enforcing agency plan reviews except
 183 for provisions of the code relating to erection, assembly, or
 184 construction at the site. Erection, assembly, and construction
 185 at the site are subject to local permitting and inspections.
 186 Lawn storage buildings and storage sheds bearing the insignia of
 187 approval of the department are not subject to s. 553.842. Such
 188 buildings that do not exceed 400 square feet may be delivered
 189 and installed without need of a contractor's or specialty
 190 license.

191 (e) Construction regulations governing public schools,
 192 state universities, and Florida College System institutions
 193 shall be enforced as provided in subsection (6).

194 (f) The Florida Building Code as it pertains to toll
 195 collection facilities under the jurisdiction of the turnpike
 196 enterprise of the Department of Transportation shall be enforced
 197 exclusively by the turnpike enterprise.

198 (g) Construction regulations relating to secure mental
 199 health treatment facilities under the jurisdiction of the
 200 Department of Children and Families shall be enforced
 201 exclusively by the department in conjunction with the Agency for
 202 Health Care Administration's review authority under paragraph
 203 (c).

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204
 205 The governing bodies of local governments may provide a schedule
 206 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
 207 section, for the enforcement of the provisions of this part.
 208 Such fees shall be used solely for carrying out the local
 209 government's responsibilities in enforcing the Florida Building
 210 Code. The authority of state enforcing agencies to set fees for
 211 enforcement shall be derived from authority existing on July 1,
 212 1998. However, nothing contained in this subsection shall
 213 operate to limit such agencies from adjusting their fee schedule
 214 in conformance with existing authority.

215 Section 5. The Legislature determines and declares that
 216 this act fulfills an important state interest.

217 Section 6. This act shall take effect July 1, 2021.

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The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 2, 2021

I respectfully request that **Senate Bill #1382**, relating to Building Inspections, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/2021

Meeting Date

1382

Bill Number (if applicable)

Topic BUILDING INSPECTIONS

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Job Title

Address PO Box 122

Phone 305 608 4300

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 INSTITUTE FOR JUSTICE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1404 (817458)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee
Transportation, Tourism, and Economic Development); and Senator Hooper

SUBJECT: Cultural and Historical Programs

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1404 designates the Museum of Florida History as the official state history museum and makes several changes to the Division of Cultural Affairs and Division of Historical Resources.

The bill renames the “Division of Cultural Affairs” to the “Division of Arts and Culture” and designates the Secretary of State as “Florida’s Chief Arts and Culture Officer.”

To better align the duties of the Division of Arts and Culture and the Division of Historical Resources, the bill transfers the:

- Florida Folklife Program from the Division of Historical Resources to the newly named Division of Arts and Culture; and
- The operation of the Museum of Florida History from the Division of Cultural Affairs to the Division of Historical Resources.

The bill requires the Division of Historical Resources to establish professional standards for the preservation of the collections under state ownership and take appropriate action to foster appreciation of Florida history and culture.

The bill transfers and revises provisions relating to property on loan to museums and property abandoned at museums. The bill revises inventory responsibilities of the Division of Historical

Resources for objects of historical or archaeological value by raising the threshold value or cost of objects in custody to \$1,000 instead of \$500.

The Department of State may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements from the National Endowment for the Arts.

The bill takes effect on July 1, 2021.

II. Present Situation:

Official State Emblems

Chapter 15, F.S., statutorily designates official state emblems. To date, there are designations for an official state seal, motto, tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal and saltwater mammal, butterfly, reptile and saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, horse, and heritage cattle breed.¹

Department of State

The Department of State (department), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration. The head of the department is the Secretary of State (Secretary).² The Secretary is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary performs functions conferred by the State Constitution upon the custodian of records.

The department is authorized to create Community Support Organizations for its Divisions of Cultural Affairs,³ Historical Resources,⁴ and Library and Information Services.⁵ Citizen support organizations (CSOs) are statutorily created entities that are generally required to be nonprofit corporations and are authorized to carry out specific tasks in support of public entities or public causes.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The division promotes arts and culture as essential to the quality of life for all Floridians. "To promote excellence and encourage access to cultural opportunities, the division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations,

¹ Sections 15.0301 through 15.0527, F.S.

² Section 20.10, F.S.

³ Section 265.703(1), F.S.

⁴ Section 267.17(1), F.S.

⁵ Section 257.43(1), F.S.

museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects.”⁶

The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House. “Opened in 1977, the Museum of Florida History collects, preserves, exhibits, and interprets evidence of past and present cultures in Florida, and promotes knowledge and appreciation of this heritage. As the State’s History Museum, it focuses on artifacts and eras unique to Florida’s development and on roles that Floridians have played in national and global events. Through exhibits, educational programs, research, and collections, the Museum reflects the ways that people have shaped and reacted to their cultural and natural environments.”⁷ The Division of Cultural Affairs also oversees the Museum and Capitol gift shops as well as the citizen support organization charged with supporting the Museum.

The Friends of the Museums of Florida, Inc., is the CSO created to support programs, exhibits, collections, and activities of the Museum of Florida History and the Knott House Museum.⁸ A citizen support organization is defined as an organization that is:

- A nonprofit corporation approved by the Department of State;
- Organized and operated to conduct programs and activities, raise funds, request and receive grants, and make expenditures to benefit the division;
- Determined by the division to be consistent with the goals of the division and in the best interest of the state; and
- Approved in writing by the division to operate for the benefit of the division.⁹

The identity of donors to the CSO who desire to remain anonymous are confidential and exempt from public records requirements.¹⁰

Florida Arts and Cultural Act

The Florida Arts and Cultural Act is set forth in ss. 265.281-265.709, F.S. The Legislative intent of the Act is to provide state support for, and to gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums and nonprofit organizations.¹¹ The Act defines the term “division” to mean the Division of Cultural Affairs of the Department of State.¹² The division is charged with directly administering and overseeing all programs authorized by the Act. The division’s duties include:

- Accepting and administering state and federal funds appropriated by the Legislature or funds received from other public or private sources;

⁶ Department of State, Division of Cultural Affairs, *About Us, Mission*, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on March 11, 2021).

⁷ Section 265.707, F.S. Department of State, Museum of Florida History, *About*, available at <https://museumoffloridahistory.com/> (last visited March 11, 2021).

⁸ Department of State, Museum of Florida History, *About the Friends of the Museums of Florida History, Inc.*, available at <https://museumoffloridahistory.com/support/membership-program/about-the-friends-of-the-museums-of-florida-history-inc/> (last visited March 11, 2021).

⁹ Section 265.703(1), F.S.

¹⁰ Section 265.703(3), F.S.

¹¹ Section 265.282, F.S.

¹² Section 265.283(4), F.S.

- Consulting and advising on acquisition of fine art works, appropriate use and display of state-owned art treasures for maximum public benefit, and suitability of ornamental or decorative structure or fixtures in public buildings;
- Accepting donations of money, property, art objects, and antiquities on behalf of the state;¹³
- Sponsoring performances and exhibits; promoting and encouraging the study and appreciation of arts and culture; and collecting, publishing, and printing pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with the appropriate state agencies and other organizations.¹⁴

Florida Historical Resources Act

The Florida Historical Resources Act¹⁵ was established to preserve archaeological sites and objects of antiquity for the public benefit.¹⁶ The Florida Historical Resources Act recognizes Florida's rich and unique heritage of historic properties as an important legacy to be valued and conserved for present and future generations. Accordingly, Florida has adopted a state policy to lead, assist, administer, and encourage public entities and private citizens to preserve the state's historic environment and resources.¹⁷

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The division oversees historic preservation programs to identify, evaluate, preserve, and interpret Florida's historic and cultural resources. These activities include administering the historic preservation grants programs, overseeing the National Register of Historic Places, and maintain an inventory of the state's historical resources. The division also is responsible for the state's archaeology program, which includes surveys and excavations, primarily on state-owned lands or underwater locations; and coordinates outreach programs to promote Florida's historic and traditional culture, including the State Historical Markers program and Florida Folklife program. The division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁸

Under the Florida Folklife Program, the division must identify, research, interpret, and present Florida folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make folk cultural resources and folklife projects available throughout the state. The division is assisted by the Florida Folklife Council, a seven member council appointed by the Secretary of

¹³ Such donations of money and any cash income may be received from the disposal of any donations of property, art objects, or antiquities. The donations and cash income are deposited into the Grants and Donations Trust Fund and by statutes are appropriated for use by the division for the purposes authorized in the Act. Section 265.284(3)(e), F.S.

¹⁴ Section 265.284(3), F.S.

¹⁵ Chapter 267, F.S.

¹⁶ Section 267.14, F.S.

¹⁷ Section 267.061(2)(a), F.S.

¹⁸ Department of State, Division of Historical Resources, *About*, available at <https://dos.myflorida.com/historical/about/> (last visited on March 19, 2021). *See also* ch. 267, F.S.

State, in carrying out its duties under the program.¹⁹ The program is funded in part by the National Endowment for the Arts.²⁰

Secretary of State – Florida’s Chief Cultural Officer

The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the department promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity.²¹ The Secretary is designated as “Florida’s Chief Cultural Officer” and is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. As Florida’s Chief Cultural Officer, the Secretary must coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems to be appropriate.²²

Property Abandoned at Museums

The Legislature has declared that the people of Florida benefit from having property of artistic, historic, cultural, or scientific value loaned to Florida museums.²³ However, problems arise in relation to indefinite or long term loans when museums and lenders fail to maintain contact. In response to these problems, the Legislature has established uniform procedures governing the disposition of unclaimed property²⁴ on loan to museums. The rules are designed to:

- Encourage museums and their lenders to exercise due diligence in monitoring loans;
- Allocate fairly responsibilities between lenders and borrowing museums;
- Establish procedures for lenders to preserve their interests in property loaned to museums for indefinite or long terms; and
- Resolve expeditiously the title to the unclaimed loaned property left in the custody of museums.²⁵

Whenever property is loaned to a museum, the museum is required to:

- Make and retain a written record containing the lender’s contact information, a description of the property, a description of the property’s general condition, and the beginning and ending dates of the loan;
- Provide the lender with a signed receipt or loan agreement;
- Inform the lender of the law; and

¹⁹ Sections 267.16 and 267.161, F.S.

²⁰ Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee); *see also* Department of State, Division of Historical Resources, *Florida Folklife Program*, available at <https://dos.myflorida.com/historical/preservation/florida-folklife-program/> (last visited March 11, 2021).

²¹ Section 15.18, F.S.

²² *Id.*

²³ “Museum” is defined to mean a public or private nonprofit agency or institution located in Florida and organized on a permanent basis for primarily educational, scientific, or aesthetic purposes, which owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis. Section 265.565(2)(c), F.S.

²⁴ “Unclaimed property” is defined to mean property which is on loan to the museum and in regard to which the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum for at least 25 years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least 5 years after the date upon which the loan for a definite period expired. Section 265.565(2)(f), F.S.

²⁵ Section 265.565(1), F.S.

- Provide the lender with a copy of the law upon request.²⁶

If there is a change in the lender's contact information, change in the ownership of the loaned property, or a change in the duration of the loan is negotiated, the museum must update its records to reflect the change. Whenever a museum renews or updates the records of an existing loan, the museum must inform the lender of the existence of the law and provide the lender with a copy upon the lender's request.²⁷ The museum is also required to give the lender prompt notice of any injury to or loss of property on the loan.²⁸

The lender is responsible for notifying the museum of any change in the lender's address or change in ownership of the property. Failure to provide the required notification could result in the owner's loss of rights to the property.²⁹ Additionally, it is the responsibility of a successor of a lender to document the passage of rights of control of the property that is in the custody of a museum.³⁰

In order to terminate a loan for unclaimed property, the museum must make a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records that are reasonably available to museum staff.³¹ If the museum is able to identify the lender and his or her last known address, the museum must provide notice of termination via certified mail. The notice of termination must include:

- The name of the lender;
- A description of the property sufficient in detail for ready identification;
- The beginning date of the loan, if known;
- The termination date of the loan, if applicable;
- The name and address of the appropriate museum official to contact regarding the loan; and
- A statement that within 90 days the lender is required to remove the property from the museum or contact the designated official in the museum to preserve the lender's interests in the property.³²

If the museum is unable to acquire enough information to send a letter by certified mail, or if a signed return receipt is not received within 30 days, the museum must publish a notice of termination containing all the above required information at least twice in a publication of general circulation in the county in which the museum is located and the county of the lender's last known address. The publications must be at least 60 or more days apart.³³

If the lender fails to respond to the notice of termination sent via certified mail or included in a publication of general circulation within 90 days, the title to the unclaimed property will pass to the museum.³⁴

²⁶ Section 265.565(3)(a), F.S.

²⁷ Section 265.565(3)(b), F.S.

²⁸ Section 265.565(3)(c), F.S.

²⁹ Section 265.565(4)(a), F.S.

³⁰ Section 265.565(4)(b), F.S.

³¹ Section 265.565(5)(a), F.S.

³² Section 265.565(5)(b), F.S.

³³ Section 265.565(5)(c), F.S.

³⁴ Section 265.565(6), F.S.

National Endowment for the Arts

The National Endowment for the Arts (NEA) is an independent, federal agency with substantial discretion to award financial grants to support the arts. The NEA awards grants to groups and individuals whose artistic endeavors have substantial artistic and cultural significance or are otherwise worthy of public support and to state agencies established to serve the same purpose.³⁵ All states have a State Arts Agency recognized by the NEA. The NEA distributes program funding to those State Arts Agencies, with each state devoting its own appropriated funds to support arts programs throughout the state.³⁶ The Division of Cultural Affairs is recognized by the NEA as Florida's official State Arts Agency and receives an annual partnership grant from the NEA.³⁷

III. Effect of Proposed Changes:

Official State History Museum

Section 1 creates s. 15.0455, F.S., to designate the Museum of Florida History, located in Tallahassee, as the official state history museum.

Division of Arts and Culture

Section 2 amends s. 15.18, F.S., to designate the Secretary of State as "Florida's Chief Arts and Cultural Officer" instead of the chief cultural officer.

Section 3 amends s. 20.10, F.S., to rename the Division of Cultural Affairs as the Division of Arts and Culture.

The bill makes several further changes to correct references to the division and to reorganize current duties of the division and the Division of Historical Resources to better align the programs with the proper division.

- **Section 4** amends s. 265.281, F.S., to correct statutory references due to changes made by the bill.
- **Sections 6, 7, and 8** amend ss. 265.286, 265.2865, and 265.701, F.S., respectively, to correct statutory references and update references to the division.
- **Sections 9, 11, 12, 13, and 14** repeal ss. 265.7025, 265.704, 265.705, 265.706, and 265.709, F.S., respectively, relating to the division's powers and duties relating to historic programs.
- **Sections 22 and 23** amend ss. 258.081 and 464.401, F.S., respectively, to make conforming changes.

³⁵ 20 U.S.C. § 954 (2018).

³⁶ Americans for the Arts, *National Endowment for the Arts – Funding for Art Agencies*, available at <https://www.americansforthearts.org/by-program/reports-and-data/legislation-policy/legislative-issue-center/national-endowment-for-the-arts%E2%80%94funding-for-arts-agencies> (last visited March 11, 2021).

³⁷ Department of State, Division of Cultural Affairs, *National Endowment for the Arts*, available at <https://dos.myflorida.com/cultural/about-us/partners/national-endowment-for-the-arts/> (last visited March 11, 2021); National Assembly of State Arts Agencies, *State Arts Agency Directory*, available at <https://nasaa-arts.org/state-arts-agencies/saa-directory/> (last visited March 11, 2021).

The bill transfers the Florida Folklife Program, and its associated council, from the Division of Historical Resources to the Division of Arts and Culture.

- **Section 20** renumbers s. 267.16, F.S., as s. 265.802, F.S., to transfer the duties and responsibilities of the Division of Historical Resources regarding the Florida Folklife Program to the Division of Arts and Culture.
- **Section 21** renumbers s. 267.161, F.S., as s. 265.803, F.S., to transfer the Florida Folklife Council from the Division of Historical Resources to the Division of Arts and Culture.³⁸
- **Section 5** amends s. 265.283, F.S., to update references to the division and adds the definition of “folklife” to reflect the transfer of this program from the Division of Historical Resources to the Division of Arts and Culture.

Division of Historic Resources

The bill transfers the Museum of Florida History from the Division of Arts and Culture to the Division of Historical Resources. **Section 17** transfers and renumbers s. 265.707, F.S., as s. 267.0721, F.S., effectively transferring administration of the Museum of Florida History and its related citizen support organization (CSO) to the Division of Historical Resources. The CSO, Friends of the Museums of Florida, Inc., will support the Museum of Florida History and other museums operated by the division.

Currently, any revenues from sales in museum stores is deposited into the Grants and Donations Trust Fund, and any funds in excess of the amount required to pay state employees may be deposited into a bank account of the museum’s CSO. In **section 17**, the bill allows the proceeds to be used to support both programs of the museums and also museum operations. Additionally, allows the division to deposit grant funding for the Museum of Florida History into the Grants and Donations Trust Fund.

Section 10 amends s. 265.703, F.S., to delete a public record exemption for the Museum of Florida History citizen support organization no longer necessary due to changes made by the bill.

Section 15 amends s. 267.021, F.S., to define the term “historical museum” and remove the definition of “folklife.” The term “historical museum” is defined to mean:

[A] department or a department or an agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

Section 16 amends 267.071, F.S., to require the Division of Historical Resources to encourage, promote, maintain, and operate the Museum of Florida History and other historical museums.

³⁸ The department indicates that such reassignment of the Florida Folklife Program will bring the program in line with new federal funding program requirements from the National Endowment for the Arts. *See* Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee).

The division must also establish professional standards for the preservation, exclusive of acquisition, of each of the collections under state ownership or control and to take appropriate action to foster appreciation of Florida history and culture.

Section 18 transfers and renumbers s. 265.565, F.S., relating to property loaned to museums, as s. 267.0723, F.S. Current law requires a museum to inform a lender of the existence of the statute relating to property loaned to a museum and to provide the lender with a copy of such statutory provisions upon the lender's request. Section 18 removes the requirement for a museum to inform but maintains the requirement that upon a lender's request, a museum must provide a copy of the relevant statutory provisions.

This section amends the notice of termination provision to allow for the required information to be provided on the museum's website and specifies that publication may be by physical or online means. It also removes the requirement to publish the information twice, at least 60 days apart.

This section also provides for the disposition of abandoned property by authorizing a museum to keep, transfer, sell, or dispose of abandoned property. This section defines the term "abandoned property" to mean "property left at or delivered to a museum with no loan, deed of gift, or donation paperwork."

Section 19 amends s. 267.115, F.S., to revise the cost or value threshold that triggers a complete inventory of objects of historical or archaeological value from \$500 to \$1,000. For objects valued or costing less than \$1,000, only a sample inventory is required.

Section 24 amends s. 553.902, F.S., and **Section 25** amends ch. 2020-88, Laws of Florida, to make conforming changes.

Effective Date

Section 26 provides that the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements of the National Endowment for the Arts.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 265.565, F.S., was created in 1997 by ch. 97-267, Laws of Florida. The act created an undesignated section of Florida law, which was subsequently numbered as s. 265.565, F.S. The bill transfers and renumbers this section as s. 267.0723, F.S. While the current s. 265.565, F.S., references providing a lender of property to a museum with information about a copy “of this act,” it is unlikely that “this act” means the entire chapter in which the statute is located,⁴⁰ but instead the act in which the statute itself was created. This ambiguity could be amended in the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.18, 20.10, 265.281, 265.283, 265.286, 265.2865, 265.701, 265.703, 267.021, 267.071, 265.707, 265.565, 267.115, 267.16, 267.161, 258.081, 468.401, and 553.902.

³⁹ *Id.*

⁴⁰ In its current location, the statute is located in the Florida Arts and Culture Act, ss. 265.281 through 265.709, F.S. Under the bill, the statute is transferred to ch. 267, F.S., which is the Florida Historical Resources Act.

This bill creates the following sections of the Florida Statutes: 15.0455, 267.0721, 267.0723, 265.802, and 265.803.

This bill repeals the following sections of the Florida Statutes: 265.7025, 265.704, 265.705, 265.706, and 265.709

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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development on March 23, 2021:

The committee substitute returns to current law, which requires proceeds from sales at museum stores as well as grant funding, gifts, and donations for the Museum of Florida History to be deposited into the Grants and Donations Trust Fund.

- B. **Amendments:**

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

A bill to be entitled

An act relating to cultural and historical programs;
creating s. 15.0455, F.S.; designating the Museum of
Florida History as the official state history museum;
amending s. 15.18, F.S.; providing that the Secretary
of State shall be known as "Florida's Chief Arts and
Culture Officer"; conforming a provision to changes
made by the act; amending s. 20.10, F.S.; renaming the
Division of Cultural Affairs as the Division of Arts
and Culture; amending s. 265.281, F.S.; conforming
provisions to changes made by the act; reordering and
amending s. 265.283, F.S.; conforming provisions to
changes made by the act; defining the term "folklife";
amending s. 265.286, F.S.; conforming a cross-
reference; amending ss. 265.2865 and 265.701, F.S.;
conforming provisions to changes made by the act;
repealing s. 265.7025, F.S., relating to definitions
relating to historic programs; amending s. 265.703,
F.S.; conforming provisions to changes made by the
act; repealing ss. 265.704, 265.705, 265.706, and
265.709, F.S., relating to historical museums and
powers and duties of the Division of Cultural Affairs,
state policy relative to historical properties,
objects of historical or archaeological value, and
publications, respectively; reordering and amending s.
267.021, F.S.; deleting the definition of the term



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"folklife"; defining the term "historical museum";
amending s. 267.071, F.S.; revising the duties of the
Division of Historical Resources; transferring,
renumbering, and amending s. 265.707, F.S.;
transferring certain responsibilities from the
Division of Cultural Affairs to the Division of
Historical Resources; revising provisions relating to
the Museum of Florida History museum store, the
establishment and operation of a certain nonprofit
organization or association, and the use of certain
funds; transferring, renumbering, and amending s.
265.565, F.S.; defining the term "abandoned property";
removing the requirement that a museum inform a lender
of certain provisions in certain circumstances;
revising publication requirements for a termination of
loan notice; providing for the disposition of
abandoned property; amending s. 267.115, F.S.;
revising the duties of the Division of Historical
Resources relating to objects of historical or
archaeological value; transferring and renumbering ss.
267.16 and 267.161, F.S., relating to Florida Folklife
Programs and the Florida Folklife Council,
respectively; amending ss. 258.081, 468.401, and
553.902, F.S.; conforming provisions and cross-
references to changes made by the act; amending
chapter 2020-88, Laws of Florida; conforming a
provision to changes made by the act; providing an
effective date.



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

57

58 Section 1. Section 15.0455, Florida Statutes, is created to
59 read:

60 15.0455 Official state history museum.—The Museum of
61 Florida History, located in Tallahassee, is hereby designated as
62 the official state history museum.

63 Section 2. Section 15.18, Florida Statutes, is amended to
64 read:

65 15.18 International and cultural relations.—The Divisions
66 of Arts and Culture ~~Cultural Affairs~~, Historical Resources, and
67 Library and Information Services of the Department of State
68 promote programs having substantial cultural, artistic, and
69 indirect economic significance that emphasize American
70 creativity. The Secretary of State, as the head administrator of
71 these divisions, shall hereafter be known as "Florida's Chief
72 Arts and Culture ~~Cultural~~ Officer." As this officer, the
73 Secretary of State is encouraged to initiate and develop
74 relationships between the state and foreign cultural officers,
75 their representatives, and other foreign governmental officials
76 in order to promote Florida as the center of American
77 creativity. The Secretary of State shall coordinate
78 international activities pursuant to this section with
79 Enterprise Florida, Inc., and any other organization the
80 secretary deems appropriate. For the accomplishment of this
81 purpose, the Secretary of State shall have the power and
82 authority to:

83 (1) Disseminate any information pertaining to the State of
84 Florida which promotes the state's cultural assets.



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85 (2) Plan and carry out activities designed to cause
86 improved cultural and governmental programs and exchanges with
87 foreign countries.

88 (3) Plan and implement cultural and social activities for
89 visiting foreign heads of state, diplomats, dignitaries, and
90 exchange groups.

91 (4) Encourage and cooperate with other public and private
92 organizations or groups in their efforts to promote the cultural
93 advantages of Florida.

94 (5) Serve as the liaison with all foreign consular and
95 ambassadorial corps, as well as international organizations,
96 that are consistent with the purposes of this section.

97 (6) Provide, arrange, and make expenditures for the
98 achievement of any or all of the purposes specified in this
99 section.

100 Section 3. Paragraph (e) of subsection (2) of section
101 20.10, Florida Statutes, is amended to read:

102 20.10 Department of State.—There is created a Department of
103 State.

104 (2) The following divisions of the Department of State are
105 established:

106 (e) Division of Arts and Culture ~~Cultural Affairs~~.

107 Section 4. Section 265.281, Florida Statutes, is amended to
108 read:

109 265.281 Florida Arts and Culture Act; short title.—Sections
110 265.281-265.703 ~~Sections 265.281-265.709~~ may be cited as the
111 "Florida Arts and Culture Act."

112 Section 5. Section 265.283, Florida Statutes, is reordered
113 and amended to read:



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114 265.283 Definitions.—The following definitions shall apply
115 to ss. 265.281-265.703 ~~ss. 265.281-265.709~~:

116 ~~(3)(1)~~ "Council" means the Florida Council on Arts and
117 Culture.

118 ~~(6)(2)~~ "Department" means the Department of State.

119 ~~(7)(3)~~ "Director" means the Director of the Division of
120 Arts and Culture ~~Cultural Affairs~~ of the Department of State.

121 ~~(8)(4)~~ "Division" means the Division of Arts and Culture
122 ~~Cultural Affairs~~ of the Department of State.

123 ~~(12)(5)~~ "Panel" means a grant review panel.

124 ~~(14)(6)~~ "Secretary" means the Secretary of State.

125 ~~(1)(7)~~ "Arts and cultural disciplines" include, but are not
126 limited to, music, dance, theatre, creative writing, literature,
127 architecture, painting, sculpture, folk arts, photography,
128 crafts, media arts, visual arts, programs of museums, and other
129 such allied, major art forms.

130 ~~(11)(8)~~ "Local arts agency" means a public or private
131 nonprofit organization located in Florida and operating on a
132 permanent basis for the primary purpose of strengthening,
133 supporting, and stabilizing the activities of one or more county
134 art and cultural constituencies.

135 ~~(10)(9)~~ "Historical museum" means a department or agency of
136 state or local government or a public or private nonprofit
137 organization located in Florida and operating on a permanent
138 basis for the primary purpose of sponsoring, producing, and
139 exhibiting educational programs that are related to the
140 historical resources of Florida.

141 ~~(13)(10)~~ "Science museum" means a public or private
142 nonprofit organization located in Florida and operating on a



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143 permanent basis for the primary purpose of sponsoring,
144 producing, and exhibiting programs for the observation and study
145 of various types of natural science and science technology.

146 ~~(18)(11)~~ "Youth and children's museum" means a public or
147 private nonprofit organization located in Florida and operating
148 on a permanent basis for the primary purpose of sponsoring,
149 producing, and exhibiting multidisciplinary and participatory
150 programs for visitors who are 6 months to 15 years old, and
151 their families, teachers, and caregivers.

152 ~~(15)(12)~~ "State service organization" means a public or
153 private nonprofit organization located in Florida operating on a
154 permanent basis for the primary purpose of implementing programs
155 that have cultural significance and that emphasize American
156 creativity and the maintenance and encouragement of professional
157 excellence.

158 ~~(2)(13)~~ "Arts in education grants" means grants used to
159 cultivate the learning and artistic development of all students
160 and teachers by promoting, encouraging, and supporting arts and
161 culture as an integral part of education and lifelong learning
162 for residents and visitors.

163 ~~(4)(14)~~ "Cultural support grants" means grants that provide
164 support for general programs and specific cultural projects.

165 ~~(16)(15)~~ "State touring program grants" means grants used
166 to provide performances, activities, and exhibitions by Florida
167 artists to communities.

168 ~~(17)(16)~~ "Underserved arts community assistance program
169 grants" means grants used by qualified organizations under the
170 Rural Economic Development Initiative, pursuant to ss. 288.0656
171 and 288.06561, for the purpose of economic and organizational



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172 development for underserved cultural organizations.

173 ~~(5)(17)~~ "Culture Builds Florida grants" means grants used
174 for the purpose of connecting the arts to key areas of the
175 division's long-term strategic plan.

176 (9) "Folklife" means the traditional expressive culture
177 shared within the various groups in Florida: familial, ethnic,
178 occupational, religious, and regional. Expressive culture
179 includes a wide range of creative and symbolic forms, such as
180 custom, belief, technical skill, language, literature, art,
181 architecture, music, play, dance, drama, ritual, pageantry, and
182 handicraft, which forms are generally learned orally, by
183 imitation, or in performance and are maintained or perpetuated
184 without formal instruction or institutional direction.

185 Section 6. Paragraph (a) of subsection (5) of section
186 265.286, Florida Statutes, is amended to read:

187 265.286 Art and cultural grants.-

188 (5) The division shall fund:

189 (a) Grants for general program support for science museums,
190 youth and children's museums, historical museums, local arts
191 agencies, state service organizations, and organizations that
192 have cultural program activities in any of the art and cultural
193 disciplines defined in s. 265.283 ~~s. 265.283(7)~~.

194 Section 7. Subsection (6) of section 265.2865, Florida
195 Statutes, is amended to read:

196 265.2865 Florida Artists Hall of Fame.-

197 (6) The Division of Arts and Culture Cultural Affairs of
198 the Department of State shall adopt rules necessary to carry out
199 the purposes of this section, including, but not limited to,
200 procedures for accepting nominations to, making recommendations



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201 for, selecting members of the Florida Artists Hall of Fame, and
202 providing travel expenses for such recipients. Notwithstanding
203 ~~the provisions of s. 112.061~~, the Secretary of State may approve
204 first-class travel accommodations for recipients of the Florida
205 Artists Hall of Fame award and their representatives for health
206 or security purposes.

207 Section 8. Subsections (1) and (5) of section 265.701,
208 Florida Statutes, are amended to read:

209 265.701 Cultural facilities; grants for acquisition,
210 renovation, or construction; funding; approval; allocation.-

211 (1) The Division of Arts and Culture Cultural Affairs may
212 accept and administer moneys appropriated to it for providing
213 grants to counties, municipalities, and qualifying nonprofit
214 corporations for the acquisition, renovation, or construction of
215 cultural facilities.

216 (5) The Division of Arts and Culture Cultural Affairs shall
217 adopt rules prescribing the criteria to be applied by the
218 Florida Council on Arts and Culture in recommending applications
219 for the award of grants and rules providing for the
220 administration of ~~the other provisions of~~ this section.

221 Section 9. Section 265.7025, Florida Statutes, is repealed.

222 Section 10. Subsection (3) of section 265.703, Florida
223 Statutes, is amended to read:

224 265.703 Citizen support organizations; use of state
225 administrative services and property; audit.-

226 (3) ANNUAL AUDIT.-The citizen support organization shall
227 provide for an annual financial audit in accordance with s.
228 215.981. ~~Information of the Museum of Florida History citizen~~
229 ~~support organization which is confidential and exempt pursuant~~



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230 ~~to s. 267.17 shall retain its confidential and exempt status.~~
231 Section 11. Section 265.704, Florida Statutes, is repealed.
232 Section 12. Section 265.705, Florida Statutes, is repealed.
233 Section 13. Section 265.706, Florida Statutes, is repealed.
234 Section 14. Section 265.709, Florida Statutes, is repealed.
235 Section 15. Section 267.021, Florida Statutes, is reordered
236 and amended to read:
237 267.021 Definitions.—For the purpose of this act, the term:
238 (2)(1) "Division" means the Division of Historical
239 Resources of the Department of State.
240 (1)(2) "Agency" means any state, county, or municipal
241 officer, department, division, board, bureau, commission, or
242 other separate unit of government created or established by law.
243 (5)(3) "Historic property" or "historic resource" means any
244 prehistoric or historic district, site, building, object, or
245 other real or personal property of historical, architectural, or
246 archaeological value, and folklife resources. These properties
247 or resources may include, but are not limited to, monuments,
248 memorials, Indian habitations, ceremonial sites, abandoned
249 settlements, sunken or abandoned ships, engineering works,
250 treasure trove, artifacts, or other objects with intrinsic
251 historical or archaeological value, or any part thereof,
252 relating to the history, government, and culture of the state.
253 (8)(4) "Preservation" or "historic preservation" means the
254 identification, evaluation, recordation, documentation,
255 analysis, recovery, interpretation, curation, acquisition,
256 protection, management, rehabilitation, restoration,
257 stabilization, maintenance, or reconstruction of historic
258 properties.



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259 (6)(5) "National Register of Historic Places" means the
260 list of historic properties significant in American history,
261 architecture, archaeology, engineering, and culture, maintained
262 by the Secretary of the Interior, as established by the National
263 Historic Preservation Act of 1966, as amended.
264 ~~(6) "Folklife" means the traditional expressive culture~~
265 ~~shared within the various groups in Florida: familial, ethnic,~~
266 ~~occupational, religious, and regional. Expressive culture~~
267 ~~includes a wide range of creative and symbolic forms such as~~
268 ~~custom, belief, technical skill, language, literature, art,~~
269 ~~architecture, music, play, dance, drama, ritual, pageantry, and~~
270 ~~handicraft, which forms are generally learned orally, by~~
271 ~~imitation, or in performance and are maintained or perpetuated~~
272 ~~without formal instruction or institutional direction.~~
273 (3)(7) "Florida history museum" means a public or private
274 nonprofit institution which is established permanently in this
275 state for the purpose of promoting and encouraging knowledge and
276 appreciation of Florida history through the collection,
277 preservation, exhibition, and interpretation of artifacts and
278 other historical properties related to Florida history and the
279 primary role of which is to collect and care for artifacts and
280 other objects of intrinsic historical or archaeological value
281 and exhibit them regularly through a facility or facilities
282 owned or operated by the institution.
283 (7)(8) "Official Florida Historical Marker" means any
284 marker, plaque, or similar device awarded, approved, or
285 administered by the Division of Historical Resources for the
286 purpose of recognizing and informing the general public about
287 historic properties, persons, events, and other topics relating



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288 to the history and culture of the state.

289 (4) "Historical museum" means a department or an agency of
290 state or local government or a public or private nonprofit
291 organization located in Florida and operating on a permanent
292 basis for the primary purpose of sponsoring, producing, and
293 exhibiting educational programs that are related to the
294 historical resources of Florida.

295 Section 16. Subsection (2) of section 267.071, Florida
296 Statutes, is amended, and subsection (4) is added to that
297 section, to read:

298 267.071 Historical museums.—It is the duty of the division
299 to:

300 (2) Encourage, promote, maintain, and operate historical
301 museums, including the Museum of Florida History, but not
302 limited to, mobile museums, and other Florida history junior
303 museums.

304 (4) (a) Establish professional standards for the
305 preservation, exclusive of acquisition, of each of the
306 collections under state ownership or control.

307 (b) Take such other actions as are necessary or appropriate
308 to locate, acquire, preserve, operate, interpret, and promote
309 the location, acquisition, protection, preservation, operation,
310 and interpretation of historical artifacts and resources to
311 foster an appreciation of Florida history and culture.

312 Section 17. Section 265.707, Florida Statutes, is
313 transferred, renumbered as section 267.0721, Florida Statutes,
314 and amended to read:

315 267.0721 265.707 Museum of Florida History and programs;
316 other historical museums.—



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317 (1) The division is authorized to operate the Museum of
318 Florida History and other historical museums.

319 (2) The division shall establish and administer a museum
320 store ~~for in~~ the Museum of Florida History to provide
321 information and materials relating to Florida history, museum
322 exhibits, collections, and programs to the public and may
323 operate additional stores associated with the museum. The stores
324 ~~store~~ may produce, acquire, and sell craft products, clearly
325 marked replicas and reproductions of artifacts, documents, and
326 other merchandise relating to historical and cultural resources
327 and may make a reasonable charge for such merchandise. All
328 proceeds received from sales must be deposited into the Grants
329 and Donations Trust Fund, or funds in excess of the amount
330 required to pay employees involved in the direct management of
331 the museum store may be deposited into a bank account of a the
332 citizen support organization created pursuant to s. 267.17 or
333 created before July 1, 2021, pursuant to s. 265.703 and may be
334 used only to support operations of the museum stores and the
335 programs of the Museum of Florida History or other museums
336 operated by the division. The museum ~~stores store~~ may enter into
337 agreements and accept credit card ~~credit-card~~ payments as
338 compensation for goods and products sold. The division may
339 establish accounts in credit card ~~credit-card~~ banks for the
340 deposit of credit card ~~credit-card~~ sales invoices and to pay
341 discounts and service charges in connection with the use of
342 credit cards.

343 (3) The division shall support the establishment and
344 operation of a nonprofit organization or association established
345 pursuant to s. 267.17 or established before July 1, 2021,



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346 pursuant to s. 265.703 to promote and encourage knowledge and
347 appreciation of Florida history and the programs of the Museum
348 of Florida History and other museums operated by the division
349 and to cooperate with historical societies and other
350 organizations to provide funding and promotional support for the
351 programs of the museum. Such organization or association may,
352 with the consent of the division, operate the museum store or
353 conduct special events and programs in the museum. All proceeds
354 must be used to support the programs of the Museum of Florida
355 History and other museums operated by the division.

356 (4) The division ~~may~~ shall deposit grant funding, gifts,
357 and donations for the purpose of assisting the Museum of Florida
358 History and its programs in the Grants and Donations Trust Fund
359 to be used exclusively for the benefit of programs of the museum
360 and in a manner consistent with any terms or conditions agreed
361 to by the division in accepting such grants, gifts, and
362 donations.

363 Section 18. Section 265.565, Florida Statutes, is
364 transferred and renumbered as section 267.0723, Florida
365 Statutes, present paragraphs (a) through (f) of subsection (2)
366 of that section are redesignated as paragraphs (b) through (g),
367 respectively, a new paragraph (a) is added to that subsection
368 and subsection (13) is added to that section, and paragraphs (a)
369 and (b) of subsection (3), paragraph (c) of subsection (5), and
370 subsections (6) and (12) of that section are amended, to read:

371 267.0723 265.565 Property loaned to or abandoned at
372 museums; obligations to lenders; notice; loan termination;
373 acquisition of title; liens; conservation or disposal.-

374 (2) DEFINITIONS.-



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375 (a) "Abandoned property" means property left at or
376 delivered to a museum with no loan, deed of gift, or donation
377 paperwork.

378 (3) OBLIGATIONS OF MUSEUMS TO LENDERS.-

379 (a) For property loaned to a museum after the effective
380 date of this act, the museum shall:

381 1. Make and retain a written record containing, at a
382 minimum, the lender's name, address, and telephone number, a
383 description of the property loaned in sufficient detail for
384 clear identification, including a description of the general
385 condition of the property at the time of the loan, the beginning
386 date of the loan, and the expiration date of the loan.

387 2. Provide the lender with a signed receipt or loan
388 agreement containing, at a minimum, the record set forth in
389 subparagraph 1.

390 3. ~~Inform the lender of the existence of the provisions of~~
391 ~~this act and~~ Provide the lender with a copy of ~~the provisions of~~
392 ~~this act~~ upon the lender's request.

393 (b) Regardless of the date of a loan of property, the
394 museum shall:

395 1. Update its records if a lender informs the museum of a
396 change of address or change in ownership of property loaned, or
397 if the lender and museum negotiate a change in the duration of
398 the loan.

399 2. ~~Inform the lender of the existence of the provisions of~~
400 ~~this act~~ When renewing or updating the records of an existing
401 loan, ~~and~~ provide the lender with a copy of ~~the provisions of~~
402 ~~this act~~ upon the lender's request.

403 (5) TERMINATION OF LOANS.-



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404 (c) If the museum is unable to identify sufficient
405 information to send notice pursuant to paragraph (b), or if a
406 signed return receipt of a notice sent by certified mail
407 pursuant to paragraph (b) is not received by the museum within
408 30 days after the notice is mailed, the museum shall publish the
409 notice of termination of loan containing all the information
410 available to the museum provided in paragraph (b) on its website
411 and at least twice, 60 or more days apart, in a publication of
412 general physical or online circulation in the county in which
413 the museum is located and the county of the lender's last known
414 address, if known.

415 (6) MUSEUM GAINING TITLE TO LOANED PROPERTY; CONDITIONS.—As
416 of the effective date of this act, a museum acquires title to
417 unclaimed property under any of the following circumstances:

418 (a) For property for which a museum provides notice to a
419 lender in accordance with paragraph (5) (b) and a signed receipt
420 is received, if the lender of the property does not contact the
421 museum within 90 days after the date notice was received.

422 (b) For property for which notice by publication is made
423 pursuant to paragraph (5) (c), if the lender or anyone claiming a
424 legal interest in the property does not contact the museum
425 within 90 days after the date of the ~~second~~ publication.

426 (12) LIABILITY.—If a museum applies conservation measures
427 to or disposes of a property pursuant to subsection (11), the
428 museum shall have a lien on the property and on the proceeds
429 from any disposition thereof for the costs incurred by the
430 museum, and the museum shall not be liable for injury to or loss
431 of the property if:

432 (a) The museum had a reasonable belief at the time the



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433 action was taken that the action was necessary to protect the
434 property on loan or other property in the custody of the museum,
435 or that the property on loan constituted a hazard to the health
436 and safety of the public or the museum's staff.

437 (b) The museum exercised reasonable care in the choice and
438 application of conservation measures.

439 (13) DISPOSITION OF ABANDONED PROPERTY.—A museum may keep,
440 transfer, sell, or dispose of abandoned property.

441 Section 19. Subsection (1) of section 267.115, Florida
442 Statutes, is amended to read:

443 267.115 Objects of historical or archaeological value.—The
444 division shall acquire, maintain, preserve, interpret, exhibit,
445 and make available for study objects which have intrinsic
446 historical or archaeological value relating to the history,
447 government, or culture of the state. Such objects may include
448 tangible personal property of historical or archaeological
449 value. Objects acquired under this section belong to the state,
450 and title to such objects is vested in the division.

451 (1) Notwithstanding s. 273.02, the division shall maintain
452 an adequate record of all objects in its custody which have a
453 historical or archaeological value. Once each year, on July 1 or
454 as soon thereafter as practicable, the division shall take a
455 complete inventory of all such objects in its custody the value
456 or cost of which is \$1,000 ~~\$500~~ or more and a sample inventory
457 of such objects the value or cost of which is less than \$1,000
458 ~~\$500~~. Each inventory shall be compared with the property record,
459 and all discrepancies shall be traced and reconciled. Objects of
460 historical or archaeological value are not required to be
461 identified by marking or other physical alteration of the



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462 objects.

463 Section 20. Section 267.16, Florida Statutes, is
464 transferred and renumbered as section 265.802, Florida Statutes.

465 Section 21. Section 267.161, Florida Statutes, is
466 transferred and renumbered as section 265.803, Florida Statutes.

467 Section 22. Section 258.081, Florida Statutes, is amended
468 to read:

469 258.081 Stephen Foster State Folk Culture Center.—The
470 division shall maintain and operate the Stephen Foster State
471 Folk Culture Center facility in such manner that the performing
472 arts component of the Florida Folklife Programs provided in s.
473 265.802 ~~s. 267.16~~ shall have priority use of the facility.

474 Section 23. Subsection (4) of section 468.401, Florida
475 Statutes, is amended to read:

476 468.401 Regulation of talent agencies; definitions.—As used
477 in this part or any rule adopted pursuant hereto:

478 (4) "Engagement" means any employment or placement of an
479 artist, where the artist performs in his or her artistic
480 capacity. However, the term "engagement" shall not apply to
481 procuring opera, music, theater, or dance engagements for any
482 organization defined in s. 501(c)(3) of the Internal Revenue
483 Code or any nonprofit Florida arts organization that has
484 received a grant from the Division of ~~Arts and Culture Cultural~~
485 ~~Affairs~~ of the Department of State or has participated in the
486 state touring program of the Division of Arts and Culture
487 ~~Cultural Affairs~~.

488 Section 24. Paragraph (d) of subsection (2) of section
489 553.902, Florida Statutes, is amended to read:

490 553.902 Definitions.—As used in this part, the term:



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491 (2) "Exempted building" means:

492 (d) A historical building as defined ~~described~~ in s.
493 267.021 ~~s. 267.021(3)~~.

494
495 The Florida Building Commission may recommend to the Legislature
496 additional types of buildings which should be exempted from
497 compliance with the Florida Building Code-Energy Conservation.

498 Section 25. Subsection (1) of section 2 of chapter 2020-88,
499 Laws of Florida, is amended to read:

500 Section 2. The Secretary of State is directed to:

501 (1) In coordination with the Division of Historical
502 Resources Cultural Affairs of the Department of State, determine
503 how the Museum of Florida History and other state museums will
504 promote the history of the 1920 Ocoee Election Day Riots through
505 exhibits and educational programs.

506 Section 26. 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 Appropriations

BILL: CS/SB 1404

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Senator Hooper

SUBJECT: Cultural and Historical Programs

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1404 designates the Museum of Florida History as the official state history museum and makes several changes to the Division of Cultural Affairs and Division of Historical Resources.

The bill renames the “Division of Cultural Affairs” to the “Division of Arts and Culture” and designates the Secretary of State as “Florida’s Chief Arts and Culture Officer.”

To better align the duties of the Division of Arts and Culture and the Division of Historical Resources, the bill transfers the:

- Florida Folklife Program from the Division of Historical Resources to the newly named Division of Arts and Culture; and
- The operation of the Museum of Florida History from the Division of Cultural Affairs to the Division of Historical Resources.

The bill requires the Division of Historical Resources to establish professional standards for the preservation of the collections under state ownership and take appropriate action to foster appreciation of Florida history and culture.

The bill transfers and revises provisions relating to property on loan to museums and property abandoned at museums. The bill revises inventory responsibilities of the Division of Historical

Resources for objects of historical or archaeological value by raising the threshold value or cost of objects in custody to \$1,000 instead of \$500.

The Department of State may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements from the National Endowment for the Arts.

The bill takes effect on July 1, 2021.

II. Present Situation:

Official State Emblems

Chapter 15, F.S., statutorily designates official state emblems. To date, there are designations for an official state seal, motto, tree, fruit, beverage, citrus archive, anthem, song, shell, stone, gem, wildflower, play, animal, freshwater fish, saltwater fish, marine mammal and saltwater mammal, butterfly, reptile and saltwater reptile, tortoise, air fair, rodeo, festival, moving image center and archive, litter control symbol, pageant, opera program, renaissance festival, railroad museums, transportation museum, flagship, soil, fiddle contest, band, sports hall of fame, pie, honey, horse, and heritage cattle breed.¹

Department of State

The Department of State (department), created in s. 20.10, F.S., is composed of six divisions: Elections, Historical Resources, Corporations, Library and Information Services, Cultural Affairs, and Administration. The head of the department is the Secretary of State (Secretary).² The Secretary is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor. The Secretary performs functions conferred by the State Constitution upon the custodian of records.

The department is authorized to create Community Support Organizations for its Divisions of Cultural Affairs,³ Historical Resources,⁴ and Library and Information Services.⁵ Citizen support organizations (CSOs) are statutorily created entities that are generally required to be nonprofit corporations and are authorized to carry out specific tasks in support of public entities or public causes.

The Division of Cultural Affairs

The Division of Cultural Affairs is Florida's designated state arts agency. The division promotes arts and culture as essential to the quality of life for all Floridians. "To promote excellence and encourage access to cultural opportunities, the division provides funding, programs and resources, including grants for: arts in education, local arts agencies, state service organizations,

¹ Sections 15.0301 through 15.0527, F.S.

² Section 20.10, F.S.

³ Section 265.703(1), F.S.

⁴ Section 267.17(1), F.S.

⁵ Section 257.43(1), F.S.

museums, theater, dance, folk arts, literature, media arts, multidisciplinary, music, sponsor/presenter, and visual arts programs and projects.”⁶

The Division of Cultural Affairs also administers the Museum of Florida History and has its offices in the historic Brokaw-McDougall House. “Opened in 1977, the Museum of Florida History collects, preserves, exhibits, and interprets evidence of past and present cultures in Florida, and promotes knowledge and appreciation of this heritage. As the State’s History Museum, it focuses on artifacts and eras unique to Florida’s development and on roles that Floridians have played in national and global events. Through exhibits, educational programs, research, and collections, the Museum reflects the ways that people have shaped and reacted to their cultural and natural environments.”⁷ The Division of Cultural Affairs also oversees the Museum and Capitol gift shops as well as the citizen support organization charged with supporting the Museum.

The Friends of the Museums of Florida, Inc., is the CSO created to support programs, exhibits, collections, and activities of the Museum of Florida History and the Knott House Museum.⁸ A citizen support organization is defined as an organization that is:

- A nonprofit corporation approved by the Department of State;
- Organized and operated to conduct programs and activities, raise funds, request and receive grants, and make expenditures to benefit the division;
- Determined by the division to be consistent with the goals of the division and in the best interest of the state; and
- Approved in writing by the division to operate for the benefit of the division.⁹

The identity of donors to the CSO who desire to remain anonymous are confidential and exempt from public records requirements.¹⁰

Florida Arts and Cultural Act

The Florida Arts and Cultural Act is set forth in ss. 265.281-265.709, F.S. The Legislative intent of the Act is to provide state support for, and to gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums and nonprofit organizations.¹¹ The Act defines the term “division” to mean the Division of Cultural Affairs of the Department of State.¹² The division is charged with directly administering and overseeing all programs authorized by the Act. The division’s duties include:

- Accepting and administering state and federal funds appropriated by the Legislature or funds received from other public or private sources;

⁶ Department of State, Division of Cultural Affairs, *About Us, Mission*, available at <https://dos.myflorida.com/cultural/about-us/mission/> (last visited on March 11, 2021).

⁷ Section 265.707, F.S. Department of State, Museum of Florida History, *About*, available at <https://museumoffloridahistory.com/> (last visited March 11, 2021).

⁸ Department of State, Museum of Florida History, *About the Friends of the Museums of Florida History, Inc.*, available at <https://museumoffloridahistory.com/support/membership-program/about-the-friends-of-the-museums-of-florida-history-inc/> (last visited March 11, 2021).

⁹ Section 265.703(1), F.S.

¹⁰ Section 265.703(3), F.S.

¹¹ Section 265.282, F.S.

¹² Section 265.283(4), F.S.

- Consulting and advising on acquisition of fine art works, appropriate use and display of state-owned art treasures for maximum public benefit, and suitability of ornamental or decorative structure or fixtures in public buildings;
- Accepting donations of money, property, art objects, and antiquities on behalf of the state;¹³
- Sponsoring performances and exhibits; promoting and encouraging the study and appreciation of arts and culture; and collecting, publishing, and printing pamphlets, papers, newsletters, and other materials related to arts and cultural programs available throughout the state; and
- Conducting and supporting cultural programs and cultural exchanges by coordinating with the appropriate state agencies and other organizations.¹⁴

Florida Historical Resources Act

The Florida Historical Resources Act¹⁵ was established to preserve archaeological sites and objects of antiquity for the public benefit.¹⁶ The Florida Historical Resources Act recognizes Florida's rich and unique heritage of historic properties as an important legacy to be valued and conserved for present and future generations. Accordingly, Florida has adopted a state policy to lead, assist, administer, and encourage public entities and private citizens to preserve the state's historic environment and resources.¹⁷

Division of Historical Resources

The Division of Historical Resources is responsible for preserving and promoting Florida's historical, archaeological, and folk culture resources. The division oversees historic preservation programs to identify, evaluate, preserve, and interpret Florida's historic and cultural resources. These activities include administering the historic preservation grants programs, overseeing the National Register of Historic Places, and maintain an inventory of the state's historical resources. The division also is responsible for the state's archaeology program, which includes surveys and excavations, primarily on state-owned lands or underwater locations; and coordinates outreach programs to promote Florida's historic and traditional culture, including the State Historical Markers program and Florida Folklife program. The division director serves as the State Historic Preservation Officer, acting as the liaison with the national historic preservation program conducted by the National Park Service.¹⁸

Under the Florida Folklife Program, the division must identify, research, interpret, and present Florida folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make folk cultural resources and folklife projects available throughout the state. The division is assisted by the Florida Folklife Council, a seven member council appointed by the Secretary of

¹³ Such donations of money and any cash income may be received from the disposal of any donations of property, art objects, or antiquities. The donations and cash income are deposited into the Grants and Donations Trust Fund and by statutes are appropriated for use by the division for the purposes authorized in the Act. Section 265.284(3)(e), F.S.

¹⁴ Section 265.284(3), F.S.

¹⁵ Chapter 267, F.S.

¹⁶ Section 267.14, F.S.

¹⁷ Section 267.061(2)(a), F.S.

¹⁸ Department of State, Division of Historical Resources, *About*, available at <https://dos.myflorida.com/historical/about/> (last visited on March 19, 2021). *See also* ch. 267, F.S.

State, in carrying out its duties under the program.¹⁹ The program is funded in part by the National Endowment for the Arts.²⁰

Secretary of State – Florida’s Chief Cultural Officer

The Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the department promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity.²¹ The Secretary is designated as “Florida’s Chief Cultural Officer” and is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. As Florida’s Chief Cultural Officer, the Secretary must coordinate international activities with Enterprise Florida, Inc., and any other organization the Secretary deems to be appropriate.²²

Property Abandoned at Museums

The Legislature has declared that the people of Florida benefit from having property of artistic, historic, cultural, or scientific value loaned to Florida museums.²³ However, problems arise in relation to indefinite or long term loans when museums and lenders fail to maintain contact. In response to these problems, the Legislature has established uniform procedures governing the disposition of unclaimed property²⁴ on loan to museums. The rules are designed to:

- Encourage museums and their lenders to exercise due diligence in monitoring loans;
- Allocate fairly responsibilities between lenders and borrowing museums;
- Establish procedures for lenders to preserve their interests in property loaned to museums for indefinite or long terms; and
- Resolve expeditiously the title to the unclaimed loaned property left in the custody of museums.²⁵

Whenever property is loaned to a museum, the museum is required to:

- Make and retain a written record containing the lender’s contact information, a description of the property, a description of the property’s general condition, and the beginning and ending dates of the loan;
- Provide the lender with a signed receipt or loan agreement;
- Inform the lender of the law; and

¹⁹ Sections 267.16 and 267.161, F.S.

²⁰ Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee); *see also* Department of State, Division of Historical Resources, *Florida Folklife Program*, available at <https://dos.myflorida.com/historical/preservation/florida-folklife-program/> (last visited March 11, 2021).

²¹ Section 15.18, F.S.

²² *Id.*

²³ “Museum” is defined to mean a public or private nonprofit agency or institution located in Florida and organized on a permanent basis for primarily educational, scientific, or aesthetic purposes, which owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis. Section 265.565(2)(c), F.S.

²⁴ “Unclaimed property” is defined to mean property which is on loan to the museum and in regard to which the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum for at least 25 years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least 5 years after the date upon which the loan for a definite period expired. Section 265.565(2)(f), F.S.

²⁵ Section 265.565(1), F.S.

- Provide the lender with a copy of the law upon request.²⁶

If there is a change in the lender's contact information, change in the ownership of the loaned property, or a change in the duration of the loan is negotiated, the museum must update its records to reflect the change. Whenever a museum renews or updates the records of an existing loan, the museum must inform the lender of the existence of the law and provide the lender with a copy upon the lender's request.²⁷ The museum is also required to give the lender prompt notice of any injury to or loss of property on the loan.²⁸

The lender is responsible for notifying the museum of any change in the lender's address or change in ownership of the property. Failure to provide the required notification could result in the owner's loss of rights to the property.²⁹ Additionally, it is the responsibility of a successor of a lender to document the passage of rights of control of the property that is in the custody of a museum.³⁰

In order to terminate a loan for unclaimed property, the museum must make a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records that are reasonably available to museum staff.³¹ If the museum is able to identify the lender and his or her last known address, the museum must provide notice of termination via certified mail. The notice of termination must include:

- The name of the lender;
- A description of the property sufficient in detail for ready identification;
- The beginning date of the loan, if known;
- The termination date of the loan, if applicable;
- The name and address of the appropriate museum official to contact regarding the loan; and
- A statement that within 90 days the lender is required to remove the property from the museum or contact the designated official in the museum to preserve the lender's interests in the property.³²

If the museum is unable to acquire enough information to send a letter by certified mail, or if a signed return receipt is not received within 30 days, the museum must publish a notice of termination containing all the above required information at least twice in a publication of general circulation in the county in which the museum is located and the county of the lender's last known address. The publications must be at least 60 or more days apart.³³

If the lender fails to respond to the notice of termination sent via certified mail or included in a publication of general circulation within 90 days, the title to the unclaimed property will pass to the museum.³⁴

²⁶ Section 265.565(3)(a), F.S.

²⁷ Section 265.565(3)(b), F.S.

²⁸ Section 265.565(3)(c), F.S.

²⁹ Section 265.565(4)(a), F.S.

³⁰ Section 265.565(4)(b), F.S.

³¹ Section 265.565(5)(a), F.S.

³² Section 265.565(5)(b), F.S.

³³ Section 265.565(5)(c), F.S.

³⁴ Section 265.565(6), F.S.

National Endowment for the Arts

The National Endowment for the Arts (NEA) is an independent, federal agency with substantial discretion to award financial grants to support the arts. The NEA awards grants to groups and individuals whose artistic endeavors have substantial artistic and cultural significance or are otherwise worthy of public support and to state agencies established to serve the same purpose.³⁵ All states have a State Arts Agency recognized by the NEA. The NEA distributes program funding to those State Arts Agencies, with each state devoting its own appropriated funds to support arts programs throughout the state.³⁶ The Division of Cultural Affairs is recognized by the NEA as Florida's official State Arts Agency and receives an annual partnership grant from the NEA.³⁷

III. Effect of Proposed Changes:

Official State History Museum

Section 1 creates s. 15.0455, F.S., to designate the Museum of Florida History, located in Tallahassee, as the official state history museum.

Division of Arts and Culture

Section 2 amends s. 15.18, F.S., to designate the Secretary of State as “Florida’s Chief Arts and Cultural Officer” instead of the chief cultural officer.

Section 3 amends s. 20.10, F.S., to rename the Division of Cultural Affairs as the Division of Arts and Culture.

The bill makes several further changes to correct references to the division and to reorganize current duties of the division and the Division of Historical Resources to better align the programs with the proper division.

- **Section 4** amends s. 265.281, F.S., to correct statutory references due to changes made by the bill.
- **Sections 6, 7, and 8** amend ss. 265.286, 265.2865, and 265.701, F.S., respectively, to correct statutory references and update references to the division.
- **Sections 9, 11, 12, 13, and 14** repeal ss. 265.7025, 265.704, 265.705, 265.706, and 265.709, F.S., respectively, relating to the division’s powers and duties relating to historic programs.
- **Sections 22 and 23** amend ss. 258.081 and 464.401, F.S., respectively, to make conforming changes.

³⁵ 20 U.S.C. § 954 (2018).

³⁶ Americans for the Arts, *National Endowment for the Arts – Funding for Art Agencies*, available at <https://www.americansforthearts.org/by-program/reports-and-data/legislation-policy/legislative-issue-center/national-endowment-for-the-arts%E2%80%94funding-for-arts-agencies> (last visited March 11, 2021).

³⁷ Department of State, Division of Cultural Affairs, *National Endowment for the Arts*, available at <https://dos.myflorida.com/cultural/about-us/partners/national-endowment-for-the-arts/> (last visited March 11, 2021); National Assembly of State Arts Agencies, *State Arts Agency Directory*, available at <https://nasaa-arts.org/state-arts-agencies/saa-directory/> (last visited March 11, 2021).

The bill transfers the Florida Folklife Program, and its associated council, from the Division of Historical Resources to the Division of Arts and Culture.

- **Section 20** renumbers s. 267.16, F.S., as s. 265.802, F.S., to transfer the duties and responsibilities of the Division of Historical Resources regarding the Florida Folklife Program to the Division of Arts and Culture.
- **Section 21** renumbers s. 267.161, F.S., as s. 265.803, F.S., to transfer the Florida Folklife Council from the Division of Historical Resources to the Division of Arts and Culture.³⁸
- **Section 5** amends s. 265.283, F.S., to update references to the division and adds the definition of “folklife” to reflect the transfer of this program from the Division of Historical Resources to the Division of Arts and Culture.

Division of Historic Resources

The bill transfers the Museum of Florida History from the Division of Arts and Culture to the Division of Historical Resources. **Section 17** transfers and renumbers s. 265.707, F.S., as s. 267.0721, F.S., effectively transferring administration of the Museum of Florida History and its related citizen support organization (CSO) to the Division of Historical Resources. The CSO, Friends of the Museums of Florida, Inc., will support the Museum of Florida History and other museums operated by the division.

Currently, any revenues from sales in museum stores is deposited into the Grants and Donations Trust Fund, and any funds in excess of the amount required to pay state employees may be deposited into a bank account of the museum’s CSO. In **section 17**, the bill allows the proceeds to be used to support both programs of the museums and also museum operations. Additionally, allows the division to deposit grant funding for the Museum of Florida History into the Grants and Donations Trust Fund.

Section 10 amends s. 265.703, F.S., to delete a public record exemption for the Museum of Florida History citizen support organization no longer necessary due to changes made by the bill.

Section 15 amends s. 267.021, F.S., to define the term “historical museum” and remove the definition of “folklife.” The term “historical museum” is defined to mean:

[A] department or a department or an agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

Section 16 amends 267.071, F.S., to require the Division of Historical Resources to encourage, promote, maintain, and operate the Museum of Florida History and other historical museums.

³⁸ The department indicates that such reassignment of the Florida Folklife Program will bring the program in line with new federal funding program requirements from the National Endowment for the Arts. *See* Department of State, *2021 Agency Legislative Bill Analysis SB 1404* (February 24, 2021) (on file with the Senate Governmental Oversight and Accountability Committee).

The division must also establish professional standards for the preservation, exclusive of acquisition, of each of the collections under state ownership or control and to take appropriate action to foster appreciation of Florida history and culture.

Section 18 transfers and renumbers s. 265.565, F.S., relating to property loaned to museums, as s. 267.0723, F.S. Current law requires a museum to inform a lender of the existence of the statute relating to property loaned to a museum and to provide the lender with a copy of such statutory provisions upon the lender's request. Section 18 removes the requirement for a museum to inform but maintains the requirement that upon a lender's request, a museum must provide a copy of the relevant statutory provisions.

This section amends the notice of termination provision to allow for the required information to be provided on the museum's website and specifies that publication may be by physical or online means. It also removes the requirement to publish the information twice, at least 60 days apart.

This section also provides for the disposition of abandoned property by authorizing a museum to keep, transfer, sell, or dispose of abandoned property. This section defines the term "abandoned property" to mean "property left at or delivered to a museum with no loan, deed of gift, or donation paperwork."

Section 19 amends s. 267.115, F.S., to revise the cost or value threshold that triggers a complete inventory of objects of historical or archaeological value from \$500 to \$1,000. For objects valued or costing less than \$1,000, only a sample inventory is required.

Section 24 amends s. 553.902, F.S., and **Section 25** amends ch. 2020-88, Laws of Florida, to make conforming changes.

Effective Date

Section 26 provides that the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department may experience an indeterminate positive fiscal impact as the reassignment of the Florida Folklife Program brings the program in line with new federal funding program requirements of the National Endowment for the Arts.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 265.565, F.S., was created in 1997 by ch. 97-267, Laws of Florida. The act created an undesignated section of Florida law, which was subsequently numbered as s. 265.565, F.S. The bill transfers and renumbers this section as s. 267.0723, F.S. While the current s. 265.565, F.S., references providing a lender of property to a museum with information about a copy “of this act,” it is unlikely that “this act” means the entire chapter in which the statute is located,⁴⁰ but instead the act in which the statute itself was created. This ambiguity could be amended in the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 15.18, 20.10, 265.281, 265.283, 265.286, 265.2865, 265.701, 265.703, 267.021, 267.071, 265.707, 265.565, 267.115, 267.16, 267.161, 258.081, 468.401, and 553.902.

³⁹ *Id.*

⁴⁰ In its current location, the statute is located in the Florida Arts and Culture Act, ss. 265.281 through 265.709, F.S. Under the bill, the statute is transferred to ch. 267, F.S., which is the Florida Historical Resources Act.

This bill creates the following sections of the Florida Statutes: 15.0455, 267.0721, 267.0723, 265.802, and 265.803.

This bill repeals the following sections of the Florida Statutes: 265.7025, 265.704, 265.705, 265.706, and 265.709

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 Appropriations on April 15, 2021:

The committee substitute returns to current law, which requires proceeds from sales at museum stores as well as grant funding, gifts, and donations for the Museum of Florida History to be deposited into the Grants and Donations Trust Fund.

- B. **Amendments:**

None.

By Senator Hooper

16-01306A-21

20211404__

1 A bill to be entitled
 2 An act relating to cultural and historical programs;
 3 creating s. 15.0455, F.S.; designating the Museum of
 4 Florida History as the official state history museum;
 5 amending s. 15.18, F.S.; providing that the Secretary
 6 of State shall be known as "Florida's Chief Arts and
 7 Culture Officer"; conforming a provision to changes
 8 made by the act; amending s. 20.10, F.S.; renaming the
 9 Division of Cultural Affairs as the Division of Arts
 10 and Culture; amending s. 265.281, F.S.; conforming
 11 provisions to changes made by the act; reordering and
 12 amending s. 265.283, F.S.; conforming provisions to
 13 changes made by the act; defining the term "folklife";
 14 amending s. 265.286, F.S.; conforming a cross-
 15 reference; amending ss. 265.2865 and 265.701, F.S.;
 16 conforming provisions to changes made by the act;
 17 repealing s. 265.7025, F.S., relating to definitions
 18 relating to historic programs; amending s. 265.703,
 19 F.S.; conforming provisions to changes made by the
 20 act; repealing ss. 265.704, 265.705, 265.706, and
 21 265.709, F.S., relating to historical museums and
 22 powers and duties of the Division of Cultural Affairs,
 23 state policy relative to historical properties,
 24 objects of historical or archaeological value, and
 25 publications, respectively; reordering and amending s.
 26 267.021, F.S.; deleting the definition of the term
 27 "folklife"; defining the term "historical museum";
 28 amending s. 267.071, F.S.; revising the duties of the
 29 Division of Historical Resources; transferring,

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30 renumbering, and amending s. 265.707, F.S.;
 31 transferring certain responsibilities from the
 32 Division of Cultural Affairs to the Division of
 33 Historical Resources; revising provisions relating to
 34 the Museum of Florida History museum store, the
 35 establishment and operation of a certain nonprofit
 36 organization or association, and the deposit of
 37 certain funds; transferring, renumbering, and amending
 38 s. 265.565, F.S.; defining the term "abandoned
 39 property"; removing the requirement that a museum
 40 inform a lender of certain provisions in certain
 41 circumstances; revising publication requirements for a
 42 termination of loan notice; providing for the
 43 disposition of abandoned property; amending s.
 44 267.115, F.S.; revising the duties of the Division of
 45 Historical Resources relating to objects of historical
 46 or archaeological value; transferring and renumbering
 47 ss. 267.16 and 267.161, F.S., relating to Florida
 48 Folklife Programs and the Florida Folklife Council,
 49 respectively; amending ss. 258.081, 468.401, and
 50 553.902, F.S.; conforming provisions and cross-
 51 references to changes made by the act; amending
 52 chapter 2020-88, Laws of Florida; conforming a
 53 provision to changes made by the act; providing an
 54 effective date.

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

58 Section 1. Section 15.0455, Florida Statutes, is created to

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59 read:

60 15.0455 Official state history museum.-The Museum of
 61 Florida History, located in Tallahassee, is hereby designated as
 62 the official state history museum.

63 Section 2. Section 15.18, Florida Statutes, is amended to
 64 read:

65 15.18 International and cultural relations.-The Divisions
 66 of Arts and Culture ~~Cultural Affairs~~, Historical Resources, and
 67 Library and Information Services of the Department of State
 68 promote programs having substantial cultural, artistic, and
 69 indirect economic significance that emphasize American
 70 creativity. The Secretary of State, as the head administrator of
 71 these divisions, shall hereafter be known as "Florida's Chief
 72 Arts and Culture ~~Cultural~~ Officer." As this officer, the
 73 Secretary of State is encouraged to initiate and develop
 74 relationships between the state and foreign cultural officers,
 75 their representatives, and other foreign governmental officials
 76 in order to promote Florida as the center of American
 77 creativity. The Secretary of State shall coordinate
 78 international activities pursuant to this section with
 79 Enterprise Florida, Inc., and any other organization the
 80 secretary deems appropriate. For the accomplishment of this
 81 purpose, the Secretary of State shall have the power and
 82 authority to:

83 (1) Disseminate any information pertaining to the State of
 84 Florida which promotes the state's cultural assets.

85 (2) Plan and carry out activities designed to cause
 86 improved cultural and governmental programs and exchanges with
 87 foreign countries.

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

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88 (3) Plan and implement cultural and social activities for
 89 visiting foreign heads of state, diplomats, dignitaries, and
 90 exchange groups.

91 (4) Encourage and cooperate with other public and private
 92 organizations or groups in their efforts to promote the cultural
 93 advantages of Florida.

94 (5) Serve as the liaison with all foreign consular and
 95 ambassadorial corps, as well as international organizations,
 96 that are consistent with the purposes of this section.

97 (6) Provide, arrange, and make expenditures for the
 98 achievement of any or all of the purposes specified in this
 99 section.

100 Section 3. Paragraph (e) of subsection (2) of section
 101 20.10, Florida Statutes, is amended to read:

102 20.10 Department of State.-There is created a Department of
 103 State.

104 (2) The following divisions of the Department of State are
 105 established:

106 (e) Division of Arts and Culture ~~Cultural Affairs~~.

107 Section 4. Section 265.281, Florida Statutes, is amended to
 108 read:

109 265.281 Florida Arts and Culture Act; short title.-Sections
 110 265.281-265.703 ~~Sections 265.281-265.709~~ may be cited as the
 111 "Florida Arts and Culture Act."

112 Section 5. Section 265.283, Florida Statutes, is reordered
 113 and amended to read:

114 265.283 Definitions.-The following definitions shall apply
 115 to ss. 265.281-265.703 ~~ss. 265.281-265.709~~:

116 (3)(1) "Council" means the Florida Council on Arts and

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

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117 Culture.

118 ~~(6)(2)~~ "Department" means the Department of State.

119 ~~(7)(3)~~ "Director" means the Director of the Division of

120 Arts and Culture ~~Cultural Affairs~~ of the Department of State.

121 ~~(8)(4)~~ "Division" means the Division of Arts and Culture

122 ~~Cultural Affairs~~ of the Department of State.

123 ~~(12)(5)~~ "Panel" means a grant review panel.

124 ~~(14)(6)~~ "Secretary" means the Secretary of State.

125 ~~(1)(7)~~ "Arts and cultural disciplines" include, but are not

126 limited to, music, dance, theatre, creative writing, literature,

127 architecture, painting, sculpture, folk arts, photography,

128 crafts, media arts, visual arts, programs of museums, and other

129 such allied, major art forms.

130 ~~(11)(8)~~ "Local arts agency" means a public or private

131 nonprofit organization located in Florida and operating on a

132 permanent basis for the primary purpose of strengthening,

133 supporting, and stabilizing the activities of one or more county

134 art and cultural constituencies.

135 ~~(10)(9)~~ "Historical museum" means a department or agency of

136 state or local government or a public or private nonprofit

137 organization located in Florida and operating on a permanent

138 basis for the primary purpose of sponsoring, producing, and

139 exhibiting educational programs that are related to the

140 historical resources of Florida.

141 ~~(13)(10)~~ "Science museum" means a public or private

142 nonprofit organization located in Florida and operating on a

143 permanent basis for the primary purpose of sponsoring,

144 producing, and exhibiting programs for the observation and study

145 of various types of natural science and science technology.

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146 ~~(18)(11)~~ "Youth and children's museum" means a public or

147 private nonprofit organization located in Florida and operating

148 on a permanent basis for the primary purpose of sponsoring,

149 producing, and exhibiting multidisciplinary and participatory

150 programs for visitors who are 6 months to 15 years old, and

151 their families, teachers, and caregivers.

152 ~~(15)(12)~~ "State service organization" means a public or

153 private nonprofit organization located in Florida operating on a

154 permanent basis for the primary purpose of implementing programs

155 that have cultural significance and that emphasize American

156 creativity and the maintenance and encouragement of professional

157 excellence.

158 ~~(2)(13)~~ "Arts in education grants" means grants used to

159 cultivate the learning and artistic development of all students

160 and teachers by promoting, encouraging, and supporting arts and

161 culture as an integral part of education and lifelong learning

162 for residents and visitors.

163 ~~(4)(14)~~ "Cultural support grants" means grants that provide

164 support for general programs and specific cultural projects.

165 ~~(16)(15)~~ "State touring program grants" means grants used

166 to provide performances, activities, and exhibitions by Florida

167 artists to communities.

168 ~~(17)(16)~~ "Underserved arts community assistance program

169 grants" means grants used by qualified organizations under the

170 Rural Economic Development Initiative, pursuant to ss. 288.0656

171 and 288.06561, for the purpose of economic and organizational

172 development for underserved cultural organizations.

173 ~~(5)(17)~~ "Culture Builds Florida grants" means grants used

174 for the purpose of connecting the arts to key areas of the

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175 division's long-term strategic plan.

176 (9) "Folklife" means the traditional expressive culture
 177 shared within the various groups in Florida: familial, ethnic,
 178 occupational, religious, and regional. Expressive culture
 179 includes a wide range of creative and symbolic forms, such as
 180 custom, belief, technical skill, language, literature, art,
 181 architecture, music, play, dance, drama, ritual, pageantry, and
 182 handicraft, which forms are generally learned orally, by
 183 imitation, or in performance and are maintained or perpetuated
 184 without formal instruction or institutional direction.

185 Section 6. Paragraph (a) of subsection (5) of section
 186 265.286, Florida Statutes, is amended to read:

187 265.286 Art and cultural grants.—

188 (5) The division shall fund:

189 (a) Grants for general program support for science museums,
 190 youth and children's museums, historical museums, local arts
 191 agencies, state service organizations, and organizations that
 192 have cultural program activities in any of the art and cultural
 193 disciplines defined in s. 265.283 s. 265.283(7).

194 Section 7. Subsection (6) of section 265.2865, Florida
 195 Statutes, is amended to read:

196 265.2865 Florida Artists Hall of Fame.—

197 (6) The Division of Arts and Culture Cultural Affairs of
 198 the Department of State shall adopt rules necessary to carry out
 199 the purposes of this section, including, but not limited to,
 200 procedures for accepting nominations to, making recommendations
 201 for, selecting members of the Florida Artists Hall of Fame, and
 202 providing travel expenses for such recipients. Notwithstanding
 203 ~~the provisions of s. 112.061, the Secretary of State may approve~~

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204 first-class travel accommodations for recipients of the Florida
 205 Artists Hall of Fame award and their representatives for health
 206 or security purposes.

207 Section 8. Subsections (1) and (5) of section 265.701,
 208 Florida Statutes, are amended to read:

209 265.701 Cultural facilities; grants for acquisition,
 210 renovation, or construction; funding; approval; allocation.—

211 (1) The Division of Arts and Culture Cultural Affairs may
 212 accept and administer moneys appropriated to it for providing
 213 grants to counties, municipalities, and qualifying nonprofit
 214 corporations for the acquisition, renovation, or construction of
 215 cultural facilities.

216 (5) The Division of Arts and Culture Cultural Affairs shall
 217 adopt rules prescribing the criteria to be applied by the
 218 Florida Council on Arts and Culture in recommending applications
 219 for the award of grants and rules providing for the
 220 administration of ~~the other provisions of~~ this section.

221 Section 9. Section 265.7025, Florida Statutes, is repealed.

222 Section 10. Subsection (3) of section 265.703, Florida
 223 Statutes, is amended to read:

224 265.703 Citizen support organizations; use of state
 225 administrative services and property; audit.—

226 (3) ANNUAL AUDIT.—The citizen support organization shall
 227 provide for an annual financial audit in accordance with s.
 228 215.981. ~~Information of the Museum of Florida History citizen~~
 229 ~~support organization which is confidential and exempt pursuant~~
 230 ~~to s. 267.17 shall retain its confidential and exempt status.~~

231 Section 11. Section 265.704, Florida Statutes, is repealed.

232 Section 12. Section 265.705, Florida Statutes, is repealed.

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233 Section 13. Section 265.706, Florida Statutes, is repealed.
 234 Section 14. Section 265.709, Florida Statutes, is repealed.
 235 Section 15. Section 267.021, Florida Statutes, is reordered
 236 and amended to read:

237 267.021 Definitions.—For the purpose of this act, the term:
 238 (2)(1) “Division” means the Division of Historical
 239 Resources of the Department of State.

240 (1)(2) “Agency” means any state, county, or municipal
 241 officer, department, division, board, bureau, commission, or
 242 other separate unit of government created or established by law.

243 (5)(3) “Historic property” or “historic resource” means any
 244 prehistoric or historic district, site, building, object, or
 245 other real or personal property of historical, architectural, or
 246 archaeological value, and folklife resources. These properties
 247 or resources may include, but are not limited to, monuments,
 248 memorials, Indian habitations, ceremonial sites, abandoned
 249 settlements, sunken or abandoned ships, engineering works,
 250 treasure trove, artifacts, or other objects with intrinsic
 251 historical or archaeological value, or any part thereof,
 252 relating to the history, government, and culture of the state.

253 (8)(4) “Preservation” or “historic preservation” means the
 254 identification, evaluation, recordation, documentation,
 255 analysis, recovery, interpretation, curation, acquisition,
 256 protection, management, rehabilitation, restoration,
 257 stabilization, maintenance, or reconstruction of historic
 258 properties.

259 (6)(5) “National Register of Historic Places” means the
 260 list of historic properties significant in American history,
 261 architecture, archaeology, engineering, and culture, maintained

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262 by the Secretary of the Interior, as established by the National
 263 Historic Preservation Act of 1966, as amended.

264 ~~(6) “Folklife” means the traditional expressive culture~~
 265 ~~shared within the various groups in Florida: familial, ethnic,~~
 266 ~~occupational, religious, and regional. Expressive culture~~
 267 ~~includes a wide range of creative and symbolic forms such as~~
 268 ~~custom, belief, technical skill, language, literature, art,~~
 269 ~~architecture, music, play, dance, drama, ritual, pageantry, and~~
 270 ~~handicraft, which forms are generally learned orally, by~~
 271 ~~imitation, or in performance and are maintained or perpetuated~~
 272 ~~without formal instruction or institutional direction.~~

273 (3)(7) “Florida history museum” means a public or private
 274 nonprofit institution which is established permanently in this
 275 state for the purpose of promoting and encouraging knowledge and
 276 appreciation of Florida history through the collection,
 277 preservation, exhibition, and interpretation of artifacts and
 278 other historical properties related to Florida history and the
 279 primary role of which is to collect and care for artifacts and
 280 other objects of intrinsic historical or archaeological value
 281 and exhibit them regularly through a facility or facilities
 282 owned or operated by the institution.

283 (7)(8) “Official Florida Historical Marker” means any
 284 marker, plaque, or similar device awarded, approved, or
 285 administered by the Division of Historical Resources for the
 286 purpose of recognizing and informing the general public about
 287 historic properties, persons, events, and other topics relating
 288 to the history and culture of the state.

289 (4) “Historical museum” means a department or an agency of
 290 state or local government or a public or private nonprofit

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291 organization located in Florida and operating on a permanent
 292 basis for the primary purpose of sponsoring, producing, and
 293 exhibiting educational programs that are related to the
 294 historical resources of Florida.

295 Section 16. Subsection (2) of section 267.071, Florida
 296 Statutes, is amended, and subsection (4) is added to that
 297 section, to read:

298 267.071 Historical museums.—It is the duty of the division
 299 to:

300 (2) Encourage, promote, maintain, and operate historical
 301 museums, including the Museum of Florida History, but not
 302 limited to, mobile museums, and other Florida history junior
 303 museums.

304 (4) (a) Establish professional standards for the
 305 preservation, exclusive of acquisition, of each of the
 306 collections under state ownership or control.

307 (b) Take such other actions as are necessary or appropriate
 308 to locate, acquire, preserve, operate, interpret, and promote
 309 the location, acquisition, protection, preservation, operation,
 310 and interpretation of historical artifacts and resources to
 311 foster an appreciation of Florida history and culture.

312 Section 17. Section 265.707, Florida Statutes, is
 313 transferred, renumbered as section 267.0721, Florida Statutes,
 314 and amended to read:

315 267.0721 ~~265.707~~ Museum of Florida History and programs;
 316 other historical museums.—

317 (1) The division is authorized to operate the Museum of
 318 Florida History and other historical museums.

319 (2) The division shall establish and administer a museum

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320 store ~~for in~~ the Museum of Florida History to provide
 321 information and materials relating to Florida history, museum
 322 exhibits, collections, and programs to the public and may
 323 operate additional stores associated with the museum. The stores
 324 ~~store~~ may produce, acquire, and sell craft products, clearly
 325 marked replicas and reproductions of artifacts, documents, and
 326 other merchandise relating to historical and cultural resources
 327 and may make a reasonable charge for such merchandise. All
 328 proceeds received from sales must be deposited into ~~the Grants~~
 329 ~~and Donations Trust Fund, or funds in excess of the amount~~
 330 ~~required to pay employees involved in the direct management of~~
 331 ~~the museum store may be deposited into a bank account of a the~~
 332 citizen support organization created pursuant to s. 267.17 or
 333 created before July 1, 2021, pursuant to s. 265.703 and may be
 334 used only to support operations of the museum stores and the
 335 programs of the Museum of Florida History or other museums
 336 operated by the division. The museum stores ~~store~~ may enter into
 337 agreements and accept credit card ~~credit-card~~ payments as
 338 compensation for goods and products sold. The division may
 339 establish accounts in credit card ~~credit-card~~ banks for the
 340 deposit of credit card ~~credit-card~~ sales invoices and to pay
 341 discounts and service charges in connection with the use of
 342 credit cards.

343 (3) The division shall support the establishment and
 344 operation of a nonprofit organization or association established
 345 pursuant to s. 267.17 or established before July 1, 2021,
 346 pursuant to s. 265.703 to promote and encourage knowledge and
 347 appreciation of Florida history and the programs of the Museum
 348 of Florida History and other museums operated by the division

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349 and to cooperate with historical societies and other
350 organizations to provide funding and promotional support for the
351 programs of the museum. Such organization or association may,
352 with the consent of the division, operate the museum store or
353 conduct special events and programs in the museum. All proceeds
354 must be used to support the programs of the Museum of Florida
355 History and other museums operated by the division.

356 (4) The division ~~may shall~~ deposit grant funding, gifts,
357 and donations for the purpose of assisting the Museum of Florida
358 History and its programs and other museums operated by the
359 division in an appropriate in the Grants and Donations trust
360 fund to be used exclusively for the benefit of programs of the
361 museum and in a manner consistent with any terms or conditions
362 agreed to by the division in accepting such grants, gifts, and
363 donations.

364 Section 18. Section 265.565, Florida Statutes, is
365 transferred and renumbered as section 267.0723, Florida
366 Statutes, and present paragraphs (a) through (f) of subsection
367 (2) of that section are redesignated as paragraphs (b) through
368 (g), respectively, a new paragraph (a) is added to that
369 subsection and subsection (13) is added to that section, and
370 paragraphs (a) and (b) of subsection (3), paragraph (c) of
371 subsection (5), and subsections (6) and (12) of that section are
372 amended, to read:

373 267.0723 265.565 Property loaned to or abandoned at
374 museums; obligations to lenders; notice; loan termination;
375 acquisition of title; liens; conservation or disposal.—

376 (2) DEFINITIONS.—

377 (a) "Abandoned property" means property left at or

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378 delivered to a museum with no loan, deed of gift, or donation
379 paperwork.

380 (3) OBLIGATIONS OF MUSEUMS TO LENDERS.—

381 (a) For property loaned to a museum after the effective
382 date of this act, the museum shall:

383 1. Make and retain a written record containing, at a
384 minimum, the lender's name, address, and telephone number, a
385 description of the property loaned in sufficient detail for
386 clear identification, including a description of the general
387 condition of the property at the time of the loan, the beginning
388 date of the loan, and the expiration date of the loan.

389 2. Provide the lender with a signed receipt or loan
390 agreement containing, at a minimum, the record set forth in
391 subparagraph 1.

392 3. ~~Inform the lender of the existence of the provisions of~~
393 ~~this act and~~ Provide the lender with a copy of ~~the provisions of~~
394 this act upon the lender's request.

395 (b) Regardless of the date of a loan of property, the
396 museum shall:

397 1. Update its records if a lender informs the museum of a
398 change of address or change in ownership of property loaned, or
399 if the lender and museum negotiate a change in the duration of
400 the loan.

401 2. ~~Inform the lender of the existence of the provisions of~~
402 ~~this act~~ When renewing or updating the records of an existing
403 loan, ~~and~~ provide the lender with a copy of ~~the provisions of~~
404 this act upon the lender's request.

405 (5) TERMINATION OF LOANS.—

406 (c) If the museum is unable to identify sufficient

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407 information to send notice pursuant to paragraph (b), or if a
 408 signed return receipt of a notice sent by certified mail
 409 pursuant to paragraph (b) is not received by the museum within
 410 30 days after the notice is mailed, the museum shall publish the
 411 notice of termination of loan containing all the information
 412 available to the museum provided in paragraph (b) on its website
 413 and at least twice, 60 or more days apart, in a publication of
 414 general physical or online circulation in the county in which
 415 the museum is located and the county of the lender's last known
 416 address, if known.

417 (6) MUSEUM GAINING TITLE TO LOANED PROPERTY; CONDITIONS.—As
 418 of the effective date of this act, a museum acquires title to
 419 unclaimed property under any of the following circumstances:

420 (a) For property for which a museum provides notice to a
 421 lender in accordance with paragraph (5) (b) and a signed receipt
 422 is received, if the lender of the property does not contact the
 423 museum within 90 days after the date notice was received.

424 (b) For property for which notice by publication is made
 425 pursuant to paragraph (5) (c), if the lender or anyone claiming a
 426 legal interest in the property does not contact the museum
 427 within 90 days after the date of the ~~second~~ publication.

428 (12) LIABILITY.—If a museum applies conservation measures
 429 to or disposes of a property pursuant to subsection (11), the
 430 museum shall have a lien on the property and on the proceeds
 431 from any disposition thereof for the costs incurred by the
 432 museum, and the museum shall not be liable for injury to or loss
 433 of the property if:

434 (a) The museum had a reasonable belief at the time the
 435 action was taken that the action was necessary to protect the

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436 property on loan or other property in the custody of the museum,
 437 or that the property on loan constituted a hazard to the health
 438 and safety of the public or the museum's staff.

439 (b) The museum exercised reasonable care in the choice and
 440 application of conservation measures.

441 (13) DISPOSITION OF ABANDONED PROPERTY.—A museum may keep,
 442 transfer, sell, or dispose of abandoned property.

443 Section 19. Subsection (1) of section 267.115, Florida
 444 Statutes, is amended to read:

445 267.115 Objects of historical or archaeological value.—The
 446 division shall acquire, maintain, preserve, interpret, exhibit,
 447 and make available for study objects which have intrinsic
 448 historical or archaeological value relating to the history,
 449 government, or culture of the state. Such objects may include
 450 tangible personal property of historical or archaeological
 451 value. Objects acquired under this section belong to the state,
 452 and title to such objects is vested in the division.

453 (1) Notwithstanding s. 273.02, the division shall maintain
 454 an adequate record of all objects in its custody which have a
 455 historical or archaeological value. Once each year, on July 1 or
 456 as soon thereafter as practicable, the division shall take a
 457 complete inventory of all such objects in its custody the value
 458 or cost of which is \$1,000 ~~\$500~~ or more and a sample inventory
 459 of such objects the value or cost of which is less than \$1,000
 460 ~~\$500~~. Each inventory shall be compared with the property record,
 461 and all discrepancies shall be traced and reconciled. Objects of
 462 historical or archaeological value are not required to be
 463 identified by marking or other physical alteration of the
 464 objects.

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465 Section 20. Section 267.16, Florida Statutes, is
 466 transferred and renumbered as section 265.802, Florida Statutes.

467 Section 21. Section 267.161, Florida Statutes, is
 468 transferred and renumbered as section 265.803, Florida Statutes.

469 Section 22. Section 258.081, Florida Statutes, is amended
 470 to read:

471 258.081 Stephen Foster State Folk Culture Center.—The
 472 division shall maintain and operate the Stephen Foster State
 473 Folk Culture Center facility in such manner that the performing
 474 arts component of the Florida Folklife Programs provided in s.
 475 265.802 ~~s. 267.16~~ shall have priority use of the facility.

476 Section 23. Subsection (4) of section 468.401, Florida
 477 Statutes, is amended to read:

478 468.401 Regulation of talent agencies; definitions.—As used
 479 in this part or any rule adopted pursuant hereto:

480 (4) "Engagement" means any employment or placement of an
 481 artist, where the artist performs in his or her artistic
 482 capacity. However, the term "engagement" shall not apply to
 483 procuring opera, music, theater, or dance engagements for any
 484 organization defined in s. 501(c)(3) of the Internal Revenue
 485 Code or any nonprofit Florida arts organization that has
 486 received a grant from the Division of Arts and Culture ~~Cultural~~
 487 ~~Affairs~~ of the Department of State or has participated in the
 488 state touring program of the Division of Arts and Culture
 489 ~~Cultural Affairs~~.

490 Section 24. Paragraph (d) of subsection (2) of section
 491 553.902, Florida Statutes, is amended to read:

492 553.902 Definitions.—As used in this part, the term:

493 (2) "Exempted building" means:

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494 (d) A historical building as defined ~~described~~ in s.
 495 267.021 ~~s. 267.021(3)~~.

496
 497 The Florida Building Commission may recommend to the Legislature
 498 additional types of buildings which should be exempted from
 499 compliance with the Florida Building Code-Energy Conservation.

500 Section 25. Subsection (1) of section 2 of chapter 2020-88,
 501 Laws of Florida, is amended to read:

502 Section 2. The Secretary of State is directed to:

503 (1) In coordination with the Division of Historical
 504 Resources ~~Cultural Affairs~~ of the Department of State, determine
 505 how the Museum of Florida History and other state museums will
 506 promote the history of the 1920 Ocoee Election Day Riots through
 507 exhibits and educational programs.

508 Section 26. This act shall take effect July 1, 2021.

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The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 23, 2021

I respectfully request that **Senate Bill # 1404**, relating to Cultural and Historical Programs, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

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 Appropriations

BILL: CS/SB 1408

INTRODUCER: Banking and Insurance Committee and Senator Burgess

SUBJECT: Department of Financial Services

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1408 amends sections of Florida Statutes governing the following Department of Financial Services (DFS) Divisions: Investigative and Forensic Services; Public Assistance Fraud; Funeral, Cemetery, and Consumer Services; and State Fire Marshal. The bill:

- Designates the Division of Public Assistance Fraud a criminal justice agency;
- Adds firefighter cancer into the self-insurance coverages provided by Risk Management and requires the Department of Management Services to verify and approve such payments prior to distribution from the State Risk Management Trust Fund;
- Prohibits employees who fall under the State Risk Management Trust Fund from engaging in retaliatory conduct against a sexual harassment victim;
- Provides that willful and knowing dissemination of the identifying information of a sexual harassment victim is a misdemeanor of the first degree;
- Amends the composition requirements of the Board of Funeral, Cemetery, and Consumer Services; clarifies member requirements; amends the definition of “quorum” to enable ease of business; removes term staggering requirements; and clarifies rulemaking responsibilities;
- Clarifies and provides grounds for disqualification of Funeral, Cemetery, and Consumer Services licensure applicants based on criminal history;
- Amends provisions for criminal background checks for Funeral, Cemetery, and Consumer Services licensure applicants;
- Prohibits specific unlicensed funeral activity and increases the penalty to a third-degree felony;

- Increases criminal penalties associated with unlicensed Funeral, Cemetery, and Consumer Services activity;
- Updates the definition of “two-component explosive” to reflect changes in the marketplace;
- Allows contractors to begin repairs on a previously permitted fire alarm prior to receiving a permit to do so, yet maintains that such repair will not be compliant until permitted and approved;
- Amends continuing education requirements for individuals licensed to solicit, sell, or adjust insurance in the state;
- Amends provisions regarding appointments to transact insurance or adjust claims on behalf of an insurer or employer to apply certain deadlines to renewal appointments and to revise procedures and requirements when an individual was not properly appointed by inadvertent error;
- Increases the maximum license suspension time for title insurance agents and agencies;
- Removes a requirement for personal residential property agents to notify an insured regarding coverage from Citizens Property Insurance Corporation before exporting a policy to the surplus lines marketplace;
- Prohibits an insurance agent or agency from giving, or a lender from requiring, a copy of an insurer’s proprietary underwriting information as a condition precedent to extending credit secured by real estate and prohibiting an insurance agent or agency from providing such information without authorization;
- Allows flood insurance coverage to be exported to a surplus lines insurer without the agent first seeking to place the coverage with an admitted insurer;
- Amends the Fire and Emergency Incident Information Reporting Program by replacing “fire protection agencies” with “fire service providers” and defines the term “fire service provider”;
- Revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel;
- Extends assessment and compliance deadlines by three years with regards to minimum radio signal strength for fire department communications and two-way radio systems;
- Prohibits influencing a firesafety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector knowingly and intentionally requesting, soliciting, accepting, or agreeing to accept a bribe;
- Revises the composition of the Firefighters Employment, Standards, and Training Council;
- Allows fire service providers to hire volunteer firefighters, and allows them to continue to function in a volunteer firefighter capacity for the first year of employment while they obtain career firefighter certifications;
- Creates a criminal penalty for aiding and abetting a person engaged in unlicensed bail bond agent activity; and
- Expands the applicability of criminal penalties for impersonation of investigators and personnel of the DFS.

The DFS has indicated minor modifications will need to be made to the Division of Insurance Agent and Agency Services systems in order to create a tool for enabling or disabling the ability of a party to appoint licensees. The DFS indicates these changes can be addressed during ongoing system updates and within existing resources.

The bill has an indeterminate negative fiscal impact to the State Risk Management Trust Fund. The DFS estimates expenses relating to self-insuring firefighter cancer benefits to be less than \$100,000 annually.

The Criminal Justice Impact Conference has not yet adopted a prison bed impact for this legislation and the fiscal impact relating to those penalties is positive/negative indeterminate.

The bill, except as otherwise expressly provided, has an effective date of July 1, 2021.

II. Present Situation:

The Department of Financial Services (DFS) is statutorily responsible for:

- Carrying out the state's accounting and auditing functions, including preparing the state's Comprehensive Annual Financial Report; monitoring state contracts; and making payment for state expenditures.
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use.
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities.
- Managing the state Treasury and directing safekeeping and the investment of all state funds.
- Managing the deferred compensation program for state employees.
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state.
- Regulating cemeteries and funeral homes.
- Licensing and oversight of insurance agents and agencies.
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner.
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services.
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited March 4, 2021).

- Unclaimed Property; and
- Workers' Compensation.²

Division of Public Assistance Fraud

The Division of Public Assistance Fraud (DPAF) is responsible for enforcing state laws regarding program eligibility and proper use of public assistance benefits. The DPAF is responsible for investigating allegations of fraud related to the Cash Assistance/Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP), Medicaid recipients, disaster assistance/emergency benefits, the School Readiness and Voluntary Pre-Kindergarten programs, and Social Security Disability benefits.³

According to the DFS, the DPAF has operated as a criminal justice agency since its inception in 1972.⁴ However, when the Division of Investigative and Forensic Services (DIFS) was created in 2016, under ch. 20, F.S., the DPAF was not designated as a criminal justice agency, thereby limiting the DPAF's access to information within criminal records systems. Under Florida law, a criminal justice agency is defined, in part, as any governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.⁵ The DPAF currently operates, in part, as a criminal justice agency. However, current law does not definitively reflect this designation.

State Risk Management

The State Risk Management Trust Fund (trust fund) is administered by the DFS and is a self-insurance fund.⁶ The trust fund provides various types of insurance to all departments of the State of Florida, including their employees, agents, and volunteers.⁷ The trust fund provides the following insurance coverage:

- Property claims for all buildings, whether financed in whole or in part by revenue bonds or certificates, and the contents thereof of any other buildings leased or rented by the state, to include manufactured homes and contents. This coverage includes:⁸

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited March 4, 2021)

³ Division of Public Assistance, <https://myfloridacfo.com/Division/PAF/> (last visited March 6, 2021).

⁴ Department of Financial Services, *Legislative Bill Analysis of SB 1408* (March 4, 2021) (on file with Senate Banking and Insurance Committee).

⁵ Section 943.045(11)(e), F.S. *See also*: s. 943.045(2), F.S.; the term "administration of criminal justice" means "performing functions of detection, apprehension, detention, pretrial release, post trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies." Section 943.045(11)(a)-(e), F.S., defines a criminal justice agency as a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crime of crimes of abuse and neglect, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule court and that allocates a substantial part of its annual budget to the administration of criminal justice.

⁶ Section 284.30, F.S.

⁷ Section 284.31, F.S.

⁸ Section 284.01, F.S.

- Loss from fire, lightning, sinkholes, and hazards customarily insured by extended coverage;
- Loss from removal of personal property from such properties when endangered by covered perils;
- Flood insurance to the extent necessary to meet self-insurance requirements under the National Flood Insurance Program;
- Rental value insurance is provided to indemnify the state or its agencies for loss of income when such rental income insurance is required to be carried by bonding or revenue certificates or resolutions; and
- Rental value insurance is also provided to indemnify the state or its agencies for loss of income from those buildings operated and maintained by the Department of Management Services from the Supervision Trust Fund.
- Casualty claims, to include:⁹
 - Workers' compensation;
 - General liability:
 - Premises and operations;
 - Personal injury; and
 - Professional malpractice liability;¹⁰
 - Fleet automotive liability;
 - Federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes; and
 - Court-awarded fees in other proceedings against the state, except for such awards in eminent domain or for inverse condemnation or awards by the Public Employees Relations Commission.

Separate accounts must be kept for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees barring certain exceptions.¹¹

Each entity covered by the trust fund must develop and implement a loss prevention program, provide for regular and periodic facility and equipment inspections, investigate job-related employee accidents, and establish a program to promote increased safety awareness among employees.¹² The Division of Risk Management, within the DFS, provides loss prevention services and technical assistance to state agencies and universities for managing risk.¹³

Premiums, as calculated on all coverages, are billed and charged to each state agency according to coverages obtained from the trust fund.^{14, 15} All premiums paid into the trust fund and all moneys received from the trust fund from investment or any other source, are held by the DFS

⁹ Section 284.30, F.S.

¹⁰ Department of Financial Services, Division of Risk Management, *Insurance Coverage Provided*, <https://www.myfloridacfo.com/Division/Risk/liability/LiabilityInsuranceCoverage.htm> (last visited March 4, 2021).

¹¹ Section 284.31, F.S.

¹² Section 284.501(1), F.S.

¹³ Department of Financial Services, Division of Risk Management, *Welcome to the Division of Risk Management*, <https://www.myfloridacfo.com/Division/Risk/> (last visited March 6, 2021).

¹⁴ Section 284.02(1), F.S.

¹⁵ Section 284.36, F.S.

for the purpose of paying losses, expenses incurred in adjustment of losses, premiums for reinsurance, risk and claims management, and operating expenses.^{16, 17}

Firefighters

A “firefighter” is defined as a person who is employed full-time by the state or local governments and whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.¹⁸

Benefits in Lieu of Workers Compensation Benefits

Upon a diagnosis of cancer as defined in s. 112.1816, F.S., a firefighter is entitled to certain benefits, as an alternative to pursuing workers’ compensation benefits under ch. 440, F.S., if the firefighter has been employed by his or her employer for at least five continuous years, has not used tobacco products for at least the preceding five years, and has not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer. The benefits are:

- Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for out-of-pocket deductible, copayment, or coinsurance costs incurred by the firefighter.
- A one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer.¹⁹

If the firefighter elects to continue coverage in the employer-sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits must be made available by a former employer of a firefighter for 10 years following the date that the firefighter terminates employment, so long as the firefighter has otherwise met the employment criteria when he or she terminated employment and was not subsequently employed as a firefighter following that date. A firefighter’s cancer diagnosis must be considered an injury or illness incurred in the line of duty by the employer for purposes of determining leave time and employee retention policies.²⁰

Confidentiality of the Personal Identifying Information of Sexual Harassment Victims

Under s. 119.071(2)(n), F.S., the personal identifying information of an alleged victim in an allegation of sexual harassment is confidential and exempt from the public records requirements specified in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. However, the information may be disclosed to a governmental entity when such disclosure is in the furtherance of such entity’s official duties and responsibilities.

¹⁶ Section 284.02(2), F.S.

¹⁷ Section 284.37, F.S.

¹⁸ See ss. 112.81, 112.191, 112.1816, and 633.102(9), F.S.

¹⁹ Section 112.1816(2)

²⁰ *Id.*

Funeral, Cemetery, and Consumer Services

Composition and Business of the Board of Funeral, Cemetery, and Consumer Services

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (board) within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The board acts as the licensing and rulemaking authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.²¹

Currently, the board must have 10 members; one member must be the State Health Officer, or their designee, and the remaining nine members must be nominated by the Chief Financial Officer (CFO), appointed by the Governor, and confirmed by the Senate.²² The composition of the board must be as follows:

- The State Health Officer;
- Two funeral directors who are:
 - Licensed under part III of ch. 497, F.S., as funeral directors, and
 - Associated with a funeral establishment;
- One funeral director who is:
 - Licensed under part III of ch. 497, F.S.,
 - Associated with a funeral establishment licensed under part III of ch. 497, F.S., that has a valid preneed license issued pursuant to ch. 497, F.S., and
 - Operates an incinerator facility that is approved under ch. 403, F.S., and licensed under part IV of ch. 497, F.S.;
- Two persons whose primary occupation is associated with a licensed cemetery;
- Three consumers who:
 - Are residents of Florida;
 - Have never been licensed funeral directors or embalmers;
 - Are not connected with a cemetery or licensed cemetery company;
 - Are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition;
 - At least one of which is at least 60 years of age; and
 - At least one of which is a licensed certified public accountant; and
- One principal of a monument establishment licensed under ch. 497, F.S., as a monument builder.

Two or more members must not be principals or employees of the same company or partnership, or group of companies or partnerships under common control.²³ The DFS reports that the CFO often does not receive a sufficient amount of applications to fill member positions.²⁴ For

²¹ See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

²² Section 497.101(1), F.S.

²³ Section 497.101(2), F.S.

²⁴ See *supra* note 4.

example, the position that must be filled by a certified public accountant has remained vacant since September 2017.²⁵

Board members are appointed for four-year terms, except for the State Health Officer, who serves as long as they hold office.²⁶ The CFO was directed to stagger the terms of members after the terms of the initial members expired²⁷ and this has already occurred at the initiation of the board.²⁸

A quorum is necessary to conduct the business of the board. A quorum consists of six members of the board.²⁹ The DFS indicates that it can be difficult to obtain this number due to board vacancies, absenteeism, and necessary recusal.³⁰

The DFS is required to adopt rules regarding application forms and procedures for appointment to the board.³¹

Disqualification of Licensure Applicants Licensing Background Checks

Currently, Florida law does not specifically disqualify applicants for licensure relating to funeral, cemetery, and consumer services under ch. 497, F.S., if said applicants have been found guilty of certain crimes. However, such applicants must provide certified true copies of any crime committed in any jurisdiction, within the 10 years preceding their application, in order to deem the application complete.³² Currently, regardless of whether adjudication is entered or withheld by a court, disclosure of the following crimes is required:

- Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation;³³
- Any other felony that was committed within the 20 years immediately preceding the application under this chapter;³⁴ and
- Any other misdemeanor that was committed within the five years preceding the application under this chapter.³⁵

Unlicensed Practice

Chapter 497, F.S., requires individuals to maintain a license for specified death care industry practices. The DFS is authorized to issue administrative complaints against entities believed to be in violation of licensure requirements.³⁶ Section 497.159, F.S., additionally provides for

²⁵ *Id.*

²⁶ Section 497.101(3), F.S.

²⁷ *Id.*

²⁸ *See supra* note 4.

²⁹ Section 497.101(6), F.S.

³⁰ *See supra* note 4.

³¹ *Id.*, s. 497.103(2)(c), F.S.

³² Section 497.142(9), F.S.

³³ Section 497.142(10)(c)1., F.S.

³⁴ Section 97.142(10)(c)2., F.S.

³⁵ Section 497.142(10)(c)3., F.S.

³⁶ Section 497.157(2), F.S.

criminal penalties for unlicensed activities, with such activities being a second degree misdemeanor, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.³⁷

Continuing Education Requirements

Pursuant to s. 626.2815, F.S., individuals licensed to engage in the sale of insurance or adjustment of insurance claims in Florida are required to fulfill certain continuing education requirements. Currently, licensees, except title insurance agents, are required to complete a five-hour update course every two years, specific to the license they hold.³⁸ Unless otherwise provided, licensees must also complete 19 hours of elective continuing education courses every two years.³⁹ If a licensee has been licensed for six years or more, this requirement drops to 15 hours.⁴⁰ For licensees licensed 25 years or more, and is a chartered life underwriter, is a chartered property and casualty underwriter, or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses, the elective continuing education course requirement is five hours every two years. For those individuals holding a license as a customer representative, and not a licensed life or health agent, the elective continuing education course requirement is also five hours every two years. An individual subject to ch. 648, F.S., relating to bail bond agents, is required to complete a five-hour update course and a minimum of nine hours of elective continuing education courses every two years.⁴¹

If continuing education requirements are not met, the DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from the DFS, unless an extension or waiver has been granted.⁴²

State Fire Marshal

Explosives

Chapter 552, F.S., sets forth the requirements to lawfully engage in the business of a manufacturer-distributor, or to acquire, sell, possess, store, or engage in the use of explosives in this state. The chapter's current definition of a two-component explosive requires the use of a "No. 6 blasting cap" for detonation.⁴³ According to the DFS, No. 6 blasting caps are now out of production and current blasting caps no longer use the same rating system.⁴⁴

Uniform Fire Alarm Permit Application for Previously Permitted Fire Alarm Systems

Contractors are required to file a Uniform Fire Alarm Permit Application with a local law enforcement agency, and must receive the permit before installing, replacing, or repairing an

³⁷ Section 497.159(6), F.S.

³⁸ Section 626.2815(3), F.S.

³⁹ Section 626.2815(3)(a), F.S.

⁴⁰ Section 626.2815(3)(b), F.S.

⁴¹ Section 626.2815(3)(e), F.S.

⁴² Section 626.2815(9), F.S.

⁴³ Section 552.081(13), F.S.

⁴⁴ See *supra* note 4.

existing fire alarm that was previously permitted by the local enforcement agency, if the local enforcement agency requires a permit for the repair.⁴⁵

Fire and Emergency Incident Information Reporting Program

The Florida Fire Incident Reporting System (FFIRS) is located within the Division of State Fire Marshal. The FFIRS was created by rule and is a means for fire protection agencies to report and maintain computerized records of fires and other fire department incidents in a uniform manner.⁴⁶ Annual reports are furnished to the Governor, Legislature and fire protection agencies, and upon request, the public.⁴⁷

Established in 2005 by s. 633.115, F.S., the Fire and Emergency Incident Reporting Program included the creation of the Fire and Emergency Incident Information Technical Advisory Panel (panel) and codified FFIRS language. The FFIRS is the Florida coordinating officer for the National Fire Incident Reporting Section (NFIRS).⁴⁸ The NFIRS provides system resources and an overview of the standard national reporting system used by the United States fire departments to report fires and other incidents to which they respond and to maintain records of such incidents in a uniform manner.⁴⁹ The NFIRS provides software and training at no cost to fire departments.⁵⁰

The panel was created to advise, review and make recommendations to the State Fire Marshal. Currently, membership in the panel comprises 15 members:⁵¹

- Thirteen members of the Firefighters Employment, Standards, and Training Council;⁵²
- One member from the Florida Forest Service, Department of Agriculture and Consumer Services; and
- One member from the Department of Health, appointed by the State Surgeon General.

Florida Fire Prevention Code

The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (fire code), which contains all firesafety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such firesafety laws and rules.⁵³ The State Fire Marshal adopts a new edition of the fire code every three years.⁵⁴ The 7th edition of the fire code took effect on December 31, 2020.⁵⁵ State law requires all municipalities, counties, and special districts with firesafety

⁴⁵ Section 553.7921(1)(b), F.S.

⁴⁶ Department of Financial Services, Division of State Fire Marshal, *Florida Fire and Incident Reporting System*, <https://www.myfloridacfo.com/Division/SFM/FFIRS/> (last visited March 5, 2021).

⁴⁷ Section 633.136, F.S.

⁴⁸ See *supra* note 46.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Section 633.136(2), F.S.

⁵² See s. 633.402, F.S., for the composition of this Council.

⁵³ Chapter 69A-60.002(1), F.A.C.

⁵⁴ Section 633.202, F.S.

⁵⁵ State Fire Marshal of Florida, *Florida Fire Prevention Code*, available online at: <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/codes-and-standards/free-access?mode=view> (last visited March 5, 2021).

responsibilities to enforce the fire code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.⁵⁶

Firesafety Inspectors

Section 633.216, F.S., requires each county, municipality, and special district that has firesafety enforcement responsibilities to employ or contract with a firesafety inspector. Subject to certain exceptions, the firesafety inspector is responsible for conducting all firesafety inspections required by law.⁵⁷ These firesafety inspections include the inspection of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with firesafety responsibilities.⁵⁸

The CFO is designated as the “State Fire Marshal.”⁵⁹ In any county, municipality, or special district that does not employ or appoint a firesafety inspector, the State Fire Marshal assumes the duties of the local county, municipality, or independent special fire control district with respect to firesafety inspections of educational property.⁶⁰

A person who violates any provision of ch. 633, F.S., Fire Prevention and Control, any order or rules of the State Fire Marshal, or any order to cease and desist or to correct conditions, commits a misdemeanor of the second degree.⁶¹

It is unlawful to impersonate the State Fire Marshal or a firesafety inspector. A person who impersonates either official commits a felony of the third degree, and if the impersonation occurs during the commission of a separate felony, a person commits a felony of the first degree.⁶² Section 468.629, F.S., makes it illegal for a person to influence a building code enforcement official by coercion or compensation.⁶³ Any person who commits such acts commits a misdemeanor of the first degree, and, if the person was previously convicted of such act, a felony of the third degree.⁶⁴

Firefighters Employment, Standards, and Training Council (Council)

The council comprises 14 members and the members are appointed as follows:

- Two fire chiefs appointed by the Florida Fire Chiefs Association;
- Two firefighters, who are not officers, appointed by the Florida Professional Firefighters Association;
- Two firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal;
- One individual appointed by the Florida League of Cities;
- One individual appointed by the Florida Association of Counties;
- One individual appointed by the Florida Association of Special Districts;

⁵⁶ Sections 633.108 and 633.208, F.S.

⁵⁷ Section 633.216(1), F.S.

⁵⁸ Section 633.102(12), F.S.

⁵⁹ Section 633.104(1), F.S.

⁶⁰ Section 633.104(7), F.S.

⁶¹ Section 633.124(1), F.S.

⁶² Section 633.122, F.S.

⁶³ Section 468.629(1)(f) and (g), F.S.

⁶⁴ Section 468.629(2), F.S.

- One individual appointed by the Florida Fire Marshals' and Inspectors' Association;
- One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service;
- One individual appointed by the State Fire Marshal;
- One director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal; and
- The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government.⁶⁵

There are certain eligibility requirements set forth for membership. Members shall serve only as long as they continue to meet the criteria under which they were appointed or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.⁶⁶ Members are appointed for four year terms, are not eligible to serve more than two consecutive terms,⁶⁷ and serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.⁶⁸

The council has special powers in connection with the employment and training of firefighters to recommend for adoption by the Division of State Fire Marshal:⁶⁹

- Uniform minimum standards for the employment and training of firefighters and training of volunteer firefighters;
- Minimum curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters; and
- Matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter.

In addition, the council may make or support studies on any aspect of firefighting employment, education, and training or recruitment or may make recommendations concerning any matter within its purview.⁷⁰

Volunteer Firefighter Employment

The National Fire Prevention Association estimates that there were 1,115,000 career and volunteer firefighters in the United States in 2018; of this total, 370,000 (33 percent) were career firefighters and 745,000 (67 percent) were volunteer firefighters.⁷¹ At least 315 Florida fire departments utilize volunteers to sustain operations and, according to the Division of State Fire

⁶⁵ Section 633.402(1)(a), F.S.

⁶⁶ Section 633.402(1)(b), F.S.

⁶⁷ Section 633.402(2), F.S.

⁶⁸ Section 633.402(7), F.S.

⁶⁹ Section 633.402(9), F.S.

⁷⁰ Section 633.402(9)(d)-(e), F.S.

⁷¹ National Fire Prevention Association, *U.S. Fire Department Profile – 2018 Supporting Tables*, (Feb. 2020) <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osFDProfileTables.pdf> (last visited March 17, 2021).

Marshal, approximately 12 million Florida residents depend on volunteer firefighters to protect their communities.⁷² The Firefighter Assistance Grant Program (FAGP), created in 2016 to improve the emergency response capability of fire departments reliant on volunteer firefighters, provides grant money to such fire departments to provide volunteer firefighter training and procure firefighter personal protective equipment.⁷³ The FAGP funds of one million dollars is only available for instructor reimbursement for skills sign-offs, personal protection equipment (PPE), supplied air respirators (SCBA), and cost share subsidy for Federal Emergency Management Agency's Assistance to Firefighters Grants Program (AFG) apparatus awards.⁷⁴ Since its inception, the FAGP has awarded 84 grants.^{75, 76, 77}

Florida fire service providers are currently prohibited from employing an individual to extinguish fires, or to supervise those who do, unless the individual holds a current and valid Firefighter Certificate of Compliance.⁷⁸ Thus, fire service providers are currently prohibited from employing volunteer firefighters, who hold a Volunteer Firefighter Certificate of Completion. Volunteer firefighters can enter immediately dangerous to life and health (IDLH) environments. However, if employed by the same department prior to achieving a Firefighter Certificate of Compliance they would not be allowed to enter the IDLH environments they were authorized to enter the day before beginning career employment.⁷⁹

False Personation

Pursuant to s. 843.08, F.S., any person who falsely assumes or pretends to be an officer of a specified type commits a felony of the third degree, a felony of the second degree when committed with another felony, and a felony in the first degree if the felony is the cause of death or personal injury of another individual.⁸⁰ A person who impersonates an officer of the DFS is subject to these criminal penalties.⁸¹ However, there is no criminal penalty for impersonating an investigator or personnel of the DFS. According to the DFS, it employs personnel who are not officers but have access to active criminal cases and conduct criminal investigations.⁸²

⁷² *Id.*

⁷³ Section 633.135 F.S.

⁷⁴ Department of Financial Services, Division of State Fire Marshal, *FY 2019 – 2020 Florida Firefighter Assistance Grant Program*, <https://www.myfloridacfo.com/division/sfm/volff/ff-grant.htm> (last visited March 17, 2021).

⁷⁵ Department of Financial Services, Division of State Fire Marshal, *FY2017 Florida Firefighter Assistance Grant Award Outcomes*, https://www.myfloridacfo.com/division/sfm/VOLFF/FY2017_GrantOutcomes.pdf, (last visited March 17, 2021).

⁷⁶ Department of Financial Services, Division of State Fire Marshal, *FY2018 Florida Firefighter Assistance Grant Award Outcomes*, https://myfloridacfo.com/Division/SFM/VOLFF/FY2018_GrantOutcomes.pdf, (last visited March 17, 2021).

⁷⁷ Department of Financial Services, Division of State Fire Marshal, *FY2019 Florida Firefighter Assistance Grant Award Outcomes*, https://www.myfloridacfo.com/division/sfm/VOLFF/FY2019_GrantOutcomes.pdf (last visited March 17, 2021).

⁷⁸ Section 633.416(1)(a), F.S.

⁷⁹ *See supra* note 4; and s. 633.416(1)(a), F.S.

⁸⁰ Section 843.08, F.S., contains a list specifying which types of officers it is unlawful to impersonate. This list includes, but is not limited to, firefighters, sheriffs, officers of agencies, and school guardians.

⁸¹ Section 843.08, F.S.

⁸² *See supra* note 4.

Insurance Field Representatives and Operations

Appointment Requirements

Section 626.112(1)(a), F.S., states that a person may not be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by the DFS and appointed by an appropriate appointing entity or person to represent an insurer. Section 626.371(1), F.S., requires all initial appointments be submitted to the DFS no later than 45 days after the date of appointment. Where it appears to the DFS that a formerly or currently licensed person has been, or is, actively engaged as an appointee without being appointed as required, the DFS still may issue an appointment submitted upon finding that such failure was an inadvertent error on the part of the insurer. The DFS may condition such approval on the payment of all fees and taxes that would have been due, had the person been properly appointed.

Duration of Suspension or Revocation for Title Insurance Agents

Section 626.844, F.S., authorizes the DFS to suspend or revoke the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency, upon certain specified grounds. However, an order may not suspend such license or appointment for more than one year.⁸³

Eligibility for Export of Insurance Coverage and Export of Flood Insurance Policies

In general, insurance policies written in Florida must be done so by Florida authorized insurers. However, standard insurance companies authorized to do business in Florida may not be able to, or unwilling to, take on certain unusual or high risks. These types of risks could include older homes near the coast, yachts, home day-care liability, medical malpractice, and professional athletes insuring certain body parts.⁸⁴ These policies are instead written in the surplus lines market and are sold through surplus lines agents.⁸⁵ To “export” an insurance policy means to place a policy with a surplus lines insurer who is not part of the standard/admitted insurance market.⁸⁶ Section 626.916(1), F.S., requires that insurance coverage is not eligible for export unless all of certain conditions are met. These conditions include:

- The full amount of insurance required must not be procurable, after a diligent effort has been made by the producing agent to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in Florida, and the amount of insurance exported shall be only the excess over the amount so procurable from authorized insurers.
- The premium rate at which the coverage is exported may not be lower than that rate applicable, if any, in actual and current use by a majority of the authorized insurers for the same coverage on a similar risk.
- The policy or contract form under which the insurance is exported may not be more favorable to the insured as to the coverage or rate than under similar contracts on file and in

⁸³ Section 626.844(1), F.S.

⁸⁴ Department of Financial Services, Florida Surplus Lines Office, *Understanding Florida’s Excess and Surplus Market*, <https://www.myfloridacfo.com/division/consumers/understandingcoverage/guides/documents/SurplusLinesConsumerBrochure.pdf> (last visited March 17, 2021).

⁸⁵ *Id.*

⁸⁶ *Id.*; s. 626.914(3), F.S.

actual current use in this state by the majority of authorized insurers actually writing similar coverages on similar risks, subject to certain exceptions.

- Except as to extended coverage in connection with fire insurance policies and except as to windstorm insurance, the policy or contract under which the insurance is exported may provide not for deductible amounts, in determining the existence or extent of the insurer's liability, other than those available under similar policies or contracts actually and currently used by a Florida authorized insurer.
- For personal residential property risks, the retail or producing agent must provide specified notice to the insured that coverage may be available, and may be less expensive, from Citizens Property Insurance Corporation.

There is no clear language in the Florida Insurance Code that allows a surplus lines agent to export a contract or an endorsement providing flood coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage. A provision in s. 627.715, F.S., which allowed surplus lines agents to do so, expired on July 1, 2019.

Currently, the private residential flood insurance market is a small but growing percentage of total policies written in the state. The vast majority of residential flood insurance policies are written by the National Flood Insurance Program—a federal insurance program. While Florida has the largest private residential market in the United States, only three percent of residential flood insurance policies are written by private insurers.⁸⁷

Provision of Replacement Cost Estimator and Other Underwriting Information Relating to Real Estate Loans

According to the DFS, many lenders require consumers or their insurance agent or broker to provide, as a condition precedent or condition subsequent to the lending of money or extension of credit to be secured by real property, the replacement cost estimator or other underwriting information that is the proprietary business information of the insurer underwriting the insurance policy covering such property.⁸⁸ In some situations, lenders have used this proprietary business information of the insurers for reasons that are outside the scope of the insurance policy.

Unlicensed Bail Bond Agent Activity

Section 648.30, F.S., addresses the unlicensed activity relating to bail bond agents and temporary bail bond agents. Specifically, the section states that one may not act as a bail bond agent or temporary bail bond agent unless qualified, licensed, and appointed as provided in ch. 648, F.S. The section also prohibits one from representing himself or herself to be a bail enforcement agent, bounty hunter, or other similar title and also provides restrictions on whom may apprehend, detain, or arrest a principal on a bond. The section, however, does not provide a specific penalty for persons aiding and abetting another person violating the section.⁸⁹

⁸⁷ Brett Lingle and Carolyn Kousky, *Issue Brief: Florida's Private Residential Insurance Market*, Wharton School of Business at the University of Pennsylvania: Risk Management and Decision Processes Center (Sep. 2018), available at: <https://riskcenter.wharton.upenn.edu/wp-content/uploads/2018/09/Florida-Private-Flood-Issue-Brief.pdf>. (last visited March 17, 2021)

⁸⁸ See *supra* note 4.

⁸⁹ *Id.*

Public Records Law

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.⁹⁰ 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.⁹¹

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in ss. 11.0431(2) and (3), F.S., and the statutory provisions are adopted in the rules of each house of the Legislature.⁹² Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁹³ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁹⁴

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁹⁵ 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.”⁹⁶

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

⁹⁰ FLA. CONST. art. I, s. 24(a).

⁹¹ *Id.*

⁹² See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

⁹³ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁹⁴ 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.”

⁹⁵ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁹⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁹⁷ A violation of the Public Records Act may result in civil or criminal liability.⁹⁸

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.⁹⁹ 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.¹⁰⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹⁰¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹⁰²

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.¹⁰³ Custodians of records designated as “confidential and exempt” may not disclose the record, except under circumstances specifically defined by the Legislature.¹⁰⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁰⁵ (the Sunset Review Act) prescribes a legislative review process for newly created or substantially amended¹⁰⁶ public records or open meetings exemptions, with specified exceptions.¹⁰⁷ It requires the automatic repeal of each such exemption on October 2nd of the fifth year after it is created or substantially amended, unless the Legislature reenacts the exemption.¹⁰⁸ However, an exemption may be reviewed under the Sunset Review Act prior to the fifth year since enactment.

The Sunset Review 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

⁹⁷ Section 119.07(1)(a), F.S.

⁹⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹⁹ FLA. CONST. art. I, s. 24(c).

¹⁰⁰ *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).

¹⁰¹ *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).

¹⁰² *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).

¹⁰³ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁰⁴ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁰⁵ Section 119.15, F.S.

¹⁰⁶ 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.

¹⁰⁷ 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.

¹⁰⁸ Section 119.15(3), F.S.

necessary.¹⁰⁹ 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;¹¹⁰
- 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;¹¹¹ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.¹¹²

The Sunset Review Act also requires specified questions to be considered during the review process.¹¹³ In examining an exemption, the Sunset Review of 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.¹¹⁴ 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.¹¹⁵

General Public Records Exemptions for State Agency Personnel

There are three general public records exemptions that apply to all state agency personnel: disclosure of an employee's social security number, medical information, and personal identifying information of dependent children who are insured by an agency group insurance plan.¹¹⁶

¹⁰⁹ Section 119.15(6)(b), F.S.

¹¹⁰ Section 119.15(6)(b)1., F.S.

¹¹¹ Section 119.15(6)(b)2., F.S.

¹¹² Section 119.15(6)(b)3., F.S.

¹¹³ 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?

¹¹⁴ See generally s. 119.15, F.S.

¹¹⁵ Section 119.15(7), F.S.

¹¹⁶ Section 119.071(4)(a) and (b), F.S.

Social Security Numbers

Social security numbers of all current and former agency personnel, which are held by an employing agency, are confidential and exempt.¹¹⁷ An employing agency may only release social security numbers for the following reasons:

- It is required by state or federal law, or court order.
- A receiving government agency needs the social security number to perform its duties.
- The employee consents to disclose his or her social security number.¹¹⁸

In addition, there is a general exemption for social security numbers that applies to the public that makes social security numbers confidential and exempt.¹¹⁹ This exemption applies to any agency that holds anyone's social security number, including those belonging to the personnel of that agency. This exemption, however, permits the agency to disclose social security numbers of agency personnel in order to administer health or retirement benefits.¹²⁰

Medical Information

An agency employee's medical information is also exempt from public disclosure if the medical information could identify the employee. This exemption applies to prospective, current, and former employees.¹²¹

Personal Identifying Information

The personal identifying information of a dependent child of an agency employee who is insured by an agency group insurance plan is exempt from public disclosure. This exemption applies to the children of current and former employees and is also retroactively applied.¹²²

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency that holds the employee's information.¹²³ Additionally, all of these exemptions have retroactive application.¹²⁴ In order to have such exemption applied to a court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.¹²⁵ Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.¹²⁶

¹¹⁷ Section 119.071(4)(a)1., F.S.

¹¹⁸ Section 119.071(4)(a), F.S.

¹¹⁹ Section 119.071(5)(a)5., F.S.

¹²⁰ Section 119.071(5)(a)6.f. and g., F.S.

¹²¹ Section 119.071(4)(b)1., F.S.

¹²² Section 119.071(4)(b)2., F.S.

¹²³ Section 119.071(4)(d)3., F.S.

¹²⁴ Section 119.071(4)(d)5., F.S.

¹²⁵ Section 119.0714(2)(f) and (3)(f), F.S.

¹²⁶ Section 119.071(4)(d)4., F.S.

Confidential and Exempt – Alleged Sexual Harassment Victim

Section 119.071(2)(n), F.S., provides that personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt.¹²⁷ Such information may be disclosed to another governmental entity in the furtherance of its official duties.¹²⁸

Section 119.10(2)(a), F.S., provides that any person who willfully and knowingly violates any provisions of ch. 119, F.S., commits a first degree misdemeanor punishable by imprisonment up to one year or a fine up to \$1,000.

III. Effect of Proposed Changes:

Division of Public Assistance Fraud (Sections 1 and 27)

Section 1 amends s. 20.121(2)(f), F.S., to designate the Department of Financial Services (DFS), Division of Public Assistance Fraud (DPAF) as a criminal justice agency for the purposes of ss. 943.045-943.08, F.S. The DFS asserts that the designation allows the DPAF to continue having access to criminal justice information contained in Florida Crime Information Center (FCIC) and National Crime Information Center (NCIC) systems of criminal records when conducting criminal investigations and other law enforcement support functions.¹²⁹

Section 26 amends s. 943.045, F.S., to include the DPAF in the definition of “criminal justice agency.”

State Risk Management

Benefits in Lieu of Workers Compensation Benefits – Florida Firefighters

Section 2 amends s. 284.30, F.S., to add benefits payable to firefighters diagnosed with cancer pursuant to s. 112.1816(2), F.S., to the self-insurance coverage provided through the State Risk Management Trust Fund (trust fund).

Section 3 amends s. 284.31, F.S., to require separate accounting in the trust fund for benefits payable to firefighters who are employees of a state agency and diagnosed with cancer.

Section 4 amends s. 284.385, F.S., to require the Department of Management Services to validate and approve firefighter cancer benefits before such benefits may be disbursed from the trust fund.

Workplace Sexual Harassment

Section 5 creates s. 284.45, F.S., to define a sexual harassment victim as an individual employed with, or being considered for, employment with an entity participating in the trust fund, who becomes a victim of workplace sexual harassment within the entity. The bill prohibits individuals

¹²⁷ Section 119(2)(n), F.S., and s. 24(a), Art. 1 of the State Constitution

¹²⁸ Subject to the Open Government Sunset Review Act and stands repeal on October 2, 2022 unless reviewed and saved from repeal through reenactment by the Legislature.

¹²⁹ See *supra* note 4.

working for an entity covered by the trust fund from engaging in retaliatory conduct, of any kind, toward a sexual harassment victim.

The section also prohibits the willful and knowing distribution of personal identifying information of a sexual harassment victim. Personal identifying information of a victim may not be distributed to any party other than a government entity, in furtherance of its official duties, or pursuant to a court order. Any violation results in a first degree misdemeanor, punishable as provided in s. 775.082, F.S.

Funeral, Cemetery, and Consumer Services

Composition and Business of Board of Funeral, Cemetery, and Consumer Services (Board)

Section 6 amends s. 497.101, F.S., to reduce the minimum number of nominations the Chief Financial Officer (CFO) must make for nine board member positions from three nominations to one, though the CFO may still nominate up to three persons to fill one or more vacancies. The bill also reduces from three to two the number of positions on the board that must be filled by consumers who are residents of Florida; have never been licensed funeral directors or embalmers; are not connected with a cemetery or licensed cemetery company; and are not connected to the death care industry or the practice of embalming, funeral directing, or direct disposition. The board must also now have a consumer member who is: a resident; a licensed certified public accountant (CPS) who has never been licensed as a funeral director or embalmer; is not a principal or employee of any ch. 497, F.S., licensee; and is not otherwise in control (as defined in s. 497.005, F.S.) over any ch. 497, F.S., licensee. This change essentially requires the appointment of a licensed CPA who has some knowledge of and association with, but not a controlling interest in, licensees in the death care industry.

Necessary conforming changes have also been made to properly implement the above changes. This includes revising the definition of a “quorum” for the purposes of conducting board business to constitute a simple majority of eligible members instead of six members. The bill also allows members to appear electronically and still be counted in regards to a determination of quorum.

The section also eliminates outdated statutory provisions regarding the implementation of staggered terms of board members upon the expiration of the initial terms of the board members. This staggering of terms has already been established and is no longer needed. The bill eliminates the DFS’ rulemaking responsibilities concerning the application process, which the DFS asserts is unnecessary, as the Governor makes the appointments.¹³⁰

Disqualification of Funeral, Cemetery, and Consumer Services Licensure Applicants

Section 7 of the bill creates s. 497.1411, F.S., to provide and clarify grounds for disqualification of Funeral, Cemetery, and Consumer Services licensure applicants under ch. 497, F.S., based on such applicant’s criminal history.

¹³⁰ *Id.*

Subsection (1) defines “applicant,” “felony of the first degree,” “capital felony,” and “financial services business.”

Subsection (2) enumerates crimes that, if an applicant is found guilty of or pleads nolo contendere to, regardless of adjudication, permanently bar the applicant from licensure under ch. 497, F.S. These crimes are a first degree felony, a capital felony, a felony money laundering offense, or a felony embezzlement.

Subsection (3) provides the following disqualifying periods for other specified crimes:

- A 10-year disqualifying period for all felonies involving moral turpitude not subject to a permanent bar on licensure as specified in subsection (2); and
- A five-year disqualifying period for all other felonies, and for all misdemeanors directly related to the financial services business. The section defines “financial services business” as any financial activity regulated by the DFS, the Office of Insurance Regulation, or the Office of Financial Regulation.

These specifications are intended to provide clarity beyond the current statutory scheme, which provides no guidelines to determine whether a specific crime is considered “directly or indirectly related to or involving any aspect of the practice or business” of death care industry functions. The DFS suggests that the lack of clarity and guidance in current law has led to inconsistencies in recommendations and board rulings on applications.¹³¹

Subsection (4) requires the DFS to adopt rules to administer the section. The rules must provide for additional disqualifying periods due to the commitment of multiple crimes and may include other factors reasonably related to the applicant’s criminal history. The rules must also provide mitigating and aggravating factors, except that mitigation may not result in a disqualification period of less than five years.

Subsection (5) specifies that a disqualifying period begins upon an applicant’s final release from supervision or upon completion of the applicant’s criminal sentence. The subsection further prohibits the DFS from issuing a license unless all related fines, court costs and fees, and court-ordered restitutions have been paid.

Subsection (6) places the burden of proof for rehabilitation on the applicant.

Subsection (7) allows the DFS to award a license, despite a conviction, upon a grant of a pardon or restoration of civil rights.

Subsection (8) authorizes the board to grant an exemption from a criminal record related disqualification, and provides standards for mitigating factors. The subsection also clarifies that ch. 120, F.S., provides administrative remedies available to applicants for whom the board has granted or denied an exemption.

Subsection (9) clarifies that the disqualification periods provided in this section do not apply to the renewal of a license or to a new licensure application if the applicant has an active license as

¹³¹ *Id.*

of July 1, 2021, and the applicable criminal history was considered by the board on the prior active license approval.

Licensing Background Checks

Section 8 amends s. 497.142, F.S., to require certified true copies of any crime committed in any jurisdiction in order to deem an application under ch. 497, F.S., complete, regardless of how many years have passed. The bill requires disclosure of all felonies, regardless of when committed and regardless of adjudication. It also requires disclosure of any misdemeanor directly or indirectly related to the financial services business,¹³² no matter when committed.

Unlicensed Practice

Section 9 of the bill amends s. 497.157, F.S., to increase penalties for unlicensed activity under ch. 497, F.S., from a misdemeanor of the second degree (as provided in s. 497.159(6), F.S.) to a felony of the third degree. Section 9 also expands unlicensed activity to include acting, advertising, or otherwise holding oneself out to be a funeral director, embalmer, direct disposer, or preneed sales agent, unless currently licensed and appointed (as necessary) as such.

Section 10 of the bill amends s. 497.159, F.S., by making a conforming change to remove the second-degree misdemeanor penalty for unlicensed activity under ch. 497, F.S.

Explosives

Section 11 updates the definition of “two-component explosives” in s. 552.081, F.S., by removing the requirement of a “No. 6 blasting cap,” and replacing it with a “detonator.” According to the DFS, the No. 6 blasting cap is no longer manufactured and the statutory revision brings the section in line with current practices.¹³³

Fire Alarm Permits

Section 12 amends s. 553.7921, F.S., to authorize contractors to begin repairs on existing, permitted fire alarms upon filing a Uniform Fire Alarm Permit Application but prior to receiving the permit for the repair. However, fire alarms repaired under such circumstances are not compliant until the permit is issued and the local law enforcement agency approves the repair.

Continuing Education Requirements

Section 13 amends s. 626.2815, F.S., by lowering the update course requirement to four hours for individuals licensed to solicit, sell, or adjust insurance in the state, barring title insurance agents. The update course is raised to six hours for an individual who holds a license as a customer representative, and who is not a licensed life or health agent. Licensees must complete 20 hours of elective continuing education every two years, and if a licensee has been licensed for six years or more, he or she must complete 16 hours of continuing education every two years. Lastly, individuals subject to chapter 648, F.S., relating to bail bond agents, are required to

¹³² The bill defines financial services business as “any financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation.”

¹³³ *Supra* note 4.

complete a four-hour update course and a minimum of 10 hours of continuing education every two years.

The effective date of this section is January 1, 2022.

Appointments to Transact Insurance or Adjust Claims on Behalf of an Insurer or Employer

Section 14 amends s. 626.371, F.S., to indicate that all appointments, including renewal appointments, must be submitted no later than 45 days from the effective date of the appointment. The section also specifies that if the DFS determines an individual was not properly appointed and that said appointment was an inadvertent error, the appointing entity will be informed of its obligation by the DFS and must pay all associated fees and taxes within 21 days. Upon payment of said fees, the DFS may issue or authorize issuance of appointment and consider the inadvertent failure to no longer be a violation. If said fees and taxes are not paid on time, the DFS must suspend the appointing entity's authority to appoint licensees until all outstanding fees have been paid.

Title Insurance License and Appointment Suspension Period for Violations of the Florida Insurance Code

Section 15 amends s. 626.8443, F.S., to increase the maximum license suspension time for title insurance agents and agencies from one year to two years. This change is consistent with similar language related to other agent and agency types, including insurance representatives,¹³⁴ viatical settlement providers,¹³⁵ and Patient Protection and Affordable Care Act health exchange navigators.¹³⁶

Insurance Coverage Eligibility for Export

Section 16 amends s. 626.916, F.S., to remove the requirement for personal residential property agents to notify an insured in writing, prior to exporting coverage to the surplus lines marketplace, that less expensive coverage may be available from Citizens Property Insurance Corporation.

Coercion to Provide Proprietary Underwriting Information

Section 17 amends s. 626.9551, F.S., to prohibit an insurance agent or agency from giving, or a lender from requiring, a copy of an insurer's proprietary underwriting information—including the replacement cost estimator—as a condition precedent to lending money or extending credit which is to be secured by real property. The section also prohibits an insurance agent or agency from providing such information without authorization from the insurer.

¹³⁴ Section 626.641(1), F.S.

¹³⁵ Section 626.9914(2), F.S.

¹³⁶ Section 626.9957(9), F.S.

Exporting of Flood Insurance Coverage

Section 18 amends s. 627.715, F.S., to allow flood insurance coverage to be exported to an eligible surplus lines insurer without the agent complying with the requirement of s. 626.916(1)(a), F.S., to make a diligent effort to seek coverage with at least three authorized insurers.

Florida Fire Marshal – Florida Fire Prevention and Control

Fire and Emergency Incident Information Reporting Program

Section 19 amends s. 633.136, F.S., by replacing “fire protection agencies” with “fire service providers,” specifies that “fire service provider” is defined as in s. 633.102, F.S., and removes a requirement that Division of State Fire Marshal define by rule the term “fire protection agency.” Section 633.102(13), F.S., defines “fire services provider” as a municipality or county, the state, the Division of State Fire Marshall, or any political subdivision of the state, including authorities and special districts, that employs firefighters or uses volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.

This section also revises the composition of the Fire and Emergency Incident Information System Technical Advisory Panel (panel) to retain 15 members on the panel as currently provided in statute, but to remove requirements that the panel have one member from the Florida Forest Service and the Department of Health.

Florida Fire Prevention Code

Section 20 amends s. 633.202(18), F.S., to extend by one year to January 1, 2023, the deadline for existing high-rise buildings to comply with requirements for minimum radio strength for fire department communications. The section eliminates a requirement that existing high-rise buildings not in compliance with the requirements for minimum radio strength for fire department communications apply for appropriate permitting by December 31, 2019. The section does, however, require that such buildings complete a minimum radio strength assessment by January 1, 2022, with compliance by January 1, 2023.

The bill eliminates the requirement that existing apartment buildings apply for a permit for the required communications installation by December 31, 2022, and instead requires completion of a minimum radio strength assessment by that date.

Influencing a Firesafety Inspector

Section 21 creates s. 633.217, F.S., to prohibit influencing or attempting to influence a firesafety inspector by threatening, coercing, tricking, or offering compensation for the purpose of inducing the firesafety inspector to violate any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S. Subsection (2) prohibits a firesafety inspector from knowingly and intentionally requesting, soliciting, accepting, or agreeing to accept a bribe. Section 633.124(1), F.S., provides that any person who violates any

provision of ch. 633, F.S., commits a misdemeanor of the second degree. Thus, a violation of s. 633.217, F.S., would carry such a penalty.

Firefighters Employment, Standards and Training Council

Section 22 amends s. 633.402, F.S., to revise the composition of the Firefighters Employment, Standards, and Training Council to include one individual from the Department of Health, appointed by the Surgeon General. This increases the size of the board from 14 to 15 members.

Volunteer Firefighter Employment

Section 23 amends s. 633.416, F.S., to authorize fire service providers to employ volunteer firefighters and allow them to act in volunteer firefighter capacity for up to one year under the direct supervision of an individual holding a valid firefighter certificate of compliance while they obtain career firefighter certifications. This will increase the availability of firefighters capable of entering immediately dangerous to life and health environments and protecting their communities. The DFS anticipates that this change will improve rural and small agency recruitment and retention efforts by facilitating the hiring of local candidates who are more inclined to remain in the area instead of hiring candidates from other parts of the state who are inclined to return to their home communities once gaining some experience.¹³⁷

Aiding and Abetting Unlicensed Bail Bond Agent

Section 24 amends s. 648.30, F.S., to make it a felony of the third degree for a licensee to knowingly aid or abet a person in violating the section. Section 648.30, F.S., prohibits: acting as a bond agent or temporary bail bond agent without being qualified, licensed, and appointed as provided in ch. 648; representing oneself as a bail enforcement agent, bounty hunter, or other similar title; and apprehending, detaining, or arresting a principal on a bond unless said person is a law enforcement officer or is qualified, licensed, and appointed as provided in ch. 648 or licensed as a bail bond agent or bail bond enforcement agent (or holds an equivalent license from where the bond in question was written).

Presently, s. 777.011, F.S., includes as a “principal in the first degree” a person who aids, abets, counsels, hires, or otherwise procures a criminal offense to be committed. Thus, such person may be charged, convicted, and punished, with the underlying criminal offense even if they were actually or constructively present at the commission of such offense. Accordingly, given current statutory provisions regarding aiding and abetting, appears to merely clarify or restate existing law.

False Personation

Section 25 of the bill amends s. 843.08, F.S., to expand the applicability of criminal penalties associated with false personation of an officer to apply to the impersonation of any personnel or representative of the Division of Investigative and Forensic Services.

¹³⁷ See *supra* note 4.

Reenactment

Section 27 reenacts s. 497.141, F.S., to incorporate changes made to s. 497.142, F.S., in Section 8 of the bill.

Effective Date

Section 28 provides, except as otherwise expressly provided and except for Section 28, which shall take effect upon the act becoming law, the bill has 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an indeterminate negative impact to state revenues and expenditures.

The Department of Financial Services (DFS) has indicated minor modifications will need to be made to the Division of Insurance Agent and Agency Services systems in order to create a tool for enabling of disabling the ability of a party to appoint licensees. The DFS

indicates these changes can be addressed during ongoing system updates and within existing resources.¹³⁸

The bill has an indeterminate negative fiscal impact to the State Risk Management Trust Fund. The DFS estimates expenses relating to self-insuring firefighter cancer benefits to be less than \$100,000 annually.¹³⁹

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill.

Section 9 of the bill amends and increases the penalty related to unlicensed activity pursuant to ch. 497, F.S., from a second degree misdemeanor to a third degree felony, and extends this penalty to impersonating a funeral director, embalmer, direct disposer, or a preneed sales agent. Section 21 of the bill creates a new criminal violation, a second degree misdemeanor, for improperly influencing a firesafety inspector or a firesafety inspector accepting an attempt at such influence. Section 25 expands false personation, which carries first, second and third degree felony penalties, to include all personnel or representatives of the Division of Investigative and Forensic Services. These changes could increase an indeterminate number of people who are subject to misdemeanor or felony penalties. The bill has a positive/negative indeterminate prison bed impact.

VI. Technical Deficiencies:

Section 5 of the bill, creating s. 284.45, F.S., prohibits individuals working for an entity covered by the State Risk Management Trust Fund from engaging in retaliatory conduct of any kind against a sexual harassment victim in subsection (1). While the provision specifies the prohibited behavior, it does not provide any punishment or other consequences for violation. Also, in proposed s. 284.45(2), F.S., a prohibition of the willful and knowing dissemination of personal identifying information of a sexual harassment victim is provided. Based on the placement of this provision in ch. 284, F.S., and the context provided by subsection (1), this provision appears to only apply to individuals working for entities covered by the State Risk Management Trust Fund, however, the subsection does not state this explicitly. Given that this provision provides for a criminal penalty, and that such provisions are strictly construed,¹⁴⁰ the Legislature should consider specifically defining to whom the provisions of subsection (2) apply.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 284.30, 284.31, 284.385, 497.101, 497.142, 497.157, 497.159, 552.081, 553.7921, 626.2815, 626.371,

¹³⁸ See *supra* note 4.

¹³⁹ *Id.*

¹⁴⁰ Section 775.021(1), F.S., provides that “offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused.”

626.8443, 626.916, 626.9551, 627.715, 633.136, 633.202, 633.402, 633.416, 648.30, 843.08, and 943.045.

This bill creates the following sections of the Florida Statutes: 284.45, 497.1411, and 633.217.

This bill reenacts section 497.141 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 Banking and Insurance on March 10, 2021:

The committee substitute:

- Clarifies that payments for firefighter cancer benefits are to be made to employees of state agencies;
- In regards to the disclosure of the personal identifying information of sexual harassment victims, a definition of “personal identifying information” is deleted. This deletion addresses a potential issue where this definition could have been construed as expanding an existing public record exception, thereby necessitating a separate bill;
- Clarifies that when the Department of Financial Services (DFS) determines an individual was not properly appointed and that said appointment was an inadvertent error by the insurer or employer, both back taxes and fees must be paid to have the DFS make the appointment and for the appointing entity to avoid suspension of their authority to appoint licensees;
- Clarifies and simplifies language prohibiting an insurance agent from giving, or a lender from requiring, a copy of an insurer’s proprietary underwriting information as a condition precedent to extending credit secured by real estate;
- Clarifies language allowing flood insurance coverage to be exported to a surplus lines insurer without the agent first seeking to place the coverage with an admitted insurer;
- Deletes a provision revising the scope of fire protection system work for persons certified as a contractors by the Division of State Fire Marshal; and
- Clarifies a provision prohibiting a firesafety inspector from knowingly and intentionally requesting, soliciting, accepting, or agreeing to accept a bribe.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Burgess

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 20.121, F.S.; specifying powers
 4 and duties of the Division of Public Assistance Fraud;
 5 amending s. 284.30, F.S.; requiring the State Risk
 6 Management Trust Fund to provide insurance for certain
 7 firefighter cancer-related benefits; making technical
 8 changes; amending s. 284.31, F.S.; requiring the
 9 Insurance Risk Management Trust Fund to provide a
 10 separate account for certain firefighter cancer-
 11 related benefits; making technical changes; amending
 12 s. 284.385, F.S.; specifying a condition that must be
 13 met before certain firefighter cancer-related benefits
 14 may be paid from the State Risk Management Trust Fund;
 15 making technical changes; creating s. 284.45, F.S.;
 16 prohibiting individuals working for entities covered
 17 by the State Risk Management Trust Fund from engaging
 18 in retaliatory conduct against sexual harassment
 19 victims; defining the term "sexual harassment victim";
 20 specifying a criminal penalty for the willful and
 21 knowing dissemination of a sexual harassment victim's
 22 personal identifying information, except under certain
 23 circumstances; amending s. 497.101, F.S.; revising
 24 provisions relating to membership of the Board of
 25 Funeral, Cemetery, and Consumer Services within the
 26 Department of Financial Services; authorizing use of
 27 communications media technology for board member
 28 participation and determination of a quorum of the
 29 board; defining the term "communications media

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30 technology"; deleting a requirement for the department
 31 to adopt certain rules; making technical changes;
 32 creating s. 497.1411, F.S.; defining terms; providing
 33 for permanent disqualification of applicants for
 34 licensure under ch. 497, F.S., for certain offenses;
 35 providing for disqualifying periods for applicants for
 36 certain offenses; requiring the board to adopt rules;
 37 providing for calculation of disqualifying periods;
 38 providing conditions for licensure after completion of
 39 a disqualifying period; specifying the effect of a
 40 pardon or restoration of civil rights; providing for
 41 exemptions from disqualification if certain conditions
 42 are met; requiring an applicant for an exemption to
 43 provide certain evidence that he or she will not
 44 present a danger if licensed; granting the board the
 45 discretion to approve or deny an exemption; providing
 46 applicability; providing construction; amending s.
 47 497.142, F.S.; revising criminal history disclosure
 48 requirements for applicants seeking licensure under
 49 ch. 497, F.S.; amending s. 497.157, F.S.; prohibiting
 50 persons from acting as or advertising themselves as
 51 being funeral directors, embalmers, direct disposers,
 52 or preneed sales agents unless they are so licensed;
 53 prohibiting persons from engaging in certain
 54 activities requiring licensure without holding
 55 required licenses; revising the criminal penalty for
 56 unlicensed activity; making technical changes;
 57 amending s. 497.159, F.S.; conforming a provision to
 58 changes made by the act; amending s. 552.081, F.S.;

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59 revising the definition of the term "two-component
60 explosives" for the purpose of regulation by the
61 Division of State Fire Marshal; amending s. 553.7921,
62 F.S.; authorizing a contractor repairing certain
63 existing fire alarm systems to begin work after filing
64 an application for a required permit but before
65 receiving the permit; providing construction; amending
66 s. 626.2815, F.S.; revising continuing education
67 requirements for certain persons licensed to solicit,
68 sell, or adjust insurance; amending s. 626.371, F.S.;
69 requiring submission of renewal appointments of
70 certain insurance representatives within a certain
71 timeframe; requiring the department to notify certain
72 insurers or employers regarding inadvertent failures
73 to appoint; requiring insurers and employers to pay
74 certain fees and taxes within a certain timeframe;
75 authorizing the department to issue appointments under
76 certain circumstances; prohibiting the department from
77 considering inadvertent failures to appoint to be
78 violations under certain circumstances; requiring the
79 department to suspend an insurer's or employer's
80 authority to appoint licensees under certain
81 circumstances; amending s. 626.8443, F.S.; increasing
82 the maximum period of suspension of a title insurance
83 agent's or agency's license; making technical changes;
84 amending s. 626.916, F.S.; deleting a requirement for
85 agents to advise insureds that certain coverage may be
86 available for personal residential property risks to
87 be eligible for export under the Surplus Lines Law;

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88 amending s. 626.9551, F.S.; prohibiting a person from
89 requiring an insurance agent or agency to provide
90 replacement cost estimators or certain other
91 proprietary business information under certain
92 circumstances; prohibiting an insurance agent or
93 agency from providing replacement cost estimators or
94 certain other proprietary business information without
95 written authorization; amending s. 627.715, F.S.;
96 providing an exemption from a diligent effort
97 requirement for agents exporting contracts or
98 endorsements providing flood coverage; amending s.
99 633.136, F.S.; replacing fire protection agencies in
100 the Fire and Emergency Incident Information Reporting
101 Program with fire service providers; revising the
102 composition of the Fire and Emergency Incident
103 Information System Technical Advisory Panel; defining
104 the term "fire service provider"; amending s. 633.202,
105 F.S.; extending a deadline for certain buildings to
106 comply with a minimum radio signal strength
107 requirement under the Florida Fire Prevention Code;
108 requiring such buildings to meet certain conditions by
109 a specified date; revising a condition that existing
110 apartment buildings must meet by a specified date;
111 making technical changes; creating s. 633.217, F.S.;
112 prohibiting certain acts to influence a firesafety
113 inspector to violate certain laws; prohibiting a
114 firesafety inspector from knowingly and intentionally
115 requesting, soliciting, accepting, or agreeing to
116 accept certain compensation; amending s. 633.402,

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117 F.S.; revising the composition of the Firefighters
 118 Employment, Standards, and Training Council; amending
 119 s. 633.416, F.S.; providing that certain persons
 120 serving as volunteer firefighters may serve as a
 121 regular or permanent firefighter for a limited period,
 122 subject to certain restrictions; amending s. 648.30,
 123 F.S.; prohibiting the aiding or abetting of unlicensed
 124 activity of a bail bond agent or temporary bail bond
 125 agent; providing criminal penalties; amending s.
 126 843.08, F.S.; prohibiting false personation of
 127 personnel or representatives of the Division of
 128 Investigative and Forensic Services; amending s.
 129 943.045, F.S.; revising the definition of the term
 130 "criminal justice agency" to include the
 131 investigations component of the department which
 132 investigates certain crimes; reenacting s.
 133 497.141(5)(a), F.S., relating to licensing and general
 134 application procedures, to incorporate the amendment
 135 made to s. 497.142, F.S., in a reference thereto;
 136 providing effective dates.

137
 138 Be It Enacted by the Legislature of the State of Florida:

139
 140 Section 1. Paragraph (f) of subsection (2) of section
 141 20.121, Florida Statutes, is amended to read:
 142 20.121 Department of Financial Services.—There is created a
 143 Department of Financial Services.
 144 (2) DIVISIONS.—The Department of Financial Services shall
 145 consist of the following divisions and office:

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146 (f) The Division of Public Assistance Fraud, which shall
 147 function as a criminal justice agency for purposes of ss.
 148 943.045-943.08. The division shall conduct investigations
 149 pursuant to s. 414.411 within or outside of this state as it
 150 deems necessary. If, during an investigation, the division has
 151 reason to believe that any criminal law of this state has or may
 152 have been violated, it shall refer any records supporting such
 153 violation to state or federal law enforcement or prosecutorial
 154 agencies and shall provide investigative assistance to those
 155 agencies as required.

156 Section 2. Section 284.30, Florida Statutes, is amended to
 157 read:

158 284.30 State Risk Management Trust Fund; coverages to be
 159 provided.—A state self-insurance fund, designated as the "State
 160 Risk Management Trust Fund," is created to be set up by the
 161 Department of Financial Services and administered with a program
 162 of risk management, which fund is to provide insurance, as
 163 authorized by s. 284.33, for workers' compensation, general
 164 liability, fleet automotive liability, federal civil rights
 165 actions under 42 U.S.C. s. 1983 or similar federal statutes,
 166 benefits payable under s. 112.1816(2), and court-awarded
 167 attorney ~~attorney's~~ fees in other proceedings against the state
 168 except for such awards in eminent domain or for inverse
 169 condemnation or for awards by the Public Employees Relations
 170 Commission. A party to a suit in any court, to be entitled to
 171 have his or her attorney ~~attorney's~~ fees paid by the state or
 172 any of its agencies, must serve a copy of the pleading claiming
 173 the fees on the Department of Financial Services; and thereafter
 174 the department shall be entitled to participate with the agency

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175 in the defense of the suit and any appeal thereof with respect
176 to such fees.

177 Section 3. Section 284.31, Florida Statutes, is amended to
178 read:

179 284.31 Scope and types of coverages; separate accounts.—The
180 Insurance Risk Management Trust Fund must ~~shall~~, unless
181 specifically excluded by the Department of Financial Services,
182 cover all departments of the State of Florida and their
183 employees, agents, and volunteers and must ~~shall~~ provide
184 separate accounts for workers' compensation, general liability,
185 fleet automotive liability, federal civil rights actions under
186 42 U.S.C. s. 1983 or similar federal statutes, benefits payable
187 to an employee of a state agency under s. 112.1816(2), and
188 court-awarded attorney ~~attorney's~~ fees in other proceedings
189 against the state except for such awards in eminent domain or
190 for inverse condemnation or for awards by the Public Employees
191 Relations Commission. Unless specifically excluded by the
192 Department of Financial Services, the Insurance Risk Management
193 Trust Fund must ~~shall~~ provide fleet automotive liability
194 coverage to motor vehicles titled to the state, or to any
195 department of the state, when such motor vehicles are used by
196 community transportation coordinators performing, under contract
197 to the appropriate department of the state, services for the
198 transportation disadvantaged under part I of chapter 427. Such
199 fleet automotive liability coverage is ~~shall be~~ primary and is
200 ~~shall be~~ subject to ~~the provisions of~~ s. 768.28 and parts II and
201 III of chapter 284, and applicable rules adopted thereunder, and
202 the terms and conditions of the certificate of coverage issued
203 by the Department of Financial Services.

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204 Section 4. Section 284.385, Florida Statutes, is amended to
205 read:

206 284.385 Reporting and handling of claims.—

207 (1) All departments covered by the State Risk Management
208 Trust Fund under this part shall immediately report all known or
209 potential claims to the Department of Financial Services for
210 handling, except employment complaints that ~~which~~ have not been
211 filed with the Florida Human Relations Commission, Equal
212 Employment Opportunity Commission, or any similar agency. When
213 deemed necessary, the Department of Financial Services shall
214 assign or reassign the claim to counsel. The assigned counsel
215 shall report regularly to the Department of Financial Services
216 or to the covered department on the status of any such claims or
217 litigation as required by the Department of Financial Services.
218 ~~No~~ Such claims may not ~~claim shall~~ be compromised or settled for
219 monetary compensation without the prior approval of the
220 Department of Financial Services and prior notification to the
221 covered department. All departments shall cooperate with the
222 Department of Financial Services in its handling of claims. The
223 Department of Financial Services and the Department of
224 Management Services, with the cooperation of the state attorneys
225 and the clerks of the courts, shall develop a system to
226 coordinate the exchange of information concerning claims for and
227 against the state, its agencies, and its subdivisions, to assist
228 in collection of amounts due to them. The covered department is
229 responsible ~~shall have the responsibility~~ for the settlement of
230 any claim for injunctive or affirmative relief under 42 U.S.C.
231 s. 1983 or similar federal or state statutes. The payment of a
232 settlement or judgment for any claim covered and reported under

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233 this part ~~may shall~~ be made only from the State Risk Management
234 Trust Fund.

235 (2) Benefits provided under s. 112.1816(2) may not be paid
236 from the fund until each request for any out-of-pocket
237 deductible, copayment, or coinsurance costs and one-time cash
238 payout has been validated and approved by the Department of
239 Management Services.

240 Section 5. Section 284.45, Florida Statutes, is created to
241 read:

242 284.45 Sexual harassment victims.-

243 (1) An individual working for an entity covered by the
244 State Risk Management Trust Fund may not engage in retaliatory
245 conduct of any kind against a sexual harassment victim. As used
246 in this section, the term "sexual harassment victim" means an
247 individual employed, or being considered for employment, with an
248 entity participating in the State Risk Management Trust Fund who
249 becomes a victim of workplace sexual harassment through the
250 course of employment, or while being considered for employment,
251 with the entity.

252 (2) The willful and knowing dissemination of personal
253 identifying information of a sexual harassment victim, which is
254 confidential and exempt pursuant to s. 119.071(2)(n), to any
255 party other than a governmental entity in furtherance of its
256 official duties or pursuant to a court order is a misdemeanor of
257 the first degree, punishable as provided in s. 775.082.

258 Section 6. Subsections (1), (2), (3), (6), and (8) of
259 section 497.101, Florida Statutes, are amended to read:

260 497.101 Board of Funeral, Cemetery, and Consumer Services;
261 membership; appointment; terms.-

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262 (1) The Board of Funeral, Cemetery, and Consumer Services
263 is created within the Department of Financial Services and shall
264 consist of 10 members, 9 of whom shall be appointed by the
265 Governor from nominations made by the Chief Financial Officer
266 and confirmed by the Senate. The Chief Financial Officer shall
267 nominate one to three persons for each of the nine vacancies on
268 the board, and the Governor shall fill each vacancy on the board
269 by appointing one of the ~~three~~ persons nominated by the Chief
270 Financial Officer to fill that vacancy. If the Governor objects
271 to each of the ~~three~~ nominations for a vacancy, she or he shall
272 inform the Chief Financial Officer in writing. Upon notification
273 of an objection by the Governor, the Chief Financial Officer
274 shall submit one to three additional nominations for that
275 vacancy until the vacancy is filled. One member must be the
276 State Health Officer or her or his designee.

277 (2) Two members of the board must shall be funeral
278 directors licensed under part III of this chapter who are
279 associated with a funeral establishment. One member of the board
280 must shall be a funeral director licensed under part III of this
281 chapter who is associated with a funeral establishment licensed
282 under part III of this chapter which that has a valid preneed
283 license issued pursuant to this chapter and who owns or operates
284 a cinerator facility approved under chapter 403 and licensed
285 under part VI of this chapter. Two members of the board must
286 ~~shall~~ be persons whose primary occupation is associated with a
287 cemetery company licensed pursuant to this chapter. Two Three
288 members of the board must shall be consumers who are residents
289 of this the state, have never been licensed as funeral directors
290 or embalmers, are not connected with a cemetery or cemetery

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 291 company licensed pursuant to this chapter, and are not connected
 292 with the death care industry or the practice of embalming,
 293 funeral directing, or direct disposition. One of the two
 294 consumer members ~~must shall~~ be at least 60 years of age, ~~and one~~
 295 ~~shall be licensed as a certified public accountant under chapter~~
 296 ~~473. One member of the board must be a consumer who is a~~
 297 resident of this state; is licensed as a certified public
 298 accountant under chapter 473; has never been licensed as a
 299 funeral director or an embalmer; is not a principal or an
 300 employee of any licensee licensed under this chapter; and does
 301 not otherwise have control, as defined in s. 497.005, over any
 302 licensee licensed under this chapter. One member of the board
 303 ~~must shall~~ be a principal of a monument establishment licensed
 304 under this chapter as a monument builder. One member ~~must shall~~
 305 be the State Health Officer or her or his designee. There ~~may~~
 306 ~~shall~~ not be two or more board members who are principals or
 307 employees of the same company or partnership or group of
 308 companies or partnerships under common control.

309 (3) Board members shall be appointed for terms of 4 years,
 310 and the State Health Officer shall serve as long as that person
 311 holds that office. The designee of the State Health Officer
 312 shall serve at the pleasure of the Governor. ~~When the terms of~~
 313 ~~the initial board members expire, the Chief Financial Officer~~
 314 ~~shall stagger the terms of the successor members as follows: one~~
 315 ~~funeral director, one cemetery representative, the monument~~
 316 ~~builder, and one consumer member shall be appointed for terms of~~
 317 ~~2 years, and the remaining members shall be appointed for terms~~
 318 ~~of 4 years. All subsequent terms shall be for 4 years.~~

319 (6) The board shall maintain its headquarters and records

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 320 ~~of the board shall be~~ in the Division of Funeral, Cemetery, and
 321 Consumer Services of the Department of Financial Services in the
 322 City of Tallahassee. The board may be contacted through the
 323 Division of Funeral, Cemetery, and Consumer Services of the
 324 Department of Financial Services in the City of Tallahassee. The
 325 Chief Financial Officer shall annually appoint from among the
 326 board members a chair and vice chair of the board. The board
 327 shall meet at least every 6 months, and more often as necessary.
 328 Special meetings of the board shall be convened upon the
 329 direction of the Chief Financial Officer. A quorum is necessary
 330 for the conduct of business by the board. The participation by a
 331 board member in a meeting conducted through communications media
 332 technology constitutes that individual's presence at such
 333 meeting. Board members appearing at a board meeting in person as
 334 well as board members appearing through the use of
 335 communications media technology shall be counted for the
 336 determination of a quorum. As used in this subsection,
 337 "communications media technology" means the electronic
 338 transmission of printed matter, audio, full-motion video,
 339 freeze-frame video, compressed video, and digital video by any
 340 method available. Unless otherwise provided by law, a majority
 341 of the board members eligible to vote constitutes a quorum for
 342 the purpose of conducting its business ~~six board members shall~~
 343 ~~constitute a quorum for the conduct of the board's business.~~

344 ~~(8) The department shall adopt rules establishing forms by~~
 345 ~~which persons may apply for membership on the board and~~
 346 ~~procedures for applying for such membership. Such forms shall~~
 347 ~~require disclosure of the existence and nature of all current~~
 348 ~~and past employments by or contracts with, and direct or~~

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349 ~~indirect affiliations or interests in, any entity or business~~
 350 ~~that at any time was licensed by the board or by the former~~
 351 ~~Board of Funeral and Cemetery Services or the former Board of~~
 352 ~~Funeral Directors and Embalmers or that is or was otherwise~~
 353 ~~involved in the death care industry, as specified by department~~
 354 ~~rule.~~

355 Section 7. Section 497.1411, Florida Statutes, is created
 356 to read:

357 497.1411 Disqualification of applicants and licensees;
 358 penalties against licensees; rulemaking.

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

360 (a) "Applicant" means an individual applying for licensure
 361 or relicensure under this chapter, or an officer, a director, a
 362 majority owner, a partner, a manager, or another person who
 363 manages or controls an entity applying for licensure or
 364 relicensure under this chapter.

365 (b) "Felony of the first degree" or "capital felony"
 366 includes all felonies designated as such in this state at the
 367 time of the commission of the offense, as well as any offense in
 368 another jurisdiction which is substantially similar to an
 369 offense so designated in this state.

370 (c) "Financial services business" means any financial
 371 activity regulated by the department, the Office of Insurance
 372 Regulation, or the Office of Financial Regulation.

373 (2) An applicant who has been found guilty of, or has
 374 pleaded guilty or nolo contendere to any of the following
 375 crimes, regardless of adjudication, is permanently barred from
 376 licensure under this chapter:

377 (a) A felony of the first degree.

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378 (b) A capital felony.

379 (c) A felony money laundering offense.

380 (d) A felony embezzlement.

381 (3) An applicant who has been found guilty of, or has
 382 pleaded guilty or nolo contendere to a crime not included in
 383 subsection (2), regardless of adjudication, is subject to:

384 (a) A 10-year disqualifying period for all felonies
 385 involving moral turpitude which are not specifically included in
 386 the permanent bar from licensure contained in subsection (2).

387 (b) A 5-year disqualifying period for all felonies to which
 388 neither the permanent bar from licensure in subsection (2) nor
 389 the 10-year disqualifying period in paragraph (a) applies.

390 (c) A 5-year disqualifying period for all misdemeanors
 391 directly related to the financial services business.

392 (4) The board shall adopt rules to administer this section.
 393 The rules must provide for additional disqualifying periods due
 394 to the commitment of multiple crimes and may include other
 395 factors reasonably related to the applicant's criminal history.
 396 The rules must provide for mitigating and aggravating factors.
 397 However, mitigation may not result in a period of
 398 disqualification of less than 5 years and may not mitigate the
 399 disqualifying periods in paragraphs (3)(b) and (c).

400 (5) For purposes of this section, a disqualifying period
 401 begins upon the applicant's final release from supervision or
 402 upon completion of the applicant's criminal sentence. The
 403 department may not issue a license to an applicant unless all
 404 related fines, court costs and fees, and court-ordered
 405 restitution have been paid.

406 (6) After the disqualifying period has expired, the burden

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407 is on the applicant to demonstrate that he or she has been
 408 rehabilitated, does not pose a risk to the public, is fit and
 409 trustworthy to engage in business regulated by this chapter, and
 410 is otherwise qualified for licensure.

411 (7) Notwithstanding subsections (2) and (3), an applicant
 412 who has been found guilty of, or has pleaded guilty or nolo
 413 contendere to, a crime in subsection (2) or subsection (3) and
 414 who has subsequently been granted a pardon or the restoration of
 415 civil rights pursuant to chapter 940 and s. 8, Art. IV of the
 416 State Constitution, or a pardon or the restoration of civil
 417 rights under the laws of another jurisdiction with respect to a
 418 conviction in that jurisdiction, is not barred or disqualified
 419 from licensure under this chapter. However, such a pardon or
 420 restoration of civil rights does not require the department to
 421 award such license.

422 (8) (a) The board may grant an exemption from
 423 disqualification to any person disqualified from licensure under
 424 subsection (3) if:

425 1. The applicant has paid in full any fee, fine, fund,
 426 lien, civil judgment, restitution, or cost of prosecution
 427 imposed by the court as part of the judgment and sentence for
 428 any disqualifying offense; and

429 2. At least 5 years have elapsed since the applicant
 430 completed or has been lawfully released from confinement,
 431 supervision, or a nonmonetary condition imposed by the court for
 432 a disqualifying offense.

433 (b) For the board to grant an exemption under this
 434 subsection, the applicant must clearly and convincingly
 435 demonstrate that he or she would not pose a risk to persons or

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436 property if licensed under this chapter, evidence of which must
 437 include, but need not be limited to, facts and circumstances
 438 surrounding the disqualifying offense, the time that has elapsed
 439 since the offense, the nature of the offense and harm caused to
 440 the victim, the applicant's history before and after the
 441 offense, and any other evidence or circumstances indicating that
 442 the applicant will not present a danger if licensed or
 443 certified.

444 (c) The board has discretion whether to grant or deny an
 445 exemption under this subsection. The board's decision is subject
 446 to chapter 120.

447 (9) The disqualification periods provided in this section
 448 do not apply to the renewal of a license or to a new application
 449 for licensure if the applicant has an active license as of July
 450 1, 2021, and the applicable criminal history was considered by
 451 the board on the prior approval of any active license held by
 452 the applicant. This subsection does not affect any criminal
 453 history disclosure requirements of this chapter.

454 Section 8. Subsection (9) and paragraph (c) of subsection
 455 (10) of section 497.142, Florida Statutes, are amended to read:
 456 497.142 Licensing; fingerprinting and criminal background
 457 checks.—

458 (9) If any applicant under this chapter has been, ~~within~~
 459 ~~the 10 years preceding the application under this chapter,~~
 460 convicted or found guilty of, or entered a plea of nolo
 461 contendere to, regardless of adjudication, any crime in any
 462 jurisdiction, the application shall not be deemed complete until
 463 such time as the applicant provides such certified true copies
 464 of the court records evidencing the conviction, finding, or plea

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465 as required by this section or, as the licensing authority may
466 by rule require.

467 (10) (c) Crimes to be disclosed are:

468 1. Any felony ~~or misdemeanor~~, no matter when committed,
469 ~~that was directly or indirectly related to or involving any~~
470 ~~aspect of the practice or business of funeral directing,~~
471 ~~embalming, direct disposition, cremation, funeral or cemetery~~
472 ~~preneed sales, funeral establishment operations, cemetery~~
473 ~~operations, or cemetery monument or marker sales or~~
474 ~~installation.~~

475 2. Any misdemeanor, no matter when committed, which was
476 directly or indirectly related to the financial services
477 business as defined in s. 497.1411 Any other felony not already
478 disclosed under subparagraph 1. that was committed within the 20
479 years immediately preceding the application under this chapter.

480 3. Any other misdemeanor not already disclosed under
481 subparagraph 2. which subparagraph 1. that was committed within
482 the 5 years immediately preceding the application under this
483 chapter.

484 Section 9. Present subsections (2) through (5) of section
485 497.157, Florida Statutes, are redesignated as subsections (4)
486 through (7), respectively, new subsections (2) and (3) and
487 subsection (8) are added to that section, and present subsection
488 (3) of that section is amended, to read:

489 497.157 Unlicensed practice; remedies concerning violations
490 by unlicensed persons.—

491 (2) A person may not be, act as, or advertise or hold
492 himself or herself out to be a funeral director, an embalmer, or
493 a direct disposer unless he or she is currently licensed by the

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494 department.

495 (3) A person may not be, act as, or advertise or hold
496 himself or herself out to be a preneed sales agent unless he or
497 she is currently licensed by the department and appointed by a
498 preneed main licensee for which he or she is executing preneed
499 contracts.

500 ~~(5)(3)~~ Where the department determines that an emergency
501 exists regarding any violation of this chapter by any unlicensed
502 person or entity, the department may issue and serve an
503 immediate final order upon such unlicensed person or entity, in
504 accordance with s. 120.569(2)(n). Such an immediate final order
505 may impose such prohibitions and requirements as are reasonably
506 necessary to protect the public health, safety, and welfare, and
507 is shall be effective when served.

508 (a) For the purpose of enforcing such an immediate final
509 order, the department may file an emergency or other proceeding
510 in the circuit courts of the state seeking enforcement of the
511 immediate final order by injunctive or other order of the court.
512 The court shall issue its injunction or other order enforcing
513 the immediate final order pending administrative resolution of
514 the matter under subsection (4) (2), unless the court determines
515 that such action would work a manifest injustice under the
516 circumstances. Venue for judicial actions under this paragraph
517 must shall be, at the election of the department, in the courts
518 of Leon County, or in a county where the respondent resides or
519 has a place of business.

520 (b) After serving an immediate final order to cease and
521 desist upon any person or entity, the department shall within 10
522 days issue and serve upon the same person or entity an

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523 administrative complaint as set forth in subsection (4) ~~(2)~~,
 524 except that, absent order of a court to the contrary, the
 525 immediate final order will ~~shall~~ be effective throughout the
 526 pendency of proceedings under subsection (4) ~~(2)~~.

527 (8) Any person who is not licensed under this chapter and
 528 who engages in activity requiring licensure under this chapter
 529 commits a felony of the third degree, punishable as provided in
 530 s. 775.082, s. 775.083, or s. 775.084.

531 Section 10. Subsection (6) of section 497.159, Florida
 532 Statutes, is amended to read:

533 497.159 Crimes.—

534 ~~(6) Any person who is not licensed under this chapter who~~
 535 ~~engages in activity requiring licensure under this chapter,~~
 536 ~~commits a misdemeanor of the second degree, punishable as~~
 537 ~~provided in s. 775.082 or s. 775.083.~~

538 Section 11. Subsection (13) of section 552.081, Florida
 539 Statutes, is amended to read:

540 552.081 Definitions.—As used in this chapter:

541 (13) "Two-component explosives" means any two inert
 542 components ~~that which~~, when mixed, become capable of detonation
 543 by a ~~detonator~~ ~~a No. 6 blasting cap~~, and shall be classified as
 544 a Class "A" explosive when so mixed.

545 Section 12. Present subsection (2) of section 553.7921,
 546 Florida Statutes, is redesignated as subsection (3), a new
 547 subsection (2) is added to that section, and subsection (1) of
 548 that section is amended, to read:

549 553.7921 Fire alarm permit application to local enforcement
 550 agency.—

551 (1) A contractor must file a Uniform Fire Alarm Permit

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552 Application as provided in subsection (3) ~~(2)~~ with the local
 553 enforcement agency and must receive the fire alarm permit
 554 before~~+~~

555 ~~(a) installing or replacing a fire alarm, if the local~~
 556 ~~enforcement agency requires a plan review for the installation~~
 557 ~~or replacement; or~~

558 ~~(b) Repairing an existing alarm system that was previously~~
 559 ~~permitted by the local enforcement agency if the local~~
 560 ~~enforcement agency requires a fire alarm permit for the repair.~~

561 (2) If the local enforcement agency requires a fire alarm
 562 permit to repair an existing alarm system that was previously
 563 permitted by the local enforcement agency, a contractor may
 564 begin work after filing a Uniform Fire Alarm Permit Application
 565 as provided in subsection (3). A fire alarm repaired pursuant to
 566 this subsection may not be considered compliant until the
 567 required permit is issued and the local enforcement agency
 568 approves the repair.

569 Section 13. Effective January 1, 2022, subsection (3) of
 570 section 626.2815, Florida Statutes, is amended to read:

571 626.2815 Continuing education requirements.—

572 (3) Each licensee except a title insurance agent must
 573 complete a 4-hour ~~5-hour~~ update course every 2 years which is
 574 specific to the license held by the licensee. The course must be
 575 developed and offered by providers and approved by the
 576 department. The content of the course must address all lines of
 577 insurance for which examination and licensure are required and
 578 include the following subject areas: insurance law updates,
 579 ethics for insurance professionals, disciplinary trends and case
 580 studies, industry trends, premium discounts, determining

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581 suitability of products and services, and other similar
 582 insurance-related topics the department determines are relevant
 583 to legally and ethically carrying out the responsibilities of
 584 the license granted. A licensee who holds multiple insurance
 585 licenses must complete an update course that is specific to at
 586 least one of the licenses held. Except as otherwise specified,
 587 any remaining required hours of continuing education are
 588 elective and may consist of any continuing education course
 589 approved by the department under this section.

590 (a) Except as provided in paragraphs (b), (c), (d), (e),
 591 (i), and (j), each licensee must also complete 20 ~~19~~ hours of
 592 elective continuing education courses every 2 years.

593 (b) A licensee who has been licensed for 6 or more years
 594 must also complete a minimum of 16 ~~15~~ hours of elective
 595 continuing education every 2 years.

596 (c) A licensee who has been licensed for 25 years or more
 597 and is a CLU or a CPCU or has a Bachelor of Science degree in
 598 risk management or insurance with evidence of 18 or more
 599 semester hours in insurance-related courses must also complete a
 600 minimum of 6 ~~5~~ hours of elective continuing education courses
 601 every 2 years.

602 (d) An individual who holds a license as a customer
 603 representative and who is not a licensed life or health agent
 604 must also complete a minimum of 6 ~~5~~ hours of continuing
 605 education courses every 2 years.

606 (e) An individual subject to chapter 648 must complete the
 607 4-hour ~~5-hour~~ update course and a minimum of 10 ~~9~~ hours of
 608 elective continuing education courses every 2 years.

609 (f) Elective continuing education courses for public

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610 adjusters must be specifically designed for public adjusters and
 611 approved by the department. Notwithstanding this subsection,
 612 public adjusters for workers' compensation insurance or health
 613 insurance are not required to take continuing education courses
 614 pursuant to this section.

615 (g) Excess hours accumulated during any 2-year compliance
 616 period may be carried forward to the next compliance period.

617 (h) An individual teaching an approved course of
 618 instruction or lecturing at any approved seminar and attending
 619 the entire course or seminar qualifies for the same number of
 620 classroom hours as would be granted to a person taking and
 621 successfully completing such course or seminar. Credit is
 622 limited to the number of hours actually taught unless a person
 623 attends the entire course or seminar. An individual who is an
 624 official of or employed by a governmental entity in this state
 625 and serves as a professor, instructor, or in another position or
 626 office, the duties and responsibilities of which are determined
 627 by the department to require monitoring and review of insurance
 628 laws or insurance regulations and practices, is exempt from this
 629 section.

630 (i) For compliance periods beginning on or after October 1,
 631 2014, any person who holds a license as a title insurance agent
 632 must complete a minimum of 10 hours of continuing education
 633 credit every 2 years in title insurance and escrow management
 634 specific to this state and approved by the department, which
 635 must ~~shall~~ include at least 3 hours of continuing education on
 636 the subject matter of ethics, rules, or compliance with state
 637 and federal regulations relating specifically to title insurance
 638 and closing services.

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639 (j) For a licensee who is an active participant in an
640 association, 2 hours of elective continuing education credit per
641 calendar year may be approved by the department, if properly
642 reported by the association.

643 Section 14. Subsections (1) and (2) of section 626.371,
644 Florida Statutes, are amended to read:

645 626.371 Payment of fees, taxes for appointment period
646 without appointment.—

647 (1) All initial and renewal appointments shall be submitted
648 to the department on a monthly basis no later than 45 days after
649 the date of appointment and become effective on the date
650 requested on the appointment form.

651 (2)(a) If, upon application and qualification for an
652 initial or renewal appointment and such investigation as the
653 department may make, ~~it appears to the department determines~~
654 that an individual has not been properly appointed to represent
655 an insurer or employer, that such individual who was formerly
656 licensed or is currently licensed, but not properly appointed to
657 represent an insurer or employer and that such individual who
658 has been actively engaged or is currently actively engaged as
659 such an appointee, but without being appointed as required, the
660 department shall may, if it finds that such failure to be
661 appointed was an inadvertent error on the part of the insurer or
662 employer so represented, notify the insurer or employer of its
663 finding and of the requirement to pay all fees and taxes due
664 pursuant to paragraph (b) within 21 days.

665 (b) The department may nevertheless issue or authorize the
666 issuance of the appointment upon the insurer's or employer's
667 timely payment to the department of as applied for but subject

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668 ~~to the condition that, before the appointment is issued, all~~
669 ~~fees and taxes that which~~ would have been due had the applicant
670 been properly ~~se~~ appointed during such current and prior
671 periods, including with applicable fees and taxes that would
672 have been due pursuant to s. 624.501 for such current and prior
673 periods of appointment, ~~shall be paid to the department.~~

674 (c) Upon proper appointment of the individual and payment
675 of all fees and taxes due pursuant to paragraph (b), paragraph
676 (3) (a), and s. 624.501 by the insurer or employer, the
677 department may no longer consider the inadvertent failure to
678 appoint to be a violation of this code.

679 (d) If the insurer or employer does not pay the fees and
680 taxes due pursuant to paragraph (b) within 21 days after notice
681 by the department, the department shall suspend the insurer's or
682 employer's authority to appoint licensees until all outstanding
683 fees and taxes have been paid.

684 Section 15. Subsection (1) of section 626.8443, Florida
685 Statutes, is amended to read:

686 626.8443 Duration of suspension or revocation.—

687 (1) The department shall, in its order suspending a title
688 insurance agent's or agency's license or appointment or in its
689 order suspending the eligibility of a person to hold or apply
690 for such license or appointment, specify the period during which
691 the suspension is to be in effect, but such period may shall not
692 exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or
693 eligibility will shall remain suspended during the period so
694 specified, subject, however, to any rescission or modification
695 of the order by the department, or modification or reversal
696 thereof by the court, prior to expiration of the suspension

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697 period. A license, appointment, or eligibility ~~that which~~ has
 698 been suspended may not be reinstated except upon request for
 699 such reinstatement, but the department ~~may shall~~ not grant such
 700 reinstatement if it finds that the circumstance or circumstances
 701 for which the license, appointment, and eligibility was
 702 suspended still exist or are likely to recur.

703 Section 16. Paragraph (e) of subsection (1) of section
 704 626.916, Florida Statutes, is amended to read:

705 626.916 Eligibility for export.—

706 (1) No insurance coverage shall be eligible for export
 707 unless it meets all of the following conditions:

708 ~~(e) For personal residential property risks, the retail or~~
 709 ~~producing agent must advise the insured in writing that coverage~~
 710 ~~may be available and may be less expensive from Citizens~~
 711 ~~Property Insurance Corporation. The notice must include other~~
 712 ~~information that states that assessments by Citizens Property~~
 713 ~~Insurance Corporation are higher and the coverage provided by~~
 714 ~~Citizens Property Insurance Corporation may be less than the~~
 715 ~~property's existing coverage. If the notice is signed by the~~
 716 ~~insured, it is presumed that the insured has been informed and~~
 717 ~~knows that policies from Citizens Property Insurance Corporation~~
 718 ~~may be less expensive, may provide less coverage, and will be~~
 719 ~~accompanied by higher assessments.~~

720 Section 17. Paragraph (e) is added to subsection (1) of
 721 section 626.9551, Florida Statutes, to read:

722 626.9551 Favored agent or insurer; coercion of debtors.—

723 (1) No person may:

724 (e) Require an insurance agent or agency to directly or
 725 indirectly provide the replacement cost estimator or other

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726 underwriting information of an insurer underwriting an insurance
 727 policy covering real property as a condition precedent or
 728 condition subsequent to the lending of money or extension of
 729 credit to be secured by real property when such information is
 730 the proprietary business information of an insurer as defined in
 731 s. 624.4212(1). An insurance agent or agency may not provide
 732 such information to any person without authorization from the
 733 insurer.

734 Section 18. Present subsections (4) through (10) of section
 735 627.715, Florida Statutes, are redesignated as subsections (5)
 736 through (11), respectively, and a new subsection (4) is added to
 737 that section, to read:

738 627.715 Flood insurance.—An authorized insurer may issue an
 739 insurance policy, contract, or endorsement providing personal
 740 lines residential coverage for the peril of flood or excess
 741 coverage for the peril of flood on any structure or the contents
 742 of personal property contained therein, subject to this section.
 743 This section does not apply to commercial lines residential or
 744 commercial lines nonresidential coverage for the peril of flood.
 745 An insurer may issue flood insurance policies, contracts,
 746 endorsements, or excess coverage on a standard, preferred,
 747 customized, flexible, or supplemental basis.

748 (4) An agent may export a contract or an endorsement
 749 providing flood coverage to an eligible surplus lines insurer
 750 without making a diligent effort to seek such coverage from
 751 three or more authorized insurers under s. 626.916(1)(a).

752 Section 19. Section 633.136, Florida Statutes, is amended
 753 to read:

754 633.136 Fire and Emergency Incident Information Reporting

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755 Program; duties; fire reports.-

756 (1) (a) The Fire and Emergency Incident Information
757 Reporting Program is created within the division. The program
758 shall:

759 1. Establish and maintain an electronic communication
760 system capable of transmitting fire and emergency incident
761 information to and between fire service providers ~~protection~~
762 ~~agencies~~.

763 2. Initiate a Fire and Emergency Incident Information
764 Reporting System that is ~~shall be~~ responsible for:

765 a. Receiving fire and emergency incident information from
766 fire service providers ~~protection agencies~~.

767 b. Preparing and disseminating annual reports to the
768 Governor, the President of the Senate, the Speaker of the House
769 of Representatives, fire service providers ~~protection agencies~~,
770 and, upon request, the public. Each report must ~~shall~~ include,
771 but not be limited to, the information listed in the National
772 Fire Incident Reporting System.

773 c. Upon request, providing other states and federal
774 agencies with fire and emergency incident data of this state.

775 3. Adopt rules to effectively and efficiently implement,
776 administer, manage, maintain, and use the Fire and Emergency
777 Incident Information Reporting Program. The rules shall be
778 considered minimum requirements and may ~~shall~~ not preclude a
779 fire service provider ~~protection agency~~ from implementing its
780 own requirements that ~~which~~ may not conflict with the rules of
781 the division.

782 4. By rule, establish procedures and a format for each fire
783 service provider ~~protection agency~~ to voluntarily monitor its

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784 records and submit reports to the program.

785 5. Maintain ~~Establish~~ an electronic information database
786 that is accessible and searchable by fire service providers
787 ~~protection agencies~~.

788 (b) The division shall consult with the Florida Forest
789 Service of the Department of Agriculture and Consumer Services
790 and the State Surgeon General of the Department of Health to
791 coordinate data, ensure accuracy of the data, and limit
792 duplication of efforts in data collection, analysis, and
793 reporting.

794 (2) The Fire and Emergency Incident Information System
795 Technical Advisory Panel is created within the division. The
796 panel shall advise, review, and recommend to the State Fire
797 Marshal with respect to the requirements of this section. The
798 membership of the panel consists ~~shall consist~~ of the following
799 15 members:

800 ~~(a) The current 13 members of the Firefighters Employment,~~
801 ~~Standards, and Training Council as established in s. 633.402.~~

802 ~~(b) One member from the Florida Forest Service of the~~
803 ~~Department of Agriculture and Consumer Services, appointed by~~
804 ~~the director of the Florida Forest Service.~~

805 ~~(c) One member from the Department of Health, appointed by~~
806 ~~the State Surgeon General.~~

807 (3) As used in ~~For the purpose of~~ this section, the term
808 "fire service provider" has the same meaning as in s. 633.102
809 "fire protection agency" ~~shall be defined by rule by the~~
810 ~~division.~~

811 Section 20. Subsection (18) of section 633.202, Florida
812 Statutes, is amended to read:

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813 633.202 Florida Fire Prevention Code.—

814 (18) The authority having jurisdiction shall determine the

815 minimum radio signal strength for fire department communications

816 in all new high-rise and existing high-rise buildings. Existing

817 buildings are not required to comply with minimum radio strength

818 for fire department communications and two-way radio system

819 enhancement communications as required by the Florida Fire

820 Prevention Code until January 1, 2023 ~~2022~~. However, by January

821 1, 2022 ~~December 31, 2019~~, an existing building that is not in

822 compliance with the requirements for minimum radio strength for

823 fire department communications must have completed a minimum

824 radio strength assessment ~~apply for an appropriate permit~~ for

825 the required installation with the local government agency

826 having jurisdiction and must demonstrate that the building will

827 become compliant by January 1, 2023 ~~2022~~. Existing apartment

828 buildings are not required to comply until January 1, 2025.

829 However, existing apartment buildings must have completed a

830 minimum radio strength assessment ~~are required to apply for the~~

831 ~~appropriate permit~~ for the required communications installation

832 by December 31, 2022.

833 Section 21. Section 633.217, Florida Statutes, is created

834 to read:

835 633.217 Influencing a firesafety inspector; prohibited

836 acts.—

837 (1) A person may not influence a firesafety inspector by:

838 (a) Threatening, coercing, tricking, or attempting to

839 threaten, coerce, or trick the firesafety inspector into

840 violating any provision of the Florida Fire Prevention Code, any

841 rule adopted by the State Fire Marshal, or any provision of this

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842 chapter.

843 (b) Offering any compensation to the firesafety inspector

844 to induce a violation of the Florida Fire Prevention Code, any

845 rule adopted by the State Fire Marshal, or any provision of this

846 chapter.

847 (2) A firesafety inspector may not knowingly and

848 intentionally request, solicit, accept, or agree to accept

849 compensation offered as described in paragraph (1) (b).

850 Section 22. Subsection (1) of section 633.402, Florida

851 Statutes, is amended to read:

852 633.402 Firefighters Employment, Standards, and Training

853 Council; organization; meetings; quorum; compensation; seal;

854 special powers; firefighter training.—

855 (1) There is created within the department a Firefighters

856 Employment, Standards, and Training Council of 15 ~~14~~ members.

857 (a) The members shall be appointed as follows:

858 1. Two fire chiefs appointed by the Florida Fire Chiefs

859 Association.

860 2. Two firefighters, who are not officers, appointed by the

861 Florida Professional Firefighters Association.

862 3. Two firefighter officers, who are not fire chiefs,

863 appointed by the State Fire Marshal.

864 4. One individual appointed by the Florida League of

865 Cities.

866 5. One individual appointed by the Florida Association of

867 Counties.

868 6. One individual appointed by the Florida Association of

869 Special Districts.

870 7. One individual appointed by the Florida Fire Marshals'

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871 and Inspectors' Association.

872 8. One employee of the Florida Forest Service of the
873 Department of Agriculture and Consumer Services appointed by the
874 director of the Florida Forest Service.

875 9. One individual appointed by the State Fire Marshal.

876 10. One director or instructor of a state-certified
877 firefighting training facility appointed by the State Fire
878 Marshal.

879 11. One individual ~~The remaining member, who shall be~~
880 appointed by the State Fire Marshal, who may not be a member or
881 representative of the firefighting profession or of any local
882 government.

883 12. One individual from the Department of Health, appointed
884 by the Surgeon General.

885 (b) To be eligible for appointment as a member under
886 subparagraph (a)1., subparagraph (a)2., subparagraph (a)3.,
887 subparagraph (a)8., or subparagraph (a)10., a person must have
888 had at least 4 years' experience in the firefighting profession.
889 Members shall serve only as long as they continue to meet the
890 criteria under which they were appointed, or unless a member has
891 failed to appear at three consecutive and properly noticed
892 meetings unless excused by the chair.

893 Section 23. Subsection (1) of section 633.416, Florida
894 Statutes, is amended to read:

895 633.416 Firefighter employment and volunteer firefighter
896 service; saving clause.—

897 (1) A fire service provider may not employ an individual
898 to:

899 (a) Extinguish fires for the protection of life or property

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900 or to supervise individuals who perform such services unless the
901 individual holds a current and valid Firefighter Certificate of
902 Compliance. However, a person who is currently serving as a
903 volunteer firefighter and holds a volunteer firefighter
904 certificate of completion with a fire service provider, who is
905 then employed as a regular or permanent firefighter by such fire
906 service provider, may function, for a period of 1 year under the
907 direct supervision of an individual holding a valid Firefighter
908 Certificate of Compliance, in the same capacity in which he or
909 she acted as a volunteer firefighter, provided that he or she
910 has completed all training required by the volunteer
911 organization. Under no circumstance can this period extend
912 beyond 1 year either collectively or consecutively from the
913 start of employment to obtain a Firefighter Certificate of
914 Compliance; or

915 (b) Serve as the administrative and command head of a fire
916 service provider for a period in excess of 1 year unless the
917 individual holds a current and valid Firefighter Certificate of
918 Compliance or Special Certificate of Compliance.

919 Section 24. Section 648.30, Florida Statutes, is amended to
920 read:

921 648.30 Licensure and appointment required; prohibited acts;
922 penalties.—

923 (1) A person may not act in the capacity of a bail bond
924 agent or temporary bail bond agent or perform any of the
925 functions, duties, or powers prescribed for bail bond agents or
926 temporary bail bond agents under this chapter unless that person
927 is qualified, licensed, and appointed as provided in this
928 chapter.

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929 (2) A person may not represent himself or herself to be a
930 bail enforcement agent, bounty hunter, or other similar title in
931 this state.

932 (3) A person, other than a certified law enforcement
933 officer, may not apprehend, detain, or arrest a principal on a
934 bond, wherever issued, unless that person is qualified,
935 licensed, and appointed as provided in this chapter or licensed
936 as a bail bond agent or bail bond enforcement agent, or holds an
937 equivalent license by the state where the bond was written.

938 (4) Any person who violates this section commits a felony
939 of the third degree, punishable as provided in s. 775.082, s.
940 775.083, or s. 775.084.

941 (5) Any licensee under this chapter who knowingly aids or
942 abets an unlicensed person in violating this section commits a
943 felony of the third degree, punishable as provided in s.
944 775.082, s. 775.083, or s. 775.084.

945 Section 25. Section 843.08, Florida Statutes, is amended to
946 read:

947 843.08 False personation.—A person who falsely assumes or
948 pretends to be a firefighter, a sheriff, an officer of the
949 Florida Highway Patrol, an officer of the Fish and Wildlife
950 Conservation Commission, an officer of the Department of
951 Environmental Protection, ~~a fire or arson investigator of the~~
952 ~~Department of Financial Services~~, an officer of the Department
953 of Financial Services, any personnel or representative of the
954 Division of Investigative and Forensic Services, an officer of
955 the Department of Corrections, a correctional probation officer,
956 a deputy sheriff, a state attorney or an assistant state
957 attorney, a statewide prosecutor or an assistant statewide

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958 prosecutor, a state attorney investigator, a coroner, a police
959 officer, a lottery special agent or lottery investigator, a
960 beverage enforcement agent, a school guardian as described in s.
961 30.15(1)(k), a security officer licensed under chapter 493, any
962 member of the Florida Commission on Offender Review or any
963 administrative aide or supervisor employed by the commission,
964 any personnel or representative of the Department of Law
965 Enforcement, or a federal law enforcement officer as defined in
966 s. 901.1505, and takes upon himself or herself to act as such,
967 or to require any other person to aid or assist him or her in a
968 matter pertaining to the duty of any such officer, commits a
969 felony of the third degree, punishable as provided in s.
970 775.082, s. 775.083, or s. 775.084. However, a person who
971 falsely personates any such officer during the course of the
972 commission of a felony commits a felony of the second degree,
973 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
974 If the commission of the felony results in the death or personal
975 injury of another human being, the person commits a felony of
976 the first degree, punishable as provided in s. 775.082, s.
977 775.083, or s. 775.084.

978 Section 26. Paragraph (f) is added to subsection (11) of
979 section 943.045, Florida Statutes, to read:

980 943.045 Definitions; ss. 943.045-943.08.—The following
981 words and phrases as used in ss. 943.045-943.08 shall have the
982 following meanings:

983 (11) "Criminal justice agency" means:

984 (f) The investigations component of the Department of
985 Financial Services which investigates the crimes of fraud and
986 official misconduct in all public assistance given to residents

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987 of this state or provided to others by the state.

988 Section 27. For the purpose of incorporating the amendment
989 made by this act to section 497.142, Florida Statutes, in a
990 reference thereto, paragraph (a) of subsection (5) of section
991 497.141, Florida Statutes, is reenacted to read:

992 497.141 Licensing; general application procedures.—

993 (5) (a) The licensing authority may not issue, and effective
994 July 1, 2011, may not renew, a license under this chapter to an
995 applicant that has a criminal record required to be disclosed
996 under s. 497.142(10) unless the applicant demonstrates that
997 issuance of the license, according to rules adopted by the
998 licensing authority, does not create a danger to the public. A
999 licensee who previously disclosed her or his criminal record
1000 upon initial application or renewal of her or his license must
1001 disclose only a criminal offense for which the licensee was
1002 convicted or entered a plea of guilty or nolo contendere since
1003 the most recent renewal of her or his license or, if the license
1004 has not been renewed, since the licensee's initial application.

1005 Section 28. Except as otherwise expressly provided in this
1006 act and except for this section, which shall take effect upon
1007 this act becoming a law, this act shall take effect July 1,
1008 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **Senate Bill #1408**, relating to Department of Financial Services, be placed on the:

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

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

Senator Danny Burgess
Florida Senate, District 20

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21

Meeting Date

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

SB 1400

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director, Legislative & Cabinet Affairs

Address DL 11, Capitol

Phone (850) 413-2890

Street

Tallahassee

FL

32399

City

State

Zip

Email Meredith.Stanfield@myfloridacfo.com

Speaking: For Against Information

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

Representing Department of Financial Services

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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 15, 2021

Meeting Date

SB 1408

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 Palm Drive

Phone 407-468-6622

Street

Melbourne Beach

FL

32951

Email ray@ffca.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Fire Chiefs' 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 15, 2021

Meeting Date

1408

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title _____

Address 537 East Park Ave.

Phone 8502102525

Street

Tallahassee

FL

32301

Email eric@teamjb.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Fire Marshals & Inspectors 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21

Meeting Date

1408

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name BG Murphy

Job Title Director of Government Affairs

Address 3159 Shamrock Street S.

Phone 850-893-4155

Street

Tallahassee

FL

32309

Email bmurphy@faia.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Insurance Agents

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)

4/15
Meeting Date

1408
Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 27, The Capitol

Phone (850) 413-2890

Tallahassee FL 32399

Email meredith.stanfield@myfloridacfo.com

Speaking: For Against Information

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

Representing The Department of Financial Services

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

SB 1408

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Tim Meenan

Job Title Lobbyist

Address P.O. Box 11247

Phone 850-425-4000

Street

Tallahassee

FL

32302

Email tim@meenanlawfirm.com

City

State

Zip

Speaking: For Against Information

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

Representing NAIFA-FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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 Appropriations

BILL: CS/CS/SB 1448

INTRODUCER: Appropriation Committee; Governmental Oversight and Accountability Committee; and Senator Jones

SUBJECT: Information Technology Procurement

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

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

The bill decreases the cost threshold that triggers the FDS oversight of cabinet agency IT projects from \$25 million to \$20 million. It also removes the requirement that a cabinet agency IT project impact one or more other agencies before triggering the FDS project oversight.

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

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

For IT state term contracts, the bill requires the Secretary of Management Services and the state chief information officer to certify in writing when a contract for IT commodities, consultant services, or staff augmentation contractual services should exceed 48 months because it is in the best interest of the state.

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

The bill requires an agency to issue a request for quote to all vendors approved to provide IT commodities, consultant services, or staff augmentation contractual services for a state term contract with 25 approved vendors or fewer. For any state term contract with more than 25 vendors, an agency must issue a request for quote to at least 25 of the vendors approved to provide such commodity or contractual service.

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

The bill will have an indeterminate fiscal impact on state government expenditures. The FDS may incur additional workload increases and associated costs as it undertakes new contract monitoring responsibilities for state agency IT projects in excess of \$10 million. The DMS may experience additional workload and associated costs in prequalifying firms and individuals to provide staff augmentation contractual services on a state term contract.

The bill takes effect July 1, 2021.

II. Present Situation:

The Florida Digital Service

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

The FDS is responsible for developing an enterprise architecture, project management and oversight standards, and technology policy for the management of the state's information technology (IT)² resources. The enterprise architecture must acknowledge the unique needs of

¹ Section 282.0051(1), F.S.

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

entities within the enterprise through development, support the cloud-first policy, and address how IT infrastructure may be modernized.³ The project management and oversight standards established by the FDS must be observed by state agencies implementing IT projects.⁴

The DMS, through the FDS, has the authority to perform project oversight on all state agency IT projects that have a total project cost of \$10 million or more and funded in the General Appropriations Act or any other law.⁵ The FDS is also responsible for providing project oversight on any IT project of the Department of Financial Services (DFS), the Department of Legal Affairs (DLA), and the Department of Agriculture and Consumer Services (DACCS), which has a total project cost of \$25 million or more and which impacts other state agencies. The DMS must report to, on a quarterly basis, the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives if it identifies any IT projects as high-risk.⁶

The Secretary of Management Services must designate a state chief information officer, who is responsible for administering the FDS. The chief information officer, prior to being appointed, must have at least five years of experience in the development of IT strategic planning and development or information technology policy, and, preferably, have leadership-level experience in the design, development, and deployment of interoperable software and data solutions.⁷ The state chief information officer, in consultation with the Secretary of Management Services, is responsible for designating a state chief data officer. The state chief data officer must be a proven and effective administrator who must have significant and substantive experience in data management, data governance, interoperability, and security.⁸

Cloud-First Policy in State Agencies

The Legislature finds that each state agency should adopt a cloud-first policy that first considers cloud-computing solutions in its technology sourcing strategy for technology initiatives or upgrades. In the procurement process, state agencies should show a preference for cloud-computing solutions that minimize or do not use state data center infrastructure. Further, each state agency should adopt formal procedures for the evaluation of cloud-computing options for existing applications, and develop a strategic plan to address its inventory of applications located at the state data center.⁹

State Term Contracts and Agreements

The Division of State Purchasing within the DMS procures state contracts and agreements for commodities and services that are frequently bought together.¹⁰ A state term contract is a term

³ Section 282.0051(1)(b)1-3., F.S.

⁴ Section 282.0051(1)(c), F.S.

⁵ Section 282.0051(1)(d), F.S.

⁶ *Id.*

⁷ Sections 282.0051(2)(a), F.S.

⁸ Sections 282.0051(2)(b), F.S.

⁹ Section 282.206(1), F.S.

¹⁰ The Department of Management Services, *State Contracts and Agreements*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements, (last visited Apr. 7, 2021)

contract that is competitively procured and is used by agencies and eligible users.¹¹ Each agency agreement is required to specify the scope of work that establishes all tasks that the contractor is required to perform, and to divide the contract into quantifiable, measureable, and verifiable units of deliverables. Agencies and eligible users¹² may issue a request for quote (RFQ) to obtain written pricing or services information from a state term contract vendor for commodities or contractual services.¹³ The purpose of a RFQ is to determine whether a price, term, or condition more favorable to the agency or eligible user than that provided in the state term contract is available.¹⁴

If the DMS issues a competitive solicitation for a state term contract for IT commodities, consultant services, or staff augmentation contractual services, the FDS must participate in such competitive solicitations. The state term contract may not exceed 48 months, unless the Secretary of Management Services, and the state chief information officer certify to the Executive Office of the Governor that a longer contract term is in the best interest of the state.¹⁵

Disqualified Vendors List

The DMS maintains a vendor list based on the vendor registration process in s. 287.042, F.S., and Rule 60A-1.006, F.A.C. The DMS is authorized to remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract.¹⁶ The DMS maintains the following lists of vendors who have been removed for cause:

- Suspended Vendor List;¹⁷
- Convicted Vendor List;¹⁸
- Discriminatory Vendor List;¹⁹
- Scrutinized List of Prohibited Companies;²⁰ and
- Vendor Complaint List.²¹

National Institute of Standards and Technology

The National Institute of Standards and Technology (NIST) was founded in 1901 and is part of the U.S. Department of Commerce.²² The NIST's cybersecurity programs seek to enable greater development and application of practical, innovative security technologies and methodologies in

¹¹ Section 287.012(28), F.S., defines a "state term contract" to mean a term contract that is competitively procured by the department pursuant to s. 287.057, F.S., and that is used by agencies and eligible users pursuant to s. 287.056, F.S.

¹² Section 287.012(11), F.S. defines an "eligible user" as any person or entity authorized by the department pursuant to rule to purchase from state term contracts or to use the online procurement system.

¹³ Section 287.056, F.S.

¹⁴ *Id.*

¹⁵ Section 287.0591, F.S.

¹⁶ Section 287.042(1)(b), F.S.

¹⁷ Fla. Admin. Code R. 60A-1.006(2), (vendors that have been removed for failing to fulfill any of its duties specified in a State contract).

¹⁸ Section 287.133, F.S.

¹⁹ Section 287.134(1)(b), F.S.

²⁰ Section 287.135, F.S.

²¹ Department of Management Services, *Vendor Complaint List*, available at https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists/vendor_complaint_list, (last visited Mar. 18, 2021)

²² Nist.gov, *About NIST*, available at <https://www.nist.gov/about-nist> (last visited Apr. 7, 2021).

an attempt to enhance the country's ability to address current and future computer and information security challenges.²³

III. Effect of Proposed Changes:

Section 1 amends s. 282.0051, F.S., to expand the powers, duties, and functions of the Florida Digital Service. In some instances, these expanded powers shift the FDS from providing enterprise-wide IT governance to providing additional daily operational input and oversight over agency IT projects. This section requires the FDS to establish technical standards to ensure that state agencies IT projects comply with the enterprise architecture.

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

The bill provides that the IT related policies established by the FDS for all IT contracts must include two additional requirements. First, the FDS must include in its IT related policies a requirement that IT commodities and services purchased by the state meet the National Institute of Standards and Technology Cybersecurity Framework. Second, for an IT project where project oversight is required, the FDS must include in its IT related policies a requirement that IV&V be employed throughout the project lifecycle with the primary objective of IV&V being to provide an objective assessment of products and processes throughout the project lifecycle. An entity providing IV&V may not have technical, managerial, or financial interest in the project and may not have responsibility for, or participate in, any other aspect of the project.

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

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

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

This section requires an agency issuing a RFQ to purchase IT commodities, consultant services, or staff augmentation contractual services, to issue a RFQ to all vendors approved to provide such commodities or services for any state term contract with 25 approved vendors or fewer. For

²³ *Id.*

any contract with more than 25 approved vendors, the agency must issue a RFQ to at least 25 of the approved vendors. Use of a RFQ does not constitute a decision or intended decision that is subject to protest under s. 120.57(3), F.S.

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an indeterminate negative fiscal impact on state government expenditures related to additional workload for:

- A potential increase in the number of vendors responding to RFQs for IT commodities, consultant services, or staff augmentation contractual services;
- An increase in project oversight over cabinet agencies' IT projects meeting the decreased cost threshold; and
- Requiring post-award contract monitoring of IT projects that have a total project cost of \$10 million or more.

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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 Appropriation on April 15, 2021:

The committee substitute revises the requirements related to RFQs for IT commodities and contractual services available on a state term contract. The CS reduces the number of RFQs an agency must issue from 100 approved vendors to all approved vendors for any contract with 25 or fewer approved vendors. If there are more than 25 approved vendors, the CS requires agencies to issue a RFQ to at least 25 approved vendors on the state term contract.

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

The CS makes the following revisions to the underlying bill:

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

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

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

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

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

B. Amendments:

None.



567488

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Jones) recommended the following:

Senate Amendment

Delete lines 173 - 177

and insert:

contract, for any contract with 25 approved vendors or fewer, the agency must issue a request for quote to all vendors approved to provide such commodity or service. For any contract with more than 25 approved vendors, the agency must issue a request for quote to at least 25 of the vendors approved to provide such commodity

By the Committee on Governmental Oversight and Accountability;
and Senator Jones

585-03335-21

20211448c1

1 A bill to be entitled
2 An act relating to information technology procurement;
3 amending s. 282.0051, F.S.; requiring the Department
4 of Management Services, through the Florida Digital
5 Service, to establish certain project management and
6 oversight standards for state agency compliance;
7 requiring the department to perform project oversight
8 on information technology projects that have total
9 project costs of a certain amount or more; requiring
10 the information technology policy for certain state
11 contracts established by the Florida Digital Service
12 to include certain requirements for certain contracts
13 and information technology projects; providing
14 requirements for information technology projects that
15 have a total project cost over a certain amount;
16 amending s. 287.0591, F.S.; removing obsolete
17 language; authorizing the department to execute
18 certain contracts if the Secretary of Management
19 Services and the state chief information officer
20 certify certain information in writing; requiring an
21 agency to issue a request for quote to certain vendors
22 approved to provide certain commodities or services in
23 certain circumstances; requiring the department to
24 prequalify firms and individuals to provide certain
25 services on a state term contract by a certain date;
26 requiring the department to consider certain
27 information in order to prequalify a firm or an
28 individual; providing for the disqualification of a
29 firm or an individual from state term contract

Page 1 of 7

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

585-03335-21

20211448c1

30 eligibility; authorizing a prequalified firm or
31 individual to respond to certain requests for quotes;
32 providing an effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Paragraphs (c), (n), and (q) of subsection (1)
37 and subsection (4) of section 282.0051, Florida Statutes, are
38 amended to read:
39 282.0051 Department of Management Services; Florida Digital
40 Service; powers, duties, and functions.—
41 (1) The Florida Digital Service has been created within the
42 department to propose innovative solutions that securely
43 modernize state government, including technology and information
44 services, to achieve value through digital transformation and
45 interoperability, and to fully support the cloud-first policy as
46 specified in s. 282.206. The department, through the Florida
47 Digital Service, shall have the following powers, duties, and
48 functions:
49 (c) Establish project management and oversight standards
50 with which state agencies must comply when implementing
51 information technology projects. The department, acting through
52 the Florida Digital Service, shall provide training
53 opportunities to state agencies to assist in the adoption of the
54 project management and oversight standards. To support data-
55 driven decisionmaking, the standards must include, but are not
56 limited to:
57 1. Performance measurements and metrics that objectively
58 reflect the status of an information technology project based on

Page 2 of 7

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

585-03335-21 20211448c1

59 a defined and documented project scope, cost, and schedule.
 60 2. Methodologies for calculating acceptable variances in
 61 the projected versus actual scope, schedule, or cost of an
 62 information technology project.
 63 3. Reporting requirements, including requirements designed
 64 to alert all defined stakeholders that an information technology
 65 project has exceeded acceptable variances defined and documented
 66 in a project plan.
 67 4. Content, format, and frequency of project updates.
 68 5. Technical standards to ensure an information technology
 69 project complies with the enterprise architecture.
 70 (n)1. Notwithstanding any other law, provide project
 71 oversight on any information technology project of the
 72 Department of Financial Services, the Department of Legal
 73 Affairs, and the Department of Agriculture and Consumer Services
 74 which has a total project cost of \$20 ~~\$25~~ million or more ~~and~~
 75 ~~which impacts one or more other agencies.~~ Such information
 76 technology projects must also comply with the applicable
 77 information technology architecture, project management and
 78 oversight, and reporting standards established by the
 79 department, acting through the Florida Digital Service.
 80 2. When performing the project oversight function specified
 81 in subparagraph 1., report at least quarterly to the Executive
 82 Office of the Governor, the President of the Senate, and the
 83 Speaker of the House of Representatives on any information
 84 technology project that the department, acting through the
 85 Florida Digital Service, identifies as high-risk due to the
 86 project exceeding acceptable variance ranges defined and
 87 documented in the project plan. The report shall include a risk

Page 3 of 7

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

585-03335-21 20211448c1

88 assessment, including fiscal risks, associated with proceeding
 89 to the next stage of the project and a recommendation for
 90 corrective actions required, including suspension or termination
 91 of the project.
 92 (q)1. Establish an information technology policy for all
 93 information technology-related state contracts, including state
 94 term contracts for information technology commodities,
 95 consultant services, and staff augmentation services. The
 96 information technology policy must include:
 97 a. Identification of the information technology product and
 98 service categories to be included in state term contracts.
 99 b. Requirements to be included in solicitations for state
 100 term contracts.
 101 c. Evaluation criteria for the award of information
 102 technology-related state term contracts.
 103 d. The term of each information technology-related state
 104 term contract.
 105 e. The maximum number of vendors authorized on each state
 106 term contract.
 107 f. At a minimum, a requirement that any contract for
 108 information technology commodities or services meet the National
 109 Institute of Standards and Technology Cybersecurity Framework.
 110 g. For an information technology project with oversight
 111 required pursuant to paragraph (d) or paragraph (n), a
 112 requirement that independent verification and validation be
 113 employed throughout the project lifecycle with the primary
 114 objective of independent verification and validation to provide
 115 an objective assessment of products and processes. An entity
 116 providing independent verification and validation may not have a

Page 4 of 7

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

585-03335-21

20211448c1

117 technical, managerial, or financial interest in the project and
 118 may not have responsibility for, or participate in, any other
 119 aspect of the project.

120 2. Evaluate vendor responses for information technology-
 121 related state term contract solicitations and invitations to
 122 negotiate.

123 3. Answer vendor questions on information technology-
 124 related state term contract solicitations.

125 4. Ensure that the information technology policy
 126 established pursuant to subparagraph 1. is included in all
 127 solicitations and contracts that are administratively executed
 128 by the department.

129 (4) For information technology projects that have a total
 130 project cost of over \$10 million ~~Upon the adoption of the~~
 131 ~~enterprise architecture standards in rule, the department,~~
 132 ~~acting through the Florida Digital Service, may develop a~~
 133 ~~process to:~~

134 (a) State agencies must provide the Florida Digital Service
 135 with Receive written notice from the entities within the
 136 ~~enterprise~~ of any planned procurement of an information
 137 technology project ~~that is subject to enterprise architecture~~
 138 ~~standards.~~

139 (b) The Florida Digital Service must participate in the
 140 development of specifications and recommend modifications to any
 141 planned procurement of an information technology project by
 142 state agencies so that the procurement complies with the
 143 enterprise architecture.

144 (c) The Florida Digital Service must participate in post-
 145 award contract monitoring.

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146 Section 2. Section 287.0591, Florida Statutes, is amended
 147 to read:

148 287.0591 Information technology.—

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

153 (2) ~~Beginning September 1, 2015,~~ Any competitive
 154 solicitation issued by the department for a state term contract
 155 for information technology consultant services or information
 156 technology staff augmentation contractual services must include
 157 a term that does not exceed 48 months.

158 (3) The department may execute a state term contract for
 159 information technology commodities, consultant services, or
 160 staff augmentation contractual services that exceeds the 48-
 161 month requirement if the Secretary of Management Services and
 162 the state chief information officer certify in writing to the
 163 Executive Office of the Governor that a longer contract term is
 164 in the best interest of the state.

165 (4) If the department issues a competitive solicitation for
 166 information technology commodities, consultant services, or
 167 staff augmentation contractual services, the Florida Digital
 168 Service within the department shall participate in such
 169 solicitations.

170 (5) If an agency issues a request for quote to purchase
 171 information technology commodities, consultant services, or
 172 staff augmentation contractual services from the state term
 173 contract, for any contract with less than 100 vendors, the
 174 agency must issue a request for quote to all vendors approved to

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175 provide such commodities or services. For any contract with more
176 than 100 vendors, the agency must issue a request for quote to
177 at least 100 of the vendors approved to provide such commodity
178 or contractual service. Use of a request for quote does not
179 constitute a decision or intended decision that is subject to
180 protest under s. 120.57(3).

181 (6) Beginning October 1, 2021, and each October 1
182 thereafter, the department shall prequalify firms and
183 individuals to provide information technology staff augmentation
184 contractual services on a state term contract. In order to
185 prequalify a firm or an individual for participation on the
186 state term contract, the department must consider, at a minimum,
187 the capability, experience, and past performance record of the
188 firm or individual. A firm or an individual removed from the
189 source of supply pursuant to s. 287.042(1)(b) or placed on a
190 disqualified vendor list pursuant to s. 287.133 or s. 287.134 is
191 immediately disqualified from state term contract eligibility.
192 Once a firm or an individual has been prequalified to provide
193 information technology staff augmentation contractual services
194 on a state term contract, the firm or individual may respond to
195 requests for quotes from an agency to provide such services.

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



The Florida Senate

Committee Agenda Request

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

To: Chair Kelli Stargel
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 31, 2021

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

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

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

Senator Shevrin Jones
Florida Senate, District 35

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 Appropriations

BILL: SB 1450

INTRODUCER: Senator Rodriguez

SUBJECT: Civic Education Curriculum

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 1450 requires the Florida Department of Education (DOE) to develop or approve an integrated civic education curriculum for public school students in kindergarten through grade 12. The bill provides requirements for the civic education curriculum to aid in students' development of civic responsibility and knowledge.

The bill also establishes the "Portraits in Patriotism Act," which integrates into the civics education curriculum personal stories of diverse individuals who demonstrate civic-minded qualities, including first-person accounts of victims of other nations' governing philosophies who can compare those philosophies with the philosophies of the United States.

The bill provides that the United States Government course that is required to earn a standard high school diploma include a comparative discussion of political ideologies that conflict with the principles of freedom and democracy in the nation's founding principles.

The DOE may incur minimal costs associated with developing the civic education curriculum and the curation of oral history resources.

The bill has an effective date of July 1, 2021.

II. Present Situation:

The priorities of Florida's K-20 education system include civic literacy and to prepare students to become civically engaged and knowledgeable adults who positively contribute to their communities.¹

¹ Section 1000.03(5)(c), F.S.

Instruction in Patriotism

Florida law requires each district school board to provide instruction on the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and civil government.² District school boards must also provide instruction on the contributions of African Americans, Hispanics, and women to the United States.³

District school boards are required to provide a character-development program for students in kindergarten through grade 12. Each district school board must develop or adopt a curriculum for its K-12 character-development program and submit it to the Florida Department of Education (DOE) for approval. The character development curriculum must “stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.”⁴

To encourage patriotism, district school boards are required to provide instruction on the sacrifices made by veterans and Medal of Honor recipients while serving the country and protecting democratic values worldwide.⁵ A district school board may also adopt rules requiring patriotic programs in schools that encourage respect for the government of the United States and its national anthem and flag.⁶ Teachers or administrators in the schools may read or post historic material such as the Constitution of the United States, the Bill of Rights, and other foundational materials.⁷ Public schools are encouraged to coordinate instruction relating to the nation’s founding fathers with “American Founders’ Month” in September.⁸

Instruction in Civics

Currently, Florida’s Next Generation Sunshine State Standards for social studies include civics and government content in kindergarten through grade 12.⁹ A student must successfully complete three middle school or higher courses in social studies in order to be promoted to high school. One of the three courses must be a civics education course that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches; and the meaning and significance of documents such as the Articles of Confederation, Declaration of Independence, and the Constitution of the United States.¹⁰

At the high school level, 24 credits are required for a standard high school diploma.¹¹ Three credits must be in social studies, including one credit each in United States History and World

² Section 1003.42(2)(a)-(e), F.S.

³ Section 1003.42(2)(h) and (p)-(q), F.S.

⁴ Section 1003.42(2)(s), F.S.

⁵ Section 1003.42(2)(t), F.S.

⁶ Section 1003.44(1), F.S.

⁷ Section 1003.44(2), F.S.

⁸ Sections 1003.44(3), F.S. and 683.1455, F.S.

⁹ See CPALMS, *Browse and Search Standards*, <http://www.cpalms.org/Public/search/Standard> (last visited Mar. 4, 2021) (providing the Next Generation Sunshine State Standards for each subject area, by grade level).

¹⁰ Section 1003.4156(1)(c), F.S.

¹¹ Section 1003.4282(1)(a), F.S.

History; one-half credit in economics; and one-half credit in United States Government.¹² Course standards for United States Government include evaluating and defending positions on the founding ideals and principles of American government, explaining how nations are governed differently, and comparing indicators of democratization in other countries.¹³

Students in the middle grades civics course and the high school United States History course must take an end-of-course assessment¹⁴ that constitutes 30 percent of the student's final course grade.¹⁵

Review of Civic Education

To further address civic education in Florida, Governor DeSantis issued Executive Order 19-32 in January 2019, directing the Commissioner of Education (commissioner) to review Florida's K-12 academic standards and identify opportunities to prepare high school graduates to be knowledgeable citizens, particularly in the principles of the United States Constitution.¹⁶

Additionally, in 2019, the Legislature established a requirement for the commissioner, in consultation with specified organizations and stakeholders, to review the state-approved middle grades civics education course instructional materials and the test specifications for the statewide, standardized civics end-of-course assessment.¹⁷ Recommendations for improvements to the materials and test specifications were provided to the Governor and Legislature on December 31, 2019.¹⁸

The DOE began a review of the statewide civic education course standards on January 1, 2020. The State Board of Education is expected to adopt revisions to standards by the summer of 2021, and the approval of new course descriptions, with revised standards, is expected by the fall.¹⁹

III. Effect of Proposed Changes:

The bill modifies s. 1003.4282, F.S., to revise the Next Generation Sunshine State Standards social studies credit requirement for high school graduation. The bill requires instruction in United States Government to include a comparative discussion of political ideologies, such as communism and totalitarianism, that conflict with the principles of freedom and democracy essential to the founding principles of the United States.

¹² Section 1003.4282(3)(d), F.S.

¹³ See CPALMS, *United States Government Course Standards*, <https://www.cpalms.org/Public/PreviewCourse/Preview/633> (last visited Mar. 4, 2021).

¹⁴ Section 1008.22(3)(b)1., F.S.

¹⁵ Sections 1003.4156(1)(c), F.S. and 1003.4282(3)(d), F.S.

¹⁶ Office of the Governor, Executive Order Number 19-32, Jan. 31, 2019 (Commitment to Eliminating Common Core, Ensuring High-Quality Academic Standards and Raising the Bar for Civic Literacy).

¹⁷ Chapter 19-150, L.O.F.; Section 1003.4156(1)(c), F.S. See also Florida Department of Education, *Civics Review*, <http://www.fldoe.org/civicsreview/> (last visited Mar. 4, 2021).

¹⁸ Memorandum re Committee Substitute for (CS/HB) 807- Civics Education Report (Dec. 31, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/HB807Report.pdf> (last visited Mar. 4, 2021).

¹⁹ *Id.* See also Florida Department of Education, *Civics Review*, <http://www.fldoe.org/civicsreview/> (last visited Mar. 4, 2021).

To assist in preparing students to be civically responsible and knowledgeable adults, the bill adds to s. 1003.44, F.S., to require the Department of Education (DOE) to develop or approve an integrated civic education curriculum for students in kindergarten through grade 12. District school boards and charter schools must incorporate the curriculum as part of students' regular school work. The DOE must approve integrated civic education curricula submitted by district school boards and charter schools that assist students in developing:

- An understanding of their rights and responsibilities as residents of Florida and of the founding principles of the United States as described in ss. 1003.42(2)(a)-(c), F.S.²⁰
- A sense of civic pride and desire to participate regularly in government.
- An understanding of the process for effectively advocating before government bodies and officials.
- An understanding of the civic-minded expectations, developed by the State Board of Education, of an upright and desirable citizenry that recognizes and accepts responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the United States Constitution.

The bill also requires the DOE to curate oral history resources for use with the civic education curriculum. Designated as the "Portraits in Patriotism Act," the bill provides that these resources will be based on the personal stories of diverse individuals who demonstrate civic-minded qualities. The stories may include first-person accounts of victims of other nations' governing philosophies who can compare those philosophies with the philosophies of the United States.

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.

²⁰ Sections 1003.42(a)-(c), F.S. require district school boards to provide instruction on the history and content of the Declaration of Independence, the meaning and significance of the United States Constitution and its amendments, and the arguments supporting a republican form of government as advocated in the Federalist Papers.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOE may incur minimal costs associated with developing the civic education curriculum and the curation of oral history resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.4282 and 1003.44.

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

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

None.

B. Amendments:

None.

By Senator Rodriguez

39-01366A-21

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1 A bill to be entitled
 2 An act relating to civic education curriculum;
 3 amending s. 1003.4282, F.S.; revising the social
 4 studies high school graduation credit requirement;
 5 amending s. 1003.44, F.S.; requiring the Department of
 6 Education to develop or approve an integrated civic
 7 education curriculum that meets certain requirements;
 8 requiring the department to curate oral history
 9 resources to be used along with such curriculum;
 10 providing a short title; requiring the department to
 11 approve the civic education curricula submitted by
 12 school districts and charter schools; providing an
 13 effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (d) of subsection (3) of section
 18 1003.4282, Florida Statutes, is amended to read:
 19 1003.4282 Requirements for a standard high school diploma.—
 20 (3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT
 21 REQUIREMENTS.—
 22 (d) *Three credits in social studies.*—A student must earn
 23 one credit in United States History; one credit in World
 24 History; one-half credit in economics; and one-half credit in
 25 United States Government, which must include a comparative
 26 discussion of political ideologies, such as communism and
 27 totalitarianism, that conflict with the principles of freedom
 28 and democracy essential to the founding principles of the United
 29 States. The United States History EOC assessment constitutes 30

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30 percent of the student's final course grade.
 31 Section 2. Subsection (6) is added to section 1003.44,
 32 Florida Statutes, to read:
 33 1003.44 Patriotic programs; rules.—
 34 (6) To help families, civic institutions, local
 35 communities, district school boards, and charter schools prepare
 36 students to be civically responsible and knowledgeable adults,
 37 the Department of Education shall:
 38 (a) Develop or approve an integrated civic education
 39 curriculum that school districts and charter schools must
 40 incorporate as part of regular school work in kindergarten
 41 through grade 12. The civic education curriculum must assist
 42 students in developing:
 43 1. An understanding of their shared rights and
 44 responsibilities as residents of the state and of the founding
 45 principles of the United States as described in s.
 46 1003.42(2)(a)-(c).
 47 2. A sense of civic pride and desire to participate
 48 regularly with government at the local, state, and federal
 49 levels.
 50 3. An understanding of the process for effectively
 51 advocating before government bodies and officials.
 52 4. An understanding of the civic-minded expectations,
 53 developed by the State Board of Education, of an upright and
 54 desirable citizenry that recognizes and accepts responsibility
 55 for preserving and defending the blessings of liberty inherited
 56 from prior generations and secured by the United States
 57 Constitution.
 58 (b) Curate oral history resources to be used along with the

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59 civic education curriculum which provide portraits in patriotism
60 based on the personal stories of diverse individuals who
61 demonstrate civic-minded qualities, including first-person
62 accounts of victims of other nations' governing philosophies who
63 can compare those philosophies with those of the United States.
64 This paragraph may be cited as the "Portraits in Patriotism
65 Act."

66 (c) Approve integrated civic education curricula submitted
67 by school districts and charter schools that meet the
68 requirements of this subsection.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 22, 2021

I respectfully request that **Senate Bill #1450**, relating to Civic Education Curriculum, be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

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 Appropriations

BILL: SB 1470

INTRODUCER: Senator Boyd

SUBJECT: Florida Life and Health Insurance Guaranty Association

DATE: April 13, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 1470 makes changes to conform to the Life and Health Insurance Guaranty Association Model Act. An insurance guaranty association ensures that policyholders' paid insurance premiums are protected and outstanding claims are settled, up to limits provided by law, if their insurer is liquidated. The Florida Life and Health Insurance Guaranty Association (FLAHIGA) is the guaranty association for most insurance companies that write life and health insurance or annuities in Florida.

The bill:

- Adds a definition for the term "Moody's Corporate Bond Yield Average."
- Amends the definition of "person" to include "limited liability company" and "governmental body or entity."
- Clarifies that in dealing with an impaired domestic insurer, the FLAHIGA may assume or reissue covered policies, in addition to guaranteeing and reinsuring the policies.
- Expressly provides that the FLAHIGA has the right to appear or intervene before a court or agency in another state.
- Provides that for purposes of the FLAHIGA's standing to appear before any court in this state, the FLAHIGA's powers and duties include reissuing or modifying covered policies.
- Provides that the FLAHIGA may recover payment of improper claims.
- Authorizes the FLAHIGA to join an organization of other state guaranty associations to further the purposes and to carry out the powers and duties of FLAHIGA.
- As to Class A assessments, which pay the FLAHIGA's general administrative expenses, removes the cap of \$250, permits the assessments to be made on a pro rata basis, and allows the FLAHIGA's board to credit the assessments against future assessments related to insurer insolvencies.

- Provides that, if an insurer's assessment is deferred because the assessment would endanger the insurer's financial solvency, the insurer must pay the assessment once it regains financial strength.
- Removes the reduced assessment cap for nonprofit annuity insurers that issue policies to educational groups, thus making such insurers subject to the assessment cap for all other annuity insurers.
- Requires the FLAHIGA to establish a procedure for removing a member insurer board member if that member insurer becomes impaired or insolvent and establish policies and procedures to address conflicts of interest.

The bill does not impact state revenues or state expenditures.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Insurer Insolvency

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-bearing entities.¹ The OIR monitors the solvency of insurers, examines insurers, and takes administrative action, if necessary.

Federal law provides that insurance companies may not file for bankruptcy.² Instead, the state through the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating an insurer.³ If an insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Generally, once an insurance company is liquidated, an insurance guaranty association becomes liable for the policy or contract obligations of the liquidated insurance company. Insurance guaranty funds are designed to protect policyholders of liquidated insurers from financial losses and delays in claim payments, up to limits provided by law. The Florida Legislature has created five guaranty funds.⁴

Florida Life and Health Insurance Guaranty Association

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association).⁵ The association services covered policies and contracts,

¹ Section 20.121(3), F.S.

² The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. ss. 1011- 1012.

³ Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

⁴ See parts II-V of ch. 631, F.S. and s. 440.385, F.S. (The Florida Insurance Guaranty Association, Florida Life and Health Insurance Guaranty Association, Florida Health Maintenance Organization Consumer Assistance Plan, Florida Workers' Compensation Insurance Guaranty Association, and the Florida Self-Insurers Guaranty Association, respectively.)

⁵ In 1979, the Florida Legislature enacted provisions of the National Association of Insurance Commissioners' *Life and Health Insurance Guaranty Association Model Act*,⁵ which created FLAHIGA. Ch. 79-189, L.O.F. The National Association of Insurance Commissioners (NAIC) is a voluntary association of insurance regulators from all 50 states. The NAIC

collects premiums, and pays valid claims.⁶ All insurers authorized to write life insurance policies, health insurance policies, supplemental contracts, and annuity contracts (with exceptions) in Florida are required, as a condition of doing business in this state, to be member insurers of the association.⁷ Currently, the association does not provide coverage for or assess health maintenance organizations.⁸

A policy must meet coverage requirements, and association payments are limited for any one person as follows:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance Claims: \$500,000 per insured life; before that date \$300,000 per insured life (took effect January 1, 2020).
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.⁹

Additionally, the association will only cover a policy or contract to the extent that:

- The interest rate on which the policy or contract is based, averaged over the four-year period immediately preceding the date on which the member insurer becomes impaired or insolvent, is less than the Moody's Corporate Bond Yield (averaged for that same four-year period) minus two percentage points; and
- The interest rate on which the policy or contract is based, on and after the date on which the member insurer becomes impaired or insolvent, is less than the Moody's Corporate Bond Yield Average minus three percentage points.¹⁰

The Florida Life and Health Insurance Act does not currently define Moody's Corporate Bond Yield Average and long-term care insurers are not subject to the interest rate cap.¹¹

Section 631.713(3), F.S., excludes all of the following from coverage by the association:

- Any portion or part of a variable life insurance contract or a variable annuity contract that is not guaranteed by a licensed insurer.
- Any portion or part of any policy or contract under which the risk is borne by the policyholder.
- Any policy or contract or part thereof assumed by the failed insurer under a contract of reinsurance, unless assumption certificates were issued.
- Fraternal benefit society products.
- Health maintenance insurance.
- Dental service plan insurance.
- Pharmaceutical service plan insurance.

coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states.

⁶ See the association's website available at <https://www.flahiga.org/About> (last viewed Mar. 17, 2021).

⁷ Sections 631.713 and 631.715, F.S.

⁸ Section 631.713(3)(e), F.S.

⁹ Section 631.717(12), F.S., and FLAHIGA, *Frequently Asked Questions*, available at <https://www.flahiga.org/FAQ> (last viewed Mar. 17, 2021).

¹⁰ Section 631.713(2)(n), F.S.

¹¹ *Id.*

- Optometric service plan insurance.
- Ambulance service association insurance.
- Preneed funeral merchandise or service contract insurance.
- Prepaid health clinic insurance.
- Certain federal employees group policies.
- Any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate.

Board of Directors

The board of directors of the association must be composed of not fewer than nine but not more than eleven member insurers.¹² At least one member of the board must be a domestic insurer.¹³ The member insurers elect the members of the board, and the members of the board are subject to the approval of the DFS. In approving or appointing members to the board the DFS must consider whether all member insurers are represented fairly.¹⁴ The members of board have the authority to fill a board vacancy; however, there is no process in law for removing a member of the board when the insurer becomes impaired or insolvent.

Assessments

The association has three operating accounts for purposes of administration and assessments: health insurance, life insurance, and annuity.

The association may impose two classes of assessments: Class A for administrative costs and general expenses and Class B to carry out the powers and duties of the association with regard to an impaired or insolvent domestic insurer.¹⁵ Class A assessments are determined by the board, are made on a non-pro rata basis, and may not exceed \$250 per year per member insurer.¹⁶ Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to premiums collected by all assessed member insurers for the three most recent years.

Florida law limits assessments on a member insurer to a maximum of one percent of the insurer's premiums written in the state regarding business covered by the account received during the three calendar years preceding the year in which the assessment is made, divided by three.¹⁷ For long-term care insurer impairments and insolvencies, the total assessment is limited to 0.5 percent of the insurer's premiums written during any one calendar year, and also imposed upon members of the Florida Health Maintenance Organization Consumer Assistance Plan.¹⁸

Currently, there is a cap on assessment of any member insurer that is a nonprofit insurance company that issues annuity contracts or group annuity contracts pursuant to s. 121.35, F.S., or

¹² Section 631.716(1), F.S.

¹³ See Section 624.06, F.S.

¹⁴ Section 631.716(2), F.S.

¹⁵ Section 631.718(2), F.S.

¹⁶ Section 631.718(2)(a), F.S.

¹⁷ Section 631.718(5)(a), F.S.

¹⁸ *Id.*

for the benefit of employees of Florida educational institutions. Such nonprofit insurance companies may not be assessed in any one calendar year more than the greater of:

- The amount which the company paid to this state in the previous year as premium tax and corporate tax on the business to which the FLAHIGA statutes apply; or
- 0.1 percent of written premium on such business in this state.¹⁹

Member insurers of the association may offset the amount of an assessment against the insurance premium tax or corporate income tax.²⁰ The credit may be taken in an amount of five percent of the assessments for each of the 20 years following the year in which the assessment was paid.²¹

The FLAHIGA may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers.²²

Legal Standing and Right of Intervention

The FLAHIGA has standing to appear before any court in this state that has jurisdiction over an impaired or insolvent insurer to which the FLAHIGA is or may become obligated.²³ Such standing extends to all matters germane to the powers and duties of the FLAHIGA, including but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations. While the statute expressly provides the FLAHIGA standing to appear in courts of this state, the statute does not expressly provide the FLAHIGA the right to appear or intervene before a court or agency in another state.

The National Organization of Life and Health Insurance Guaranty Associations

The National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is a voluntary association comprised of the life and health insurance guaranty associations of all 50 states and the District of Columbia. The NOLHGA assembles a task force of guaranty association officials to address situations where insurers licensed in multiple states are facing insolvency or are declared insolvent. This task force analyzes the companies' policies, ensures that covered claims are paid, and arranges for the transfer of covered policies to another insurer (when possible). This allows the receiver and potential assuming carriers to deal with a single point of contact and contracting instead of having to engage in multiple discussions, negotiations, and contracts with a variety of different associations.²⁴ The NOLGHA allocates these expenses²⁵ to affected guaranty associations for payment.²⁶

¹⁹ Section 631.718(9), F.S.

²⁰ Section 631.72, F.S.

²¹ Section 631.72(1)(b), F.S.

²² Section 631.718(4), F.S.

²³ Section 631.717(7), F.S.

²⁴ National Organization of Life & Health, Insurance Guaranty Associations, *About Us*, <https://www.nolhga.com/aboutnolhga/main.cfm/location/whatisnolhga> (last viewed Mar. 17, 2021).

²⁵ *Id.*

²⁶ Section 631.721, F.S.

The National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) is an association of insurance regulators that coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states. In 2017, the NAIC released and updated the Life and Health Insurance Guaranty Association Act.²⁷ The model act is designed to protect policy owners, insureds, beneficiaries, annuitants, payees and assignees against losses (both in terms of payment of claims and continuation of coverage), which might otherwise occur due to an impairment or insolvency of an insurer.

III. Effect of Proposed Changes:

Section 1 amends s. 631.714, F.S., relating to definitions, by defining “Moody’s Corporate Bond Yield Average” to mean the monthly average corporates as published by Moody’s Investors Service, Inc., or similar successor organization. Currently the term is used in s. 631.713(3)(n), F.S., which specifies the types of insurance and portions of insurance contracts to which the chapter does not apply.

The bill expands the current definition of “person” to include any limited liability company or governmental body entity, in addition to any individual, corporation, partnership, association, or voluntary organization.

Section 2 amends s. 631.717, F.S. relating to the powers and duties of the association, to provide FLAHIGA with the right to appear or intervene before a court or agency in another state which has jurisdiction over an impaired or insolvent insurer for which FLAHIGA is or may become obligated, or with jurisdiction over any person or property against whom FLAHIGA may have rights through subrogation or otherwise. This essentially authorizes FLAHIGA to attempt to intervene in and appear before courts and agencies in other states, but Florida law does not govern the courts of agencies of other states and thus this statutory change will not ensure FLAHIGA is able to appear or intervene before such entities.

For purposes of the FLAHIGA’s standing to appear before any court in Florida, the bill expands standing to FLAHIGA’s powers and duties to include reissuing or modifying covered policies.

The bill provides FLAHIGA with the authority to assume or reissue, or cause to be reissued, any or all of the covered policies of an impaired domestic insurer.

The bill further provides FLAHIGA with authority to join an organization of state guaranty associations to further the purposes and to carry out the powers and duties of FLAHIGA.

Section 3 amends s. 631.718, F.S., relating to assessments, to provide that Class A assessments may be made on a pro rata basis. Class A assessments made on a pro rata basis may be credited against future Class B assessments, as determined by the board of directors. The bill removes the \$250 cap on Class A assessments.

²⁷ NAIC, *Life and Health Insurance Guaranty Association Model Act 520-1* (1st Quarter 2018) available at: <https://content.naic.org/sites/default/files/inline-files/MDL-520.pdf> (last viewed Mar. 17, 2021).

The bill removes the cap on assessment of any member insurer that is a nonprofit insurance company that issues annuity contracts or group annuity contracts pursuant to s. 121.35, F.S., or for the benefit of employees of Florida educational institutions. Currently, assessments may not exceed the greater of insurer's premium tax and corporate tax payments on insurance subject to ch. 631, F.S., or 0.1 percent of the insurer's written premium on such business in this state. Such companies would still be subject to assessment caps applicable to all member insurers, and the FLAHIGA maintains its ability to abate or defer the assessment of a member insurer if payment of the assessment would put the member insurer at risk of becoming impaired or insolvent.

The bill provides that a member insurer must pay all deferred assessments once the conditions that caused a deferral have been removed or rectified.

Section 4 amends s. 631.721, F.S., relating to FLAHIGA's plan of operation, to provide FLAHIGA with the authority to establish a procedure for removing a member of the board in the event the member insurer becomes impaired or insolvent.

The bill requires FLAHIGA's board of directors to establish policies and procedures for addressing conflicts of interest.

Section 5 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill removes the \$250 per year limit on Class A assessments against a member insurer, which are used to meet FLAHIGA's administrative costs, general expenses, and expenses related to certain examinations of member insurer that are not impaired or insolvent.

The bill also removes the limit on assessment of any member insurer that is a nonprofit insurance company that issues annuity contracts or group annuity contracts pursuant to s. 121.35, F.S., or for the benefit of employees of Florida educational institutions. Such companies would still be subject to assessment caps applicable to all member insurers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.714, 631.717, 631.718, and 631.721.

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

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

None.

B. Amendments:

None.

By Senator Boyd

21-01280A-21

20211470__

1 A bill to be entitled
 2 An act relating to the Florida Life and Health
 3 Insurance Guaranty Association; amending s. 631.714,
 4 F.S.; defining the term "Moody's Corporate Bond Yield
 5 Average"; revising the definition of the term
 6 "person"; amending s. 631.717, F.S.; authorizing the
 7 association to assume or reissue covered policies of
 8 impaired insurers; granting the association the right
 9 to appear or intervene before a court or an agency in
 10 certain proceedings; authorizing the association to
 11 take legal action to recover payment of improper
 12 claims; authorizing the association to join an
 13 organization of other state guaranty associations for
 14 certain purposes; amending s. 631.718, F.S.; revising
 15 the calculation of Class A assessments; specifying
 16 requirements for repayment of deferred assessments
 17 upon removal or rectification of the conditions
 18 causing a deferral; deleting a prohibition on certain
 19 nonprofit insurance companies being assessed more than
 20 a certain amount in a calendar year; amending s.
 21 631.721, F.S.; revising the requirements of the
 22 association's plan of operation; providing an
 23 effective date.
 24
 25 Be It Enacted by the Legislature of the State of Florida:
 26
 27 Section 1. Present subsections (8), (9), and (10) of
 28 section 631.714, Florida Statutes, are redesignated as
 29 subsections (9), (10), and (11), respectively, a new subsection

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

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30 (8) is added to that section, and present subsection (9) of that
 31 section is amended, to read:
 32 631.714 Definitions.—As used in this part, the term:
 33 (8) "Moody's Corporate Bond Yield Average" means the
 34 monthly average corporates as published by Moody's Investors
 35 Service, Inc., or a similar successor organization.
 36 (10)(9) "Person" means any individual, corporation, limited
 37 liability company, partnership, association, governmental body
 38 or entity, or voluntary organization.
 39 Section 2. Subsections (1) and (7) and paragraph (f) of
 40 subsection (13) of section 631.717, Florida Statutes, are
 41 amended, and paragraph (h) is added to subsection (13) of that
 42 section, to read:
 43 631.717 Powers and duties of the association.—
 44 (1) If a domestic insurer is an impaired insurer, the
 45 association may, subject to the approval of the impaired insurer
 46 and the department:
 47 (a) Guarantee, assume, reissue, or reinsure, or cause to be
 48 guaranteed, assumed, reissued, or reinsured, any or all of the
 49 covered policies of the impaired insurer;
 50 (b) Provide such moneys, pledges, notes, guarantees, or
 51 other means as are proper to effectuate paragraph (a) and assure
 52 payment of the contractual obligations of the impaired insurer
 53 pending action under paragraph (a); and
 54 (c) Loan money to the impaired insurer.
 55 (7) The association has ~~shall have~~ standing to appear
 56 before any court in this state which has jurisdiction over an
 57 impaired or insolvent insurer to which the association is or may
 58 become obligated under this part. Such standing extends ~~shall~~

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59 ~~extend~~ to all matters germane to the powers and duties of the
 60 association, including, but not limited to, proposals for
 61 reinsuring, reissuing, modifying, or guaranteeing the covered
 62 policies of the impaired or insolvent insurer and the
 63 determination of the covered policies and contractual
 64 obligations. The association has the right to appear or
 65 intervene before a court or an agency in another state with
 66 jurisdiction over an impaired or insolvent insurer for which the
 67 association is or may become obligated or with jurisdiction over
 68 any person or property against whom the association may have
 69 rights through subrogation or otherwise.

70 (13) The association may:

71 (f) Take such legal action as may be necessary to avoid or
 72 recover payment of improper claims.

73 (h) Join an organization of other state guaranty
 74 associations to further the purposes and administer the powers
 75 and duties of the association.

76 Section 3. Paragraph (a) of subsection (3) and subsections
 77 (4) and (9) of section 631.718, Florida Statutes, are amended to
 78 read:

79 631.718 Assessments.—

80 (3) (a) The amount of any Class A assessment shall be
 81 determined by the board and may be made on a pro rata or non-pro
 82 rata basis. If the assessment is made on a pro rata basis, the
 83 board may provide that it be credited against future Class B
 84 assessments ~~The assessment may not be credited against future~~
 85 ~~insolvency assessments and may not exceed \$250 per member~~
 86 ~~insurer in any one calendar year.~~

87 (4) The association may abate or defer, in whole or in

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88 part, the assessment of a member insurer if, in the opinion of
 89 the board, payment of the assessment would endanger the ability
 90 of the member insurer to fulfill its contractual obligations. In
 91 the event an assessment against a member insurer is abated, or
 92 deferred in whole or in part, the amount by which such
 93 assessment is abated or deferred may be assessed against the
 94 other member insurers in a manner consistent with the basis for
 95 assessments set forth in this section. Once the conditions that
 96 caused a deferral have been removed or rectified, the member
 97 insurer shall pay all assessments that were deferred pursuant to
 98 a repayment plan approved by the association.

99 ~~(9) Notwithstanding any provision to the contrary, no~~
 100 ~~member insurer that is a nonprofit insurance company which~~
 101 ~~issues annuity contracts or group annuity contracts pursuant to~~
 102 ~~s. 121.35, or for the benefit of employees of educational~~
 103 ~~institutions situated in this state may be assessed in any one~~
 104 ~~calendar year an amount greater than the amount which it paid to~~
 105 ~~this state in the previous year as premium tax and corporate tax~~
 106 ~~on the business to which this part applies or 0.1 percent of~~
 107 ~~written premium on such business in this state, whichever is~~
 108 ~~greater.~~

109 Section 4. Paragraphs (h) and (i) are added to subsection
 110 (3) of section 631.721, Florida Statutes, to read:

111 631.721 Plan of operation.—

112 (3) The plan of operation shall, in addition to
 113 requirements enumerated elsewhere in this part:

114 (h) Establish a procedure for removing a member insurer
 115 director when that member insurer becomes an impaired or
 116 insolvent insurer.

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117 (i) Require the board of directors to establish policies
118 and procedures for addressing conflicts of interest.
119 Section 5. This act shall take effect July 1, 2021.

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

SB 1470

Bill Number (if applicable)

Topic Florida Life and Health Insurance Guaranty Association

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title Lobbyist

Address P.O. Box 11247

Phone 850-425-4000

Street

Tallahassee

FL

32302

Email joy@meenanlawfirm.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Life and Health Insurance Guaranty 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)

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 Appropriations

BILL: CS/SB 1526

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Garcia

SUBJECT: Medicaid Coverage for Former Foster Youth

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	Fav/CS
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1526 makes a number of changes to the law relating to Medicaid coverage for young adults who have aged out of foster care. The bill requires the Department of Children and Families (DCF) to develop a program to facilitate enrollment of young adults formerly in out-of-home care in Medicaid.

The bill authorizes the DCF to coordinate with a community-based care lead agency in implementing the program and requires specified outreach services that must be included in the program.

The bill revises eligibility for Medicaid coverage for specified young adults formerly eligible for foster care to provide that a young adult who as a child was eligible under Title IV-E of the Social Security Act for foster care or state-provided foster care and was living in out-of-home care in Florida on his or her 18th birthday remains eligible until the young adult reaches 26 years of age. There is no income, resource, or categorical limit for eligibility that is otherwise required to be in compliance with federal law.

The bill may have an indeterminate negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2021.

II. Present Situation:

Medicaid

Medicaid, authorized in Title XIX of the Social Security Act (SSA), is a state administered federal program that jointly finances medical and related services to a diverse low-income population.¹ To be eligible for Medicaid, individuals must meet both categorical² and financial³ criteria in addition to requirements regarding residency, immigration status, and U.S. citizenship.⁴ For some eligibility groups or pathways, state coverage is mandatory, while for others it is optional. States and territories must submit a state plan to the federal government to describe how they will carry out their Medicaid programs within the federal statute's framework.⁵

As the Medicaid agency for the state, as provided under federal law, Medicaid services in Florida are administered by the Agency for Health Care Administration (AHCA). Medicaid eligibility in Florida is determined by either the Department of Children and Families (DCF) or the Social Security Administration for Supplemental Security Income (SSI)⁶ recipients. The DCF determines Medicaid eligibility for:

- Parents and caretaker relatives of children;
- Children;
- Pregnant women;
- Former Foster Care Individuals;
- Non-citizens with medical emergencies; and
- Aged or disabled individuals not currently receiving SSI.⁷

Children in Out-of-Home Care

The Foster Care, Prevention, and Permanency program, authorized in Title IV-E of the SSA, is a federal-state program that, among other things, jointly finances foster care for children who a state determines cannot safely remain in their homes and who meet federal eligibility rules related to being removed from a low-income household and other factors. The program also provides some support for services to assist older children in foster care and those who age out of foster care in making a successful transition to adulthood. The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) administers the Title IV-E program.⁸

¹ Medicaid.gov, *Medicaid*, available at <https://www.medicaid.gov/medicaid/index.html> (last visited March 6, 2021).

² Categories include the elderly, children, or pregnant women.

³ These include income and assets.

⁴ Medicaid.gov, *Eligibility*, available at <https://www.medicaid.gov/medicaid/eligibility/index.html> (last visited March 6, 2021).

⁵ Congressional Research Service, *Medicaid Coverage for Former Foster Youth Up to Age 26*, October 26, 2018, available at <https://fas.org/sfp/crs/misc/IF11010.pdf> (last visited March 5, 2021) (hereinafter cited as “CRS Medicaid for Foster Youth”).

⁶ Supplemental Security Income (SSI) is a federal income supplement program funded by general tax revenues (not Social Security taxes). The program is designed to help aged, blind, and disabled people, who have little or no income and it provides cash to meet basic needs for food, clothing, and shelter.

⁷ The DCF, ACCESS Program, Medicaid, available at <https://www.myflfamilies.com/service-programs/access/medicaid.shtml> (last visited March 5, 2021).

⁸ CRS Medicaid for Foster Youth.

While in foster care, nearly all children are eligible for Medicaid under mandatory eligibility pathways. This means that states must provide coverage because these children receive assistance under the Title IV-E foster care program, are disabled, or meet other eligibility criteria. Under the Title IV-E program, states are required to inform foster youth within 90 days prior to emancipation about their future options for health care. Title IV-E also directs states to provide these youth with health information and official documentation that they were previously in care. Such documentation may be necessary to determine eligibility for some former foster youth who later apply for Medicaid.⁹

Current law requires the AHCA to make payments for medical assistance and related services on behalf of individuals who the department, or the Social Security Administration by contract with the DCF, determines to be eligible, subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or ch. 216, F.S.¹⁰ These individuals include a child who is eligible under Title IV-E of the Social Security Act for subsidized board payments, foster care, or adoption subsidies, and a child for whom the state has assumed temporary or permanent responsibility and who does not qualify for Title IV-E assistance but is in foster care, shelter or emergency shelter care, or subsidized adoption. This category includes:

- A young adult who is eligible to receive services under s. 409.1451, F.S., until the young adult reaches 21 years of age, without regard to any income, resource, or categorical eligibility test that is otherwise required.
- A person who as a child was eligible under Title IV-E of the Social Security Act for foster care or the state-provided foster care and who is a participant in the Road-to-Independence Program.
- A child who is eligible for the Guardianship Assistance Program as provided in s. 39.6225, F.S.¹¹

Young Adults Formerly in Out-of-Home Care

The Medicaid pathway for former foster youth is intended to provide necessary health supports in the years immediately after leaving foster care.¹² The Patient Protection and Affordable Care Act (ACA)¹³ authorizes Medicaid for an individual up to age 26 if they were in foster care and receiving Medicaid when they aged out of foster care at the age of 18 or older. It parallels another ACA requirement that health insurance companies provide coverage of children up to age 26 under their parents' private health care plans. There is no income limit for eligibility and the young adult must not be eligible for another Medicaid coverage type. However, the individual must apply for this coverage through the DCF's ACCESS Florida.¹⁴

⁹ *Id.*

¹⁰ Section 409.903, F.S.

¹¹ Section 409.903(4), F.S.

¹² CRS Medicaid for Foster Youth.

¹³ *See* Pub. L. 111-148.

¹⁴ The DCF, CFOP 170-15, Chapter 2 Medicaid, 2-9.a., available at

<https://www.myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170->

Prior to reaching age 21, if the young adult has an open supervision case or upon request of a young adult, child welfare staff must:¹⁵

- Assist the young adult in applying for Medicaid under this coverage group.
- Ensure that the young adult retains continuity of medical care and has a Medicaid card.

A review of continued Medicaid eligibility must be completed at least once every 12 months, or sooner if the child's circumstances change. The criteria for recertification remain the same as for the initial Medicaid eligibility determination. In all cases, Medicaid for non-Title IV-E eligible children must be authorized for 12 months. All factors relating to eligibility are reevaluated at each recertification.¹⁶

III. Effect of Proposed Changes:

Currently, the DCF or the community-based lead agency is required to document that young adults who were formerly in out-of-home care are enrolled in Medicaid under s. 409.903(4), F.S.¹⁷ The bill directs the DCF to develop a program to facilitate enrollment of these young adults into the Medicaid program. The DCF is required to provide outreach and technical assistance that includes:

- Notifying eligible or prospectively eligible young adults, caregivers, group homes, and residential programs about the eligibility and options for enrollment.
- Providing technical assistance to eligible young adults in enrolling.
- Publicizing options for Medicaid enrollment for young adults who have lived in foster care.

The bill also amends s. 409.903(4), F.S., to conform the statute to federal law and existing Florida Medicaid rules, which require state Medicaid programs to extend eligibility for former foster care youth to the age of 26, without regard to any income, resource, or categorical eligibility test that is otherwise required in order to be in compliance with federal law.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[15%20%20Federal%20and%20State%20Funding%20Eligibility/CFOP%20170-15.%20%20Chapter%2002.%20Medicaid.pdf](#) (last visited March 6, 2021).

¹⁵ *Id.* Medicaid 2-9 b.

¹⁶ The DCF, CFOP 170-15, Chapter 2 Medicaid, 2-14 a.

¹⁷ Section 409.1451(10), F.S.

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:

CS/SB 1526 has an indeterminate negative fiscal impact on state government.

The DCF projects one-time costs to make the necessary technological updates to the Florida Safe Families Network (FSFN) and ACCESS Florida systems.¹⁸ However, because the costs are projected to be minimal, the DCF would likely be able to absorb the costs within existing department resources.

The ACHA states that the bill poses no operational costs for the department.¹⁹ The AHCA also provides that since former foster care youth are currently eligible for Medicaid coverage until age 26 as mandated by federal law, the bill codifies in statute to align with what is currently covered under Florida Medicaid. However, the AHCA states that the program to assist enrollment of former foster youth in Medicaid may result in an indeterminate increase in the number of Medicaid enrollees.²⁰

VI. Technical Deficiencies:

None.

¹⁸ DCF, *2021 Agency Legislative Bill Analysis, SB 1526* (on file with the Senate Appropriations Subcommittee on Health and Human Services).

¹⁹ ACHA, *2021 Agency Legislative Bill Analysis, SB 1526* (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁰ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.1451 and 409.903.

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 Children, Families, and Elder Affairs on March 9, 2021:

The committee substitute revises eligibility for Medicaid coverage for specified young adults formerly eligible for foster care and who was living in out-of-home care in Florida on his or her 18th birthday remains eligible until the young adult reaches 26 years of age, without regard to any income, resource, or categorical eligibility test that is otherwise required in order to be in compliance with federal law.

- B. **Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

586-02622-21

20211526c1

1 A bill to be entitled
2 An act relating to Medicaid coverage for former foster
3 youth; amending s. 409.1451, F.S.; requiring the
4 Department of Children and Families to develop a
5 program to facilitate enrollment of certain young
6 adults in Medicaid; authorizing the department to
7 coordinate with a community-based care lead agency in
8 implementing the program; specifying requirements for
9 outreach services provided by the program; amending s.
10 409.903, F.S.; revising eligibility for Medicaid
11 coverage for certain young adults formerly eligible
12 for foster care; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsection (10) of section 409.1451, Florida
17 Statutes, is amended to read:
18 409.1451 The Road-to-Independence Program.—
19 (10) MEDICAL ASSISTANCE FOR YOUNG ADULTS FORMERLY IN CARE.—
20 (a) Notwithstanding paragraph (2) (a), the department ~~of~~
21 community-based care lead agency shall develop a program to
22 facilitate the enrollment of document that eligible young adults
23 eligible for are enrolled in Medicaid under s. 409.903(4).
24 (b) The department may coordinate with the community-based
25 care lead agency in implementing the program.
26 (c) The program must provide outreach services that must
27 include:
28 1. Notifying eligible or prospectively eligible young
29 adults, caregivers, group homes, and residential programs about

Page 1 of 3

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

586-02622-21

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30 the eligibility and options for enrollment.
31 2. Providing technical assistance to eligible young adults
32 in enrolling.
33 3. Publicizing options for Medicaid enrollment for young
34 adults who have lived in foster care.
35 Section 2. Subsection (4) of section 409.903, Florida
36 Statutes, is amended to read:
37 409.903 Mandatory payments for eligible persons.—The agency
38 shall make payments for medical assistance and related services
39 on behalf of the following persons who the department, or the
40 Social Security Administration by contract with the Department
41 of Children and Families, determines to be eligible, subject to
42 the income, assets, and categorical eligibility tests set forth
43 in federal and state law. Payment on behalf of these Medicaid
44 eligible persons is subject to the availability of moneys and
45 any limitations established by the General Appropriations Act or
46 chapter 216.
47 (4) A child who is eligible under Title IV-E of the Social
48 Security Act for subsidized board payments, foster care, or
49 adoption subsidies, and a child for whom the state has assumed
50 temporary or permanent responsibility and who does not qualify
51 for Title IV-E assistance but is in foster care, shelter or
52 emergency shelter care, or subsidized adoption. This category
53 includes:
54 (a) A young adult who is eligible to receive services under
55 s. 409.1451, until the young adult reaches 21 years of age,
56 without regard to any income, resource, or categorical
57 eligibility test that is otherwise required.
58 (b) Notwithstanding paragraph (a), a young adult who as a

Page 2 of 3

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

586-02622-21

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59 child was eligible under Title IV-E of the Social Security Act
60 for foster care or state-provided foster care and was living in
61 out-of-home care in this state on his or her 18th birthday until
62 the young adult reaches 26 years of age, without regard to any
63 income, resource, or categorical eligibility test that is
64 otherwise required ~~A person who as a child was eligible under~~
65 ~~Title IV-E of the Social Security Act for foster care or the~~
66 ~~state-provided foster care and who is a participant in the Road-~~
67 ~~to-Independence Program.~~

68 (c) A child who is eligible for the Guardianship Assistance
69 Program as provided in s. 39.6225.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill #CS/SB 1526**, relating to Medicaid Coverage for Former Foster Youth, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ileana Garcia".

Senator Ileana Garcia
Florida Senate, District 37

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

**THE FLORIDA SENATE
APPEARANCE RECORD**

4/15/2021
Meeting Date

1526
Bill Number (if applicable)

Topic Medicaid former foster care

Amendment Barcode (if applicable)

Name Karen Woodall

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Speaking: For Against Information

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

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

The Florida Senate
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 Appropriations

BILL: CS/SB 1540

INTRODUCER: Health Policy Committee and Senator Gibson

SUBJECT: Maternal Health Outcomes

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1540 authorizes “Closing the Gap” grants to be awarded to projects that aim to decrease racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes. The bill requires the Department of Health (department) to coordinate with existing community-based maternal health programs.

The bill creates telehealth minority maternity care pilot programs in Duval and Orange counties to use telehealth to expand capacity for positive maternal health outcomes in racial and ethnic minority populations. The bill provides detailed requirements for the pilot programs, including specifying services for eligible pregnant women that the programs must provide or coordinate with prenatal home visiting services to provide. The bill authorizes the department to adopt rules to implement the pilot programs.

The bill requires that funds appropriated by the Legislature for the Closing the Gap grant program be used to fund the pilot programs. The bill requires the department’s Division of Community Health Promotion and its Office of Minority Health and Health Equity to work together to apply for available federal funds to assist in the implementation of the bill.

The bill requires the department to use funds appropriated by the Legislature for the Closing the Gap grant program. The Fiscal Year 2020-2021 General Appropriations Act provided \$4,850,354 in recurring general revenue for Minority Health Initiatives, which includes the Closing the Gap grant program. The department must also work in partnership to apply for

federal funds that are available to assist the department in accomplishing the program's purpose and successfully implementing the pilot program.

The bill takes effect on July 1, 2021.

II. Present Situation:

History of the Office of Minority Health and Health Equity

In 1993, Florida's Minority Health Improvement Act authorized the Minority Health Commission. In 1995, the Commission sunset.¹ In 1998, the Department of Health (department) established the Office of Equal Opportunity and Minority Health.² In 2004, the Legislature established the Office of Minority Health within the department, pursuant to s. 20.43(9), F.S.³ In 2016, the Legislature renamed it as the Office of Minority Health and Health Equity (office).⁴

Currently, under s. 20.43, F.S., the office must be headed by a senior health equity officer who administers the Closing the Gap grant program in a manner that maximizes the impact of the grants in achieving health equity. The senior health equity officer must evaluate the grants awarded by the program and assess the effectiveness and efficiency of the use of funds to determine best practices. The senior health equity officer is also responsible for disseminating information on best practices to stakeholders and for ensuring that the assessments inform future grant award decisions.

The office currently has five Full-Time-Equivalent (FTE) staff positions: one senior health equity officer, one grants administrator, two Florida-certified contract managers, and one administrative assistant. The office also has four Other Personal Services (OPS) staff positions: one program evaluator, two program analysts, and one senior clerk.

Closing the Gap Grant Program

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: "Closing the Gap" (CTG) grant program.⁵ The program is administered through the office and its implementation is subject to a specific appropriation in the General Appropriations Act.⁶ The purposes of the grant program is to improve health outcomes of racial and ethnic populations and promote disease prevention activities in the following priority areas:

- Maternal and infant mortality;
- Cancer;
- HIV/AIDS;
- Cardiovascular disease;
- Diabetes;
- Adult and child immunization;

¹ Florida Department of Health, History of the Office of Minority Health and Health Equity, *available at* <http://www.floridahealth.gov/programs-and-services/minority-health/about-us.html> (last visited Feb. 2, 2021).

² *Id.*

³ Chapter 2004-350, s. 2, Laws of Fla.

⁴ Chapter 2016-230, Laws of Fla.

⁵ Chapter 2000-256, ss. 31-32, Laws of Fla.

⁶ Section 381.7356(7), F.S.

- Oral health care;
- Sickle cell disease;
- Lupus; and
- Alzheimer's disease and dementia.⁷

Closing the Gap grants are intended to stimulate the development of community and neighborhood-based projects that impact health outcomes of racial and ethnic populations and stimulate partnerships between state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.⁸ Priority is given to grant proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceed the statutory local match requirement;⁹
- Demonstrate broad-based local community support from entities representing racial and ethnic populations;
- Demonstrate high levels of participation by the health care community in clinical preventive services and health promotion activities;
- Have been submitted by counties with high levels of residents living in poverty and with poor health status indicators;
- Demonstrate a coordinated community approach to addressing racial and ethnic health disparities within existing publicly financed health care programs;
- Incorporate intervention mechanisms that have a high probability of improving the targeted populations health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.¹⁰

Projects receiving grants are required to provide matching funds of one dollar for every three dollars awarded.¹¹ In counties with populations greater than 50,000, up to 50 percent of the local matching funds may be in-kind in the form of free services or human resources.¹² In counties with populations of 50,000 or less, local matching funds may be provided entirely through in-kind contributions.¹³

The office is responsible for:

- Publicizing the availability of funds and establishing an application process for submitting a grant proposal;
- Providing technical assistance and training, including a statewide meeting promoting best practice programs, as requested, to grant recipients;
- Developing uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes;
- Developing a monitoring process to evaluate progress toward meeting grant objectives; and

⁷ Section 381.7355(2)(a), F.S.

⁸ Section 381.7352, F.S.

⁹ Section 381.7356, F.S.

¹⁰ Section 381.7355(3), F.S.

¹¹ Section 381.7356(2), F.S.

¹² *Id.*

¹³ *Id.*

- Coordinating with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.¹⁴

In relation to the Closing the Gap grant program, the department must coordinate with existing community-based programs to avoid duplication of effort and promote consistency, such as:

- Chronic disease community intervention programs;
- Cancer prevention and control programs;
- Diabetes control programs;
- The Healthy Start program;
- The Florida Kidcare Program;
- The HIV/AIDS program;
- Immunization programs; and
- Other related programs at the state and local levels.¹⁵

Current Department of Health Initiatives and Programs relating to Maternal Health

Pregnancy-Associated Mortality Review¹⁶

In 1996, the department established the Pregnancy-Associated Mortality Review (PAMR) process to improve surveillance and analysis of pregnancy-related deaths in Florida. This case review program seeks to close gaps in care, identify systemic service delivery issues, and make recommendations to facilitate improvements in the overall systems of care. The PAMR Committee consists of two co-chairs and a committee membership representative of diverse geographic, medical, psychosocial, community and epidemiological expertise.¹⁷ The PAMR Committee reviews all deaths identified as pregnancy-related and reviews the medical records to see what, if anything, could have been done to prevent this death.

The PAMR defines “pregnancy-associated death” as a death to a woman from any cause while she is pregnant or within one year of termination of the pregnancy, regardless of duration and site of the pregnancy. Before they are reviewed and found to be “pregnancy-associated,” such deaths are identified through:

- Death certificates identified by the assigned cause of death being in the category of Pregnancy, Childbirth and the Puerperium (pregnancy related);
- Florida's Prenatal Risk Screen (formerly known as the Healthy Start screen);
- Birth Certificate/Fetal death certificate;

¹⁴ Department of Health, *Committee Substitute for Senate Bill 404 Analysis* (March 9, 2021) (on file with the Senate Committee on Health Policy).

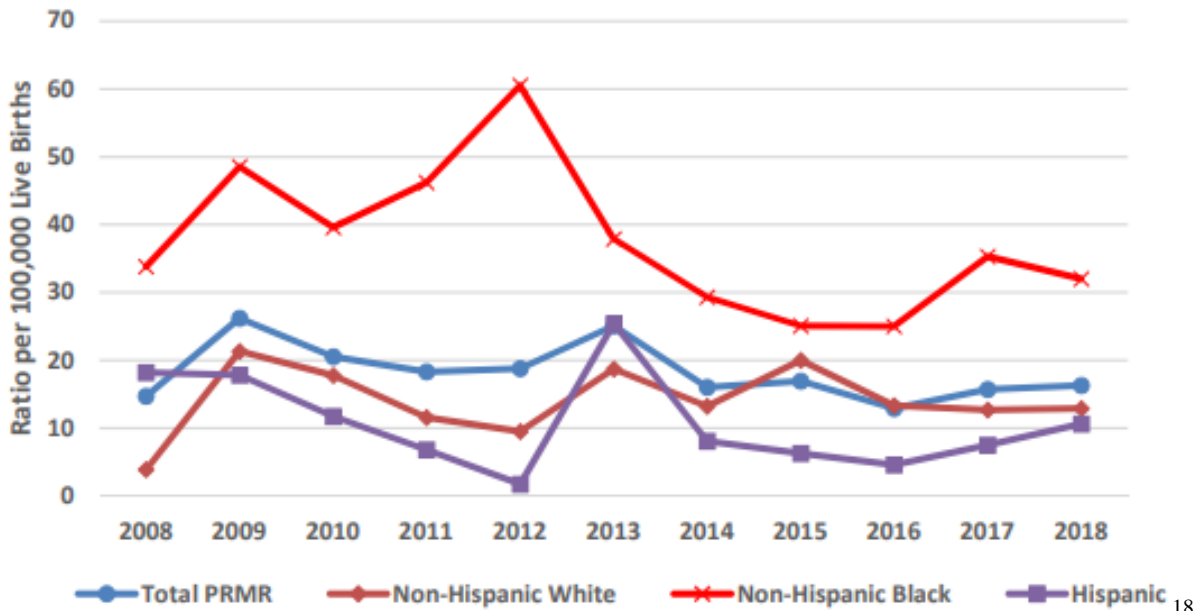
¹⁵ Section 381.7353(2)(e), F.S.

¹⁶ Florida Department of Health, *Pregnancy-Associated Mortality Review (PAMR)* available at <http://www.floridahealth.gov/statistics-and-data/PAMR/index.html> (last visited Mar. 27, 2021).

¹⁷ Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).

- Death certificates with a checked box identifying the woman as either pregnant at time of death, pregnant within 42 days of death, or pregnant between 43 days to one year before death.

Figure 3. Pregnancy-Related Mortality Ratios (PRMRs) by Race/Ethnicity, Florida, 2008–2018



The 2018 PAMR Report found that the pregnancy-related mortality ratio (PRMR) in Florida was 16.3 per 100,000 live births.¹⁹ Although the 2018 PRMR was lower than the 2009 ratio (26.2 per 100,000 live births), the trend for the period 2008-2018 was not statistically significant.²⁰ The 2018 PAMR Report noted a significant decrease in the Black-White racial disparity gap from 8.7 in 2008 to 2.5 in 2018.²¹ Throughout the study period, non-Hispanic Black women exhibited higher PRMRs than non-Hispanic White or Hispanic women.²² During 2012, the PRMR for non-Hispanic Black women was 60.5, an all-time high. In 2018, the PRMR per 100,000 live births was 32.0 for non-Hispanic Black women, 12.9 for non-Hispanic White women, and 10.6 for Hispanic women.²³

The report issued recommendations relating to improved training for providers and education for patients, earlier access to prenatal care, assessment standards, and screening procedures.²⁴

¹⁸ Florida Department of Health, Florida’s Pregnancy-Associated Mortality Review 2018 Update (May 2020) available at <http://www.floridahealth.gov/statistics-and-data/PAMR/documents/pamr-2018-update.pdf> at 7. (last visited Mar. 27, 2021).

¹⁹ *Id.* at 3.

²⁰ *Id.*

²¹ *Id.* at 7.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 21-23.

Florida Perinatal Quality Collaborative (FPQC)²⁵

The FPQC was established in 2010 to improve Florida's maternal and infant health outcomes through the delivery of high quality, evidence-based perinatal care. The department works with the Florida Perinatal Quality Collaborative (FPQC) which is housed in the Chiles Center at the University Of South Florida College Of Public Health. Led by a Steering Committee (that the department remains engaged in)²⁶ and a leadership team, the FPQC engages all its stakeholders to identify the priority perinatal quality improvement issues and to determine which initiatives are appropriate, feasible, engaging, measurable and supportable. PAMR findings have often been used to help inform initiatives addressed by the FPQC.

Florida Healthy Start Program²⁷

The department's Division of Community Health Promotion, Bureau of Family Health Services, Maternal and Child Health Section oversees the Florida Healthy Start program.²⁸ Healthy Start is a voluntary program that provides home visiting services that include prenatal education and support, screening and services, parenting education, and care coordination to assure access to needed services. These services may include psychosocial, nutritional, smoking cessation counseling, childbirth, breastfeeding, substance abuse education, and interconception education and counseling. Healthy Start services pregnant women and children up to three years of age in all 67 counties. Duval County is provided services through the Northeast Healthy Start Coalition and Orange County is provided services through the Healthy Start Coalition of Orange County.²⁹

HRSA Grant to Address Perinatal Mental Health and Substance Abuse³⁰

The department has a grant from the federal Health Resources and Services Administration (HRSA) to administer a pilot program to address perinatal mental health and substance use. The department has partnered with Florida State University, the University of Florida, and the Florida Association of Healthy Start Coalitions to implement this pilot program with plans to expand statewide. The pilot program expands screening for depression, anxiety, and substance use and access to needed services for pregnant and postpartum women. The pilot program aims to promote maternal and child health by building the capacity of health care providers to address these critical issues through professional development, expert consultation and support, and dissemination of best practices.

Florida Pregnancy Support Services Program³¹

The department has a contract with the Florida Pregnancy Care Network to implement the Florida Pregnancy Support Services Program (FPSSP). The FPSSP's network of pregnancy support centers located throughout the state provide pregnancy support services to women and

²⁵ University of South Florida, College of Public Health, Florida Perinatal Quality Collaborative available at <https://health.usf.edu/publichealth/chiles/fpqc> (last visited Mar. 27, 2021).

²⁶ Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).

²⁷ *Id.*

²⁸ Department of Health, *Senate Bill 1540 Fiscal Analysis* (Feb. 26, 2021) (on file with the Senate Committee on Health Policy).

²⁹ *Id.*

³⁰ *Supra* note 26.

³¹ *Id.*

their families. Pregnancy help centers are local, non-profit organizations that provide support and assistance to women and men. In addition to free pregnancy tests, peer counseling, and referrals, most centers offer free classes on pregnancy, childbirth, parenting, and life skills. Participation is encouraged by offering free items such as maternity and baby clothing, diapers, formula, cribs, and car seats to women participating in the FPSSP throughout their pregnancy and the first year of their baby's life. The FPSSP also has a wellness program that offers referrals to health care providers that will provide free well-woman exams performed by a physician, nurse practitioner, or physician assistant.

“My Birth Matters” Florida Campaign³²

The Department of Health, the Agency for Health Care Administration, the FPQC, and the Florida Hospital Association have launched the “My Birth Matters” Florida campaign, modeled after the California “My Birth Matters” campaign (MyBirthMatters.org). The purpose of the campaign is to promote vaginal deliveries and reduce unnecessary caesarean section deliveries for expectant mothers with low-risk pregnancies. The campaign offers free educational materials and resources for parents and providers, including posters, brochures, videos, and social media messages.

Nurse Family Partnership program

The department has implemented the Nurse Family Partnership program which serves 20 counties throughout the state.³³ In this program, specially trained nurses visit young, first-time moms-to-be, beginning in early pregnancy and continuing through the child's second birthday.³⁴ The goal of the program is to improve pregnancy outcomes by helping women use preventive health practices, including:

- Thorough prenatal care from their health care providers;
- Improving diets;
- Reducing consumption of nicotine, alcohol, and illegal substances;
- Improving child health and development by helping parents provide responsible and competent care; and
- Improving the economic self-sufficiency of the family by helping parents to develop a vision for their own future, plan future pregnancies, continue their education, and find work.³⁵

Telehealth

In 2019, the Legislature passed and the Governor approved CS/CS/HB 23 which created s. 456.47, F.S. The bill became effective on July 1, 2019.³⁶ It authorizes Florida-licensed health care providers³⁷ to use telehealth to deliver health care services within their respective scopes of

³² Florida Department of Health, My Birth Matters Florida available at <http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/my-birth-matters/index.html> (last visited Mar. 27, 2021).

³³ Nurse-Family Partnership Florida available at https://www.nursefamilypartnership.org/wp-content/uploads/2020/11/FL_2020-State-Profile-1.pdf (last visited Mar. 27, 2021).

³⁴ *Id.*

³⁵ Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).

³⁶ Chapter 2019-137, s. 6, Laws of Fla.

³⁷ Section 467.47(1)(b), F.S.

practice and also authorizes out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the department or the applicable board³⁸ and meet certain eligibility requirements.³⁹ A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida while registered as an out-of-state telehealth provider.

Section 456.47, F.S., defines the term “telehealth” as the use of synchronous (real-time) or asynchronous (in separate time frames) telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 381.7353, F.S., to require the Department of Health (department) to coordinate with community-based maternal health programs at the state and local levels to avoid duplication of effort and promote consistency.

A Closing the Gap grant proposal must address one or more priority areas, as listed in s. 381.7355, F.S. **Section 2** of the bill s. 381.7355, F.S., to add “decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes” as a priority area.

Section 3 of the bill creates s. 383.2163, F.S., to require the department to establish a telehealth minority maternity care pilot program in Duval County and Orange County by July 1, 2022. The pilot programs would use telehealth to expand the capacity for positive maternal health outcomes in racial and ethnic minority populations. Under the bill, the department must direct and assist the county health departments in Duval County and Orange County to implement the pilot programs.

³⁸ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the department or, in some cases, within the department’s Division of Medical Quality Assurance.

³⁹ On March 16, 2020, Surgeon General Scott Rivkees executed department Emergency Order 20-002 authorizing certain out-of-state physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. This emergency order was extended and will remain in effect until the expiration of the Governor’s Executive Order No. 20-52 and extensions thereof. Department of Health, State of Florida, *Emergency Order DOH No. 20-003* (Mar. 21, 2020) available at <https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf> (last visited Mar. 27, 2021).

³⁹ Department of Health, State of Florida, *Emergency Order DOH No. 20-005* (Apr. 21, 2020) available at <https://s33330.pcdn.co/wp-content/uploads/2020/04/DOH-Emergency-Order-20-005-extending-20-003.pdf> (last visited Mar. 27, 2021).

³⁹ Section 20.42, F.S.

The pilot programs must use telehealth to provide, or coordinate with prenatal home visiting programs to provide all of the following services and education to eligible pregnant women⁴⁰ up to the last day of their postpartum⁴¹ periods, as applicable:

- Referrals to Healthy Start’s coordinated intake and referral program to offer families prenatal home visiting services.
- Services and education addressing social determinants of health, including, but not limited to, all of the following:
 - Housing placement options.
 - Transportation services or information on how to access such services.
 - Nutrition counseling.
 - Access to healthy foods.
 - Lactation support.
 - Lead abatement and other efforts to improve air and water quality.
 - Child care options.
 - Car seat installation and training.
 - Wellness and stress management programs.
 - Coordination across safety net and social support services and programs.
- Evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal and postpartum periods.
- For women during their pregnancies through the postpartum periods, connection to support from doulas and other perinatal health workers.
- Tools to conduct key components of maternal wellness checks, including, but not limited to, all of the following:
 - A scale to measure body weight.
 - A device to measure blood pressure.
 - A device to measure blood sugar levels.
 - Any other device that the health care practitioner performing wellness checks through telehealth deems necessary.

The pilot programs created in the bill must also provide training to health care practitioners and perinatal professionals⁴² participating in the plan on:

- Implicit and explicit biases, racism, and discrimination in the provision of maternity care and how to eliminate them.
- Remote patient monitoring tools for pregnancy-related complications.
- Screening for social determinants of health risks in the prenatal and postpartum periods.
- Best practices in screening for evaluating and treating maternal mental health conditions and substance use disorders.
- Information collection, recording, and evaluation activities to:
 - Study the impact of the pilot program;

⁴⁰ Under the bill, “eligible pregnant woman” means a pregnant woman who is receiving, or is eligible to receive, maternal or infant care services from the department under ch. 381 or ch. 383, F.S.

⁴¹ Under the bill, “postpartum” means the 1-year period beginning on the last day of a woman’s pregnancy.

⁴² Under the bill, “perinatal professionals” means doulas, personnel from Healthy Start and home visiting programs, childbirth educators, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, and other licensed and non-licensed professionals who assist women through their prenatal or postpartum periods.

- Ensure access to and the quality of care;
- Evaluate patient outcomes;
- Measure patient experience; and
- Identify best practices for the expansion of the pilot program.

The bill provides that the pilot programs are to be funded using funds appropriated by the Legislature for the Closing the Gap grant program. The bill requires the department's Division of Community Health Promotion and its Office of Minority Health and Health Equity to work in partnership and apply for federal funds that are available to assist the department in accomplishing the purpose of the pilot programs and in successfully implementing the programs.

The bill authorizes the department to adopt rules to implement the pilot programs.

Section 4 of 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Adding “decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes” as a priority area may reduce the funds available for Closing the Gap grant awards for other priority areas.

C. Government Sector Impact:

CS/SB 1540 does not have a direct fiscal impact on the state because the bill provides that the pilot programs will be funded from appropriations made by the Legislature for the Closing the Gap grant program. Therefore, implementation of the pilot programs is subject to such appropriation. The 2020-2021 General Appropriations Act provided \$4,850,354 in recurring general revenue for Minority Health Initiatives, which includes the Closing the Gap grant program. (Specific Appropriation 429).

The Department of Health (department) estimates, based on the number of pregnancies in Duval and Orange counties and the number of those pregnancies that may be covered by Medicaid, that it would cost \$5,465,197 to provide a scale (\$40.73 each), blood pressure cuff (\$79.96 each), and glucose monitor (\$206 each) to each woman who may be eligible for the pilot programs in those counties.⁴³ That estimate is for medical equipment only. The department indicates that the department will use existing resources to fulfill other requirements of the bill.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.7353 and 381.7355.

This bill creates section 383.2163 of the Florida Statutes.

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

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

CS by Health Policy on March 31, 2021:

The CS:

- Adds personnel from Healthy Start and home visiting programs to the definition of “perinatal professionals.”
- Deletes the underlying bill’s definition of “telehealth” that included audio-only telephone calls, e-mail messages, and facsimile transmissions.
- Authorizes a pilot program to coordinate with prenatal visiting programs to provide services specified in the bill, in lieu of providing the services through telehealth.

⁴³ *Supra* note 28.

⁴⁴ *Id.*

- Requires a pilot program to provide referrals to Healthy Start's coordinated program intake and referral program to offer families prenatal home visiting services.
- Authorizes a pilot program to provide a device to a woman that a health care practitioner performing wellness checks through telehealth deems necessary, regardless of whether that device is necessary to ensure that an accurate assessment of a pregnant women participating in the program is conducted.

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 Health Policy; and Senator Gibson

588-03617-21

20211540c1

1 A bill to be entitled
 2 An act relating to maternal health outcomes; amending
 3 s. 381.7353, F.S.; revising the Department of Health's
 4 duties under the Closing the Gap grant program;
 5 amending s. 381.7355, F.S.; revising the requirements
 6 for Closing the Gap grant proposals; creating s.
 7 383.2163, F.S.; requiring the department to establish
 8 telehealth minority maternity care pilot programs in
 9 Duval County and Orange County by a specified date;
 10 defining terms; providing program purposes; requiring
 11 the pilot programs to provide specified telehealth
 12 services, or coordinate with prenatal home visiting
 13 programs to provide specified services, to eligible
 14 pregnant women for a specified period; requiring pilot
 15 programs to train participating health care
 16 practitioners and perinatal professionals on specified
 17 topics; providing for funding for the pilot programs;
 18 requiring the department's Division of Community
 19 Health Promotion and Office of Minority Health and
 20 Health Equity to apply for certain federal funding;
 21 authorizing the department to adopt rules; providing
 22 an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraph (e) of subsection (2) of section
 27 381.7353, Florida Statutes, is amended to read:
 28 381.7353 Reducing Racial and Ethnic Health Disparities:
 29 Closing the Gap grant program; administration; department

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

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30 duties.-
 31 (2) The department shall:
 32 (e) Coordinate with existing community-based programs, such
 33 as chronic disease community intervention programs, cancer
 34 prevention and control programs, diabetes control programs, the
 35 Healthy Start program, the Florida Kidcare Program, the HIV/AIDS
 36 program, immunization programs, maternal health programs, and
 37 other related programs at the state and local levels, to avoid
 38 duplication of effort and promote consistency.
 39 Section 2. Paragraph (a) of subsection (2) of section
 40 381.7355, Florida Statutes, is amended to read:
 41 381.7355 Project requirements; review criteria.-
 42 (2) A proposal must include each of the following elements:
 43 (a) The purpose and objectives of the proposal, including
 44 identification of the particular racial or ethnic disparity the
 45 project will address. The proposal must address one or more of
 46 the following priority areas:
 47 1. Decreasing racial and ethnic disparities in maternal and
 48 infant mortality rates.
 49 2. Decreasing racial and ethnic disparities in severe
 50 maternal morbidity rates and other maternal health outcomes.
 51 3. Decreasing racial and ethnic disparities in morbidity
 52 and mortality rates relating to cancer.
 53 ~~4.3-~~ Decreasing racial and ethnic disparities in morbidity
 54 and mortality rates relating to HIV/AIDS.
 55 ~~5.4-~~ Decreasing racial and ethnic disparities in morbidity
 56 and mortality rates relating to cardiovascular disease.
 57 ~~6.5-~~ Decreasing racial and ethnic disparities in morbidity
 58 and mortality rates relating to diabetes.

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59 ~~7.6-~~ Increasing adult and child immunization rates in
 60 certain racial and ethnic populations.

61 ~~8.7-~~ Decreasing racial and ethnic disparities in oral
 62 health care.

63 ~~9.8-~~ Decreasing racial and ethnic disparities in morbidity
 64 and mortality rates relating to sickle cell disease.

65 ~~10.9-~~ Decreasing racial and ethnic disparities in morbidity
 66 and mortality rates relating to Lupus.

67 ~~11.10-~~ Decreasing racial and ethnic disparities in
 68 morbidity and mortality rates relating to Alzheimer's disease
 69 and dementia.

70 ~~12.11-~~ Improving neighborhood social determinants of
 71 health, such as transportation, safety, and food access, as
 72 outlined by the Centers for Disease Control and Prevention's
 73 "Tools for Putting Social Determinants of Health into Action."

74 Section 3. Effective January 1, 2022, section 383.2163,
 75 Florida Statutes, is created to read:

76 383.2163 Telehealth minority maternity care pilot
 77 programs.—By July 1, 2022, the department shall establish a
 78 telehealth minority maternity care pilot program in Duval County
 79 and Orange County which uses telehealth to expand the capacity
 80 for positive maternal health outcomes in racial and ethnic
 81 minority populations. The department shall direct and assist the
 82 county health departments in Duval County and Orange County to
 83 implement the programs.

84 (1) DEFINITIONS.—As used in this section, the term:

85 (a) "Department" means the Department of Health.

86 (b) "Eligible pregnant woman" means a pregnant woman who is
 87 receiving, or is eligible to receive, maternal or infant care

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

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88 services from the department under chapter 381 or chapter 383.

89 (c) "Health care practitioner" has the same meaning as in
 90 s. 456.001.

91 (d) "Health professional shortage area" means a geographic
 92 area designated as such by the Health Resources and Services
 93 Administration of the United States Department of Health and
 94 Human Services.

95 (e) "Indigenous population" means any Indian tribe, band,
 96 or nation or other organized group or community of Indians
 97 recognized as eligible for services provided to Indians by the
 98 United States Secretary of the Interior because of their status
 99 as Indians, including any Alaskan native village as defined in
 100 43 U.S.C. s. 1602(c), the Alaska Native Claims Settlement Act,
 101 as that definition existed on the effective date of this act.

102 (f) "Maternal mortality" means a death occurring during
 103 pregnancy or the postpartum period which is caused by pregnancy
 104 or childbirth complications.

105 (g) "Medically underserved population" means the population
 106 of an urban or rural area designated by the United States
 107 Secretary of Health and Human Services as an area with a
 108 shortage of personal health care services or a population group
 109 designated by the United States Secretary of Health and Human
 110 Services as having a shortage of such services.

111 (h) "Perinatal professionals" means doulas, personnel from
 112 Healthy Start and home visiting programs, childbirth educators,
 113 community health workers, peer supporters, certified lactation
 114 consultants, nutritionists and dietitians, social workers, and
 115 other licensed and nonlicensed professionals who assist women
 116 through their prenatal or postpartum periods.

Page 4 of 8

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

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- 117 (i) "Postpartum" means the 1-year period beginning on the
 118 last day of a woman's pregnancy.
- 119 (j) "Severe maternal morbidity" means an unexpected outcome
 120 caused by a woman's labor and delivery which results in
 121 significant short-term or long-term consequences to the woman's
 122 health.
- 123 (k) "Technology-enabled collaborative learning and capacity
 124 building model" means a distance health care education model
 125 that connects health care professionals, particularly
 126 specialists, with other health care professionals through
 127 simultaneous interactive videoconferencing for the purpose of
 128 facilitating case-based learning, disseminating best practices,
 129 and evaluating outcomes in the context of maternal health care.
- 130 (2) PURPOSE.—The purpose of the pilot programs is to:
- 131 (a) Expand the use of technology-enabled collaborative
 132 learning and capacity building models to improve maternal health
 133 outcomes for the following populations and demographics:
- 134 1. Ethnic and minority populations.
 135 2. Health professional shortage areas.
 136 3. Areas with significant racial and ethnic disparities in
 137 maternal health outcomes and high rates of adverse maternal
 138 health outcomes, including, but not limited to, maternal
 139 mortality and severe maternal morbidity.
- 140 4. Medically underserved populations.
 141 5. Indigenous populations.
- 142 (b) Provide for the adoption and use of telehealth services
 143 that allow for screening and treatment of common pregnancy-
 144 related complications, including, but not limited to, anxiety,
 145 depression, substance use disorder, hemorrhage, infection,

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- 146 amniotic fluid embolism, thrombotic pulmonary or other embolism,
 147 hypertensive disorders relating to pregnancy, diabetes,
 148 cerebrovascular accidents, cardiomyopathy, and other
 149 cardiovascular conditions.
- 150 (3) TELEHEALTH SERVICES AND EDUCATION.—The pilot programs
 151 shall adopt the use of telehealth or coordinate with prenatal
 152 home visiting programs to provide all of the following services
 153 and education to eligible pregnant women up to the last day of
 154 their postpartum periods, as applicable:
- 155 (a) Referrals to Healthy Start's coordinated intake and
 156 referral program to offer families prenatal home visiting
 157 services.
- 158 (b) Services and education addressing social determinants
 159 of health, including, but not limited to, all of the following:
- 160 1. Housing placement options.
 161 2. Transportation services or information on how to access
 162 such services.
 163 3. Nutrition counseling.
 164 4. Access to healthy foods.
 165 5. Lactation support.
 166 6. Lead abatement and other efforts to improve air and
 167 water quality.
 168 7. Child care options.
 169 8. Car seat installation and training.
 170 9. Wellness and stress management programs.
 171 10. Coordination across safety net and social support
 172 services and programs.
- 173 (c) Evidence-based health literacy and pregnancy,
 174 childbirth, and parenting education for women in the prenatal

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175 and postpartum periods.

176 (d) For women during their pregnancies through the
 177 postpartum periods, connection to support from doulas and other
 178 perinatal health workers.

179 (e) Tools for prenatal women to conduct key components of
 180 maternal wellness checks, including, but not limited to, all of
 181 the following:

182 1. A device to measure body weight, such as a scale.
 183 2. A device to measure blood pressure which has a verbal
 184 reader to assist the pregnant woman in reading the device and to
 185 ensure that the health care practitioner performing the wellness
 186 check through telehealth is able to hear the reading.

187 3. A device to measure blood sugar levels with a verbal
 188 reader to assist the pregnant woman in reading the device and to
 189 ensure that the health care practitioner performing the wellness
 190 check through telehealth is able to hear the reading.

191 4. Any other device that the health care practitioner
 192 performing wellness checks through telehealth deems necessary.

193 (4) TRAINING.—The pilot programs shall provide training to
 194 participating health care practitioners and other perinatal
 195 professionals on all of the following:

196 (a) Implicit and explicit biases, racism, and
 197 discrimination in the provision of maternity care and how to
 198 eliminate these barriers to accessing adequate and competent
 199 maternity care.

200 (b) The use of remote patient monitoring tools for
 201 pregnancy-related complications.

202 (c) How to screen for social determinants of health risks
 203 in the prenatal and postpartum periods, such as inadequate

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204 housing, lack of access to nutritional foods, environmental
 205 risks, transportation barriers, and lack of continuity of care.

206 (d) Best practices in screening for and, as needed,
 207 evaluating and treating maternal mental health conditions and
 208 substance use disorders.

209 (e) Information collection, recording, and evaluation
 210 activities to:

211 1. Study the impact of the pilot program;

212 2. Ensure access to and the quality of care;

213 3. Evaluate patient outcomes as a result of the pilot
 214 program;

215 4. Measure patient experience; and

216 5. Identify best practices for the future expansion of the
 217 pilot program.

218 (5) FUNDING.—The pilot programs shall be funded using funds
 219 appropriated by the Legislature for the Closing the Gap grant
 220 program. The department's Division of Community Health Promotion
 221 and Office of Minority Health and Health Equity shall also work
 222 in partnership to apply for federal funds that are available to
 223 assist the department in accomplishing the program's purpose and
 224 successfully implementing the pilot programs.

225 (6) RULES.—The department may adopt rules to implement this
 226 section.

227 Section 4. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Military and Veterans Affairs, Space,
and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON
6th District

April 6, 2021

Senator Kelli Stargel, Chair
Committee on Appropriations
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Stargel: *Kelli*

I respectfully request that SB 1540, be placed on the next committee agenda.

SB 1540 through Closing the Gap grant proposals within the Department of Health establishes telehealth minority maternity care pilot programs in Duval and Orange counties. The pilot programs will use telehealth to expand the capacity for positive maternal outcomes in racial and ethnic minority populations and track reduction in maternal mortality, which will hopefully lead to expansion. The bill will also identify barriers to decreasing maternal and infant mortality rates and other maternal health outcomes in medically underserved populations. This bill passed unanimously in the first committee.

Thank you for your kind and consideration.

Sincerely,

Audrey Gibson
Audrey Gibson
State Senator
District 6

SENT TO: CHAIRMAN
TAS: MR. STAFF
2021 APR -6 PM 2: 22
SENATE APPROPRIATIONS
RECEIVED

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1540

Bill Number (if applicable)

Topic Maternal Health Outcomes

Amendment Barcode (if applicable)

Name Ida V. Eskamane

Job Title _____

Address _____

Phone _____

Street

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 + 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)

THE FLORIDA SENATE
APPEARANCE RECORD

4-15-21
Meeting Date

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

1540
Bill Number (if applicable)

Topic Maternal Health Outcomes

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title _____

Address 625 E. Brevard St

Phone 251-4280

Tallahassee FL 32308
City State Zip

Email barbadevane1@johnson.com

Speaking: For Against Information

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

Representing FL NOW

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.

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

4/15/2021
Meeting Date

THE FLORIDA SENATE
APPEARANCE RECORD

1540
Bill Number (if applicable)

Topic Maternal Health Outcomes

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee, FL 32301

City

State

Zip

Email kw@kayak.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.

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 Appropriations

BILL: CS/CS/SB 1568

INTRODUCER: Appropriations Committee; Health Policy Committee; and Senator Rodriguez

SUBJECT: Department of Health

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke/Rossitto Van-Winkle	Brown	HP	Fav/CS
2.	Howard	Sadberry	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1568 addresses numerous health care-related issues regulated by the Department of Health (DOH).

The bill:

- Updates the Targeted Outreach for Pregnant Women Act of 1998.
- Creates section 395.3042, Florida Statutes, to establish requirements for the triage and transportation of heart attack victims to adult cardiovascular services (ACS) providers; requires the DOH to perform certain tasks and develop a heart attack assessment tool and licensed EMS medical directors to develop and implement assessment, treatment, and transport-destination protocols for heart attack patients.
- Amends section 401.465, Florida Statutes, to define “telecommunicator cardiopulmonary resuscitation training” to require each 911 public safety telecommunicator to receive training every two years; and the DOH monitor with ability to adjust state grant or shared revenue funding to a public safety agency based on the agency’s adherence to the training requirements.
- Amends section 408.033, Florida Statutes, authorizing local health councils to collect utilization data from licensed hospitals within their respective local health council districts for a specified purpose.
- Authorizes a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule III, IV, and V controlled substances through telehealth.
- Authorizes a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule II controlled substances under certain circumstances.

- Amends section 464.008, Florida Statutes, deleting a requirement that certain nursing program graduates complete a specified preparatory course.
- Amends section 465.1893, Florida Statutes, to provide long-acting medications pharmacists may administer under certain circumstances and revising requirements for a continuing education course such pharmacists must complete.
- Updates chapter 467, Florida Statutes, relating to midwifery, by removing duplicative or obsolete language and duplicative rulemaking authority and clarifying language regarding preceptorships, approval of midwifery programs, and minimum standards.
- Amends sections 490.003, 490.005, and 490.051, Florida Statutes, to clarify the educational requirements for psychologists applying for licensure by examination or endorsement;
- Amends section 491.005, Florida Statutes, regarding mental health counselors to update educational requirements and authorize a licensed mental health professional to be available by phone or other electronic methods when clinical services are being provided by a registered intern by telehealth methods; and
- Amends sections 460.406, 468.803, 483.824, and 490.005, Florida Statutes, to delete references to the term “regional” and replace it with the term “institutional” to conform to the U.S. Department of Education accreditation nomenclature for approving educational institutions.

The bill amends and creates sections of the Florida Statutes relating to the DOH’s regulation of Onsite Sewage Treatment and Disposal Systems (OSTDS). The bill:

- Amends section 381.0061, Florida Statutes, as amended by section 41 of chapter 2020-150, Laws of Florida, to strike the DOH’s authority to assess fines related to OSTDS and septic tank contracting. The regulation of these programs will transfer to the Department of Environmental Protection (DEP) on July 1, 2021.¹
- Creates section 381.00635, Florida Statutes, to authorize the DOH to issue an order requiring a correction to improper conditions of any private or public water system not covered or included in the Florida Safe Drinking Water Act,² which constitutes a nuisance or menace to public health. Amends section 381.0067, Florida Statutes, to eliminate DEP’s authority over public and private water systems not included in the Florida Safe Drinking Water Act, the regulation of which is retained by the DOH.
- Amends section 381.0101, Florida Statutes, to retain the requirement that onsite evaluations of OSTDS be done by certified environmental health professionals.

The DOH Division of Medical Quality Assurance (MQA) will incur recurring and nonrecurring workload costs associated with the bill and costs related to updating department systems, enforcing the new training requirements for public safety telecommunicators, and rulemaking; however, it is anticipated that current resources are adequate to absorb.

The bill takes effect on July 1, 2021.

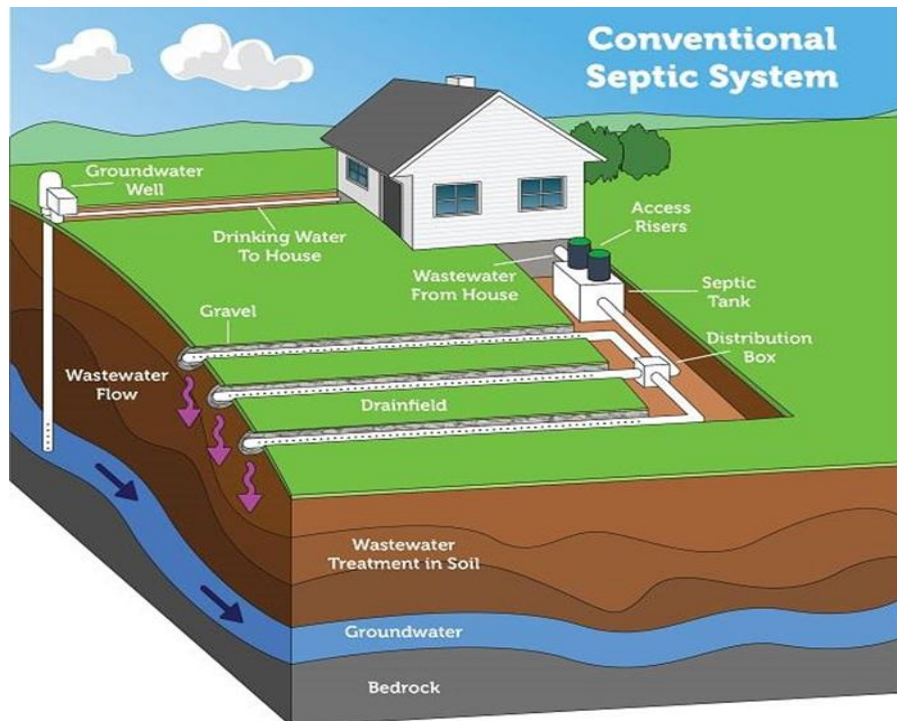
¹ Chapter 2020-150, Laws of Fla.

² Part VI of ch. 403, F.S.

II. Present Situation:

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.³ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.⁴



Until July 1, 2021, the Department of Health (DOH) will administer OSTDS programs, develop statewide rules, and provide training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.⁵ The DOH regulations focus on construction standards and setback distances. The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.⁶

³ DOH, *Septic System Information and Care*, available at <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited March 25, 2021); EPA, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited March 25, 2021) (showing the graphic provided in the analysis.)

⁴ *Id.*

⁵ Section 381.0065(3), F.S.

⁶ Section 381.0065(3), F.S.

The DOH and the Department of Environmental Protection (DEP) have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.⁷ The DEP has jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).⁸ In all other circumstances, the DOH regulates OSTDSs.

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.⁹ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.¹⁰ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.¹¹ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that may have been avoided with routine maintenance.¹²

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.¹³ This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.¹⁴

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).¹⁵ The DOH publishes on its website approved products and resources on advanced systems.¹⁶ Determining which advanced system is the best option can depend on site-specific conditions.

⁷ *Interagency Agreement between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), available at https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf

⁸ *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, available at <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited March 25, 2021).

⁹ DOH, *Onsite Sewage*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited March 25, 2021).

¹⁰ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> p. 59 (last visited March 25, 2021).

¹¹ *Id.*

¹² *Id.*

¹³ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf> (last visited March 25, 2021) See Fla. Admin. Code R. 64E-6.006(2).

¹⁴ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf> (last visited March 25, 2021).

¹⁵ DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/documents/bmap-n-reducing-tech-18-10-29.pdf> (last visited March 25, 2021).

¹⁶ DOH, *Onsite Sewage Programs, Product Listings and Approval Requirements*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html> (last visited March 25, 2021).

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.¹⁷ Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.¹⁸

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.
- Additional funding to accelerate septic to sewer conversions.¹⁹

Chapter 2020-150, Laws of Florida

In 2020, the Legislature passed ch. 2020-150, Laws of Florida to respond to recommendations from the Blue-Green Algae Task Force. Regarding OSTDSs, the law:

- Transfers the regulation of OSTDSs from the DOH to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:
 - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, non-potable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
 - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- To meet the requirements of a Total Maximum Daily Load (TMDL), the law requires the DEP to implement a fast-track approval process for the use in this state of American National Standards Institute 245 systems approved by National Sanitation Foundation (NSF) International before July 1, 2020.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within Basin Management Action Plans (BMAPs) if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.²⁰

Targeted Outreach for Pregnant Women

The Targeted Outreach for Pregnant Women Act (TOPWA) was enacted by the Florida Legislature in 1998. The TOPWA program is designed to establish targeted outreach to high-risk

¹⁷ Section 381.00655, F.S.

¹⁸ *Id.*

¹⁹ DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited March 25, 2021).

²⁰ Analysis of CS/CS/SB 712 (Feb. 24, 2020), available at <https://www.flsenate.gov/Session/Bill/2020/712/Analyses/2020s00712.ap.PDF> (last visited, March 25, 2021).

pregnant women who may not be receiving proper prenatal care, who suffer from substance abuse problems, or who may be infected with the human immunodeficiency virus (HIV). The goal of the program is to provide these high-risk pregnant women with referrals for information and services.

In 2019, there were 453 HIV-exposed births in Florida. Without proper care for both mother and newborn, each of these births risks vertical transmission. The TOPWA supports outreach programs aimed at preventing vertical HIV transmission and other health issues by linking high-risk pregnant women with services that can help them have healthier pregnancies and deliveries and can aid them in ensuring their newborn gets a healthy start.²¹

Many of the women targeted by TOPWA programs may not otherwise receive prenatal care or know their HIV status. In 2019, there were seven TOPWA programs in Florida. The TOPWA programs, which are funded through General Revenue (GR) dollars and grant funds from the federal Centers for Disease Control and Prevention (CDC), provided services to 7,703 women from January 2016 to July 2020. Women living with HIV made up just under 10 percent of TOPWA program enrollments.²²

If a pregnant woman tests positive for HIV, medical interventions and prevention, such as the following, can greatly reduce her risk of transmitting the virus to her baby during childbirth:

- Antiretroviral medication to the mother;
- Delivery by caesarian section;
- Avoiding breastfeeding; and
- Antiretroviral medication to the newborn.²³

Telehealth to Provide Services

Current law prohibits telehealth providers from prescribing any controlled substance unless the controlled substance is prescribed for:

- The treatment of a psychiatric disorder;
- Inpatient treatment at a licensed hospital;
- The treatment of a patient receiving hospice services; or
- The treatment of a resident of a nursing home facility.²⁴

Prescribers and dispensers are required to report to and review the Prescription Drug Monitoring Program database to review a patient's controlled substance dispensing history prior to prescribing or dispensing a Schedule II-IV controlled substance for patients 16 years or older.²⁵ These prescribing limitations and requirements apply to practitioners providing services in-person and through telehealth.

²¹ Section 381.0045(2), F.S.

²² Department of Health, *Senate Bill 1568 Fiscal Analysis* (Mar, 12, 2021) (on file with the Senate Committee on Health Policy.)

²³ *Id.*

²⁴ Section 456.47(2)(c), F.S.

²⁵ Section 89.055, F.S.

Federal Guidance during the COVID-19 Public Health Emergency

In response to COVID-19, on January 31, 2020, the Secretary of the Department of Health and Human Services (HHS) issued a public health emergency.²⁶ On March 16, 2020, the federal Drug Enforcement Agency (DEA) published a COVID-19 Information page on the Diversion Control Division website, authorizing qualified prescribers to issue prescriptions for all Schedule II-V controlled substances to patients without first conducting an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The evaluation is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable federal and state law.²⁷

Florida DOH Emergency Order No. 20-002

The same day that the HHS Secretary authorized qualified prescribers to prescribe Schedule II-V controlled substances, Surgeon General Rivkees issued DOH Emergency Order No. 20-002,²⁸ which suspended s. 456.47(2)(c), F.S., and authorized specified Florida-licensed prescribers²⁹ to issue a renewal prescription for a Schedule II-IV controlled substance only for an existing patient for the purpose of treating chronic nonmalignant pain without conducting another physical examination of the patient. This emergency order was extended³⁰ and will remain in effect until the expiration of Executive Order No. 20-52 and extensions thereof.³¹

²⁶ Determination that a Public Health Emergency Exists, Alex M. Azar II, Secretary of U.S. Department of Health and Human Services (January 31, 2020), available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx> (last visited Feb. 9, 2021).

²⁷ Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, *COVID-19 Information Page*, available at <https://www.deadiversion.usdoj.gov/coronavirus.html> (last visited Feb. 9, 2021). Letter from Thomas Prevoznik, Deputy Assistant Administrator, Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, to DEA Qualifying Practitioners and Other Practitioners, (Mar. 31, 2020), available at [https://www.deadiversion.usdoj.gov/GDP/\(DEA-DC-022\)\(DEA068\)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20\(Final\)%20+Esign.pdf](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20(Final)%20+Esign.pdf) (last visited Feb. 9, 2021).

²⁸ Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020), available at <http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf> (last visited Feb. 14, 2021).

²⁹ Physicians, osteopathic physicians, physician assistants, or advanced practice registered nurses that have designated themselves as a controlled substance prescribing practitioner on their practitioner profiles pursuant to s. 456.44, F.S.

³⁰ Department of Health, State of Florida, *Emergency Order DOH No. 20-011* (June 30, 2020), available at <https://floridahealthcovid19.gov/wp-content/uploads/2020/06/DOH-Emergency-Order-DOH-No.-20-011.pdf> (last visited Feb. 14, 2021).

³¹ Under s. 252.36(2), F.S., no state of emergency declared pursuant to the Florida Emergency Management Act, may continue for more than 60 days unless renewed by the Governor. The state of emergency declared in Executive Order 20-52, was extended by Executive Orders 20-114, 20-166, 20-192, 20-213, 20-276, 20-316, and 21-45. Executive Order 21-45 will remain in effect until April 28, 2021. Office of the Governor, State of Florida, *Executive Order 21-45* (Feb. 26, 2021), available at https://www.flgov.com/wp-content/uploads/orders/2021/EO_21-45.pdf (last visited March 17, 2021).

Chiropractic Licensure

The “practice of chiropractic medicine” is a non-combative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body to restore the normal flow of nerve impulse which produces normal function and health by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education.

Section 460.406, F.S., requires:

- An applicant matriculating in a chiropractic college after July 1, 1990, to hold a bachelor’s degree awarded by a college or university accredited by a regional accrediting agency recognized and approved by the U.S. Department of Education; and
- An applicant after July 1, 2000, to complete, prior to matriculating in a chiropractic college, a bachelor’s degree from a college or university accredited by a regional accrediting agency recognized and approved by the U.S. Department of Education.

The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published in that year omit references to “regional” and “national” accreditation. The letter specifies that “[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded.” Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Nursing

Part I of ch. 464, F.S., the Nurse Practice Act, governs the licensure and regulation of nurses in Florida. Nurses are licensed by the DOH³² and are regulated by the Fla. Board of Nursing (BON).³³ Currently, a nurse desiring to practice nursing in the state of Florida must obtain a Florida license by examination or endorsement.

Applicants for licensure by examination as a registered nurse (RN) or licensed practical nurse (LPN) must, among other requirements:

- Graduate from an approved program or its equivalent as determined by the Fla. Bd. of Nursing.³⁴
- Submit an application to the DOH;
- Pay a fee;
- Submit information for a criminal background check;³⁵ and
- Pass the National Council Licensure Examination (NCLEX).³⁶

³² Section 464.008, F.S.

³³ The BON is composed of 13 members appointed by the Governor and confirmed by the Senate who serve four-year terms. All members must be residents of the state. Seven members must be registered nurses who are representative of the diverse areas of practice within the nursing profession. Three members must be licensed practical nurses and three members must be laypersons. At least one member of the board must be 60 years of age or older. *See* Section 464.004, F.S.

³⁴ Section 464.008(1)(c), F.S.

³⁵ Section 464.008(1)(b), F.S.

³⁶ Section 464.008(2), F.S.

Licensure by endorsement requirements include submitting an application and fee, passing a criminal background screening, and:

- Holding a valid license to practice professional or practical nursing in another state or territory of the United States which, when issued, met or exceeded those in Florida at that time;
- Meeting the requirements for licensure in Florida and having successfully completed an examination in another state which is substantially equivalent to the examination in Florida; or
- Having actively practiced nursing in another state, jurisdiction, or territory of the United States for two of the preceding three years without having his or her license acted against by the licensing authority of any jurisdiction.³⁷

In 2016, the Legislature created s. 464.0095, F.S., Florida's entrance into the Nurse Licensure Compact (NLC), which took effect January 19, 2018, and adopts the revised NLC in its entirety into state law. This allows for licensed practical and professional nurses to practice in all member states by maintaining a single license in the nurse's primary state of residence. To date, 34 states, including Florida, have adopted the revised NLC.³⁸

The National Council of State Boards of Nursing, Inc. (NCSBN)

The NCSBN is an independent, non-profit organization that was created in 1978 out of recognition that in order to guard the safety of the public, the organization involved in the regulation of nurses needs to be 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, the NCSBN developed a psychometrically sound and legally-defensible nurse licensure examination consistent with current nursing practice. NCSBN became the first organization to implement computerized adaptive testing for nationwide licensure examinations in 1994, the NCLEX-RN and NCLEX-LPN.³⁹

Nursing Education Program Approval and Accreditation

Section 464.019, F.S., requires an institution desiring to offer a pre-licensure nursing education program to submit an application to the DOH and pay a program review fee for each campus or instructional site. In addition to identifying information about the program, the application must indicate the name of the accrediting agency.

The application must document compliance with the following program standards: faculty qualifications; clinical training and clinical simulation requirements, including a requirement that

³⁷ Section 464.009, F.S.

³⁸ The National Council of State Boards of Nursing administers the NLC. They refer to it as the enhanced NLC. *available at* https://www.nursecompact.com/Updated_onepaged_NLC.pdf (last visited on March 23, 2021).

³⁹ National Council of State Boards of Nursing, Inc., *History*. *available at* <https://www.ncsbn.org/history.htm> (last visited Mar. 28, 2021).

no more than 50 percent of the program's clinical training consist of clinical simulation; faculty-to-student supervision ratios; and curriculum and instruction requirements.⁴⁰

Chapter 464, F.S., recognizes and distinguishes between nursing education programs that are approved by the BON and programs that are approved and accredited.⁴¹

An "accredited program" is accredited by a specialized nursing accrediting agency that is nationally recognized by the U.S. Secretary of Education to accredit nursing education programs.⁴² The specialized nursing accrediting agencies currently recognized by the U.S. Department of Education include the Commission on Collegiate Nursing Education and the Accreditation Commission for Education in Nursing.⁴³

A Florida BON approved nursing education program⁴⁴ is required to submit an annual report to the Florida BON which includes an affidavit certifying compliance with the program standards and documentation for the previous academic year that sets forth data related to the number of students who applied, were accepted, enrolled, and graduated; retention rates; and accreditation status.⁴⁵

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 NCLEX scores for two consecutive years and are subject to termination. 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 Fla. Bd. of Nursing is authorized to terminate the program or may extend the probation for one additional year.⁴⁶ An approved program which has been placed on probation must disclose its probationary status in writing to the program's students and applicants.⁴⁷

An approved program graduate who does not take the licensure examination within six months after graduation must enroll in, and successfully complete, a licensure examination preparatory course pursuant to s. 464.008, F.S.

⁴⁰ Section 464.019(2)(c), F.S. If the Fla. Bd. of Nursing does not act on a program application within the 90-day review period, the program application is deemed approved. *Id.*

⁴¹ The program application and approval process, the annual report requirement, the data submission requirements and the pass rate requirements are not applicable to accredited programs.

⁴² Section 464.003(1), F.S.

⁴³ United States Department of Education, *Accreditation in the United States: Specialized Accrediting Agencies*, available at https://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html (last visited Mar. 25, 2021).

⁴⁴ Section 464.003(4), F.S., defines an "approved program" as "a program for the pre-licensure education of professional or practical nurses that is conducted in the state at an educational institution and that is approved under s. 464.019, F.S. The term includes such a program placed on probationary status."

⁴⁵ Section 464.019(3), F.S.

⁴⁶ Section. 464.019(5), F.S.

⁴⁷ *Id.*

The Practice of Pharmacy

The Board of Pharmacy (BOP), in conjunction with the DOH, regulates the practice of pharmacists and registered pharmacist interns pursuant to ch. 465, F.S.⁴⁸

Licensure

To be licensed as a pharmacist in Florida, a person must:⁴⁹

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;⁵⁰
- Have completed a BOP approved internship; and
- Successfully complete the BOP approved examination.

A pharmacist must complete at least 30 hours of BOP approved continuing education during each biennial licensure renewal period.⁵¹ Pharmacists who are certified to administer vaccines or epinephrine auto-injections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine injections, as a part of their licensure renewal.⁵²

Scope of Pharmacy Practice

In Florida, the practice of the profession of pharmacy includes:⁵³

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of a medicinal drug;
- Consultation concerning therapeutic values and interactions of patented or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy;
- Reviewing, and making recommendations regarding the patient's drug therapy and health care status in communication with the patient's prescribing health care provider as authorized by the patient;
- Initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement;⁵⁴
- Transmitting information from prescribers to their patients;

⁴⁸ Sections 465.004 and 465.005, F.S.

⁴⁹ Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See s. 465.0075, F.S.*

⁵⁰ If the applicant has graduated from a four-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the BOP-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH-licensed pharmacist.

⁵¹ Section 465.009, F.S.

⁵² Section 465.009(6), F.S.

⁵³ Section 465.003(13), F.S.

⁵⁴ Section 465.1865, F.S.

- Preparing prepackaged drug products in facilities holding Class III institutional facility permits;⁵⁵
- Ordering and dispensing over-the-counter drugs approved by the FDA;⁵⁶
- Ordering and dispensing within his or her professional judgment, subject to specified conditions:⁵⁷
 - Certain oral analgesics for mild to moderate pain;
 - Anti-nausea preparations;
 - Certain antihistamines and decongestants;
 - Certain topical antifungal/antibacterial;
 - Topical anti-inflammatory preparations containing an amount of hydrocortisone not exceeding 2.5 percent;
 - Otic antifungal/antibacterial;
 - Salicylic acid;
 - Vitamins;
 - Ophthalmics;
 - Certain histamine H2 antagonists;
 - Acne products; and
 - Topical antivirals for herpes simplex infections of the lips.

Pharmacist Authorization to Administer Antipsychotropic Medications by Injection

A pharmacist, at the direction of a physician, may also administer a long-acting antipsychotic medication by injection if the medication is approved by the U.S. Food and Drug Administration if the pharmacist:

- Is authorized by and acting within the framework of an established protocol with the prescribing physician;
- Practices at a facility that accommodates privacy for nondeltoid injections and conforms with state rules and regulations regarding the appropriate and safe disposal of medication and medical waste; and
- Has completed the required 8-hour continuing education course offered by:
 - A statewide professional association of physicians accredited to provide educational activities designated for:
 - The American Medical Association Physician's Recognition Award (AMA PRA) Category 1 Credit; or
 - The American Osteopathic Association (AOA) Category 1-A continuing medical education (CME) credit; or
 - A statewide association of pharmacists.

The course required course to administer Antipsychotropic Medications by Injection:

- May be offered in a distance learning format;
- Must include 30 hours of continuing professional pharmaceutical education.⁵⁸

⁵⁵ A Class III institutional pharmacy are those pharmacies affiliated with a hospital. *See* s. 465.019(2)(d), F.S.

⁵⁶ Section 465.186, F.S.

⁵⁷ Fla. Admin. Code R. 64B16-27.220 (2020).

⁵⁸ Section 465.009(1), F.S.

- Must have a curriculum of instruction that concerns the safe and effective administration of behavioral health and antipsychotic medications by injection, including, but not limited to, potential allergic reactions to such medications.

A separate prescription from a physician is required for each injection administered by a pharmacist.⁵⁹

Dentistry

Any person wishing to practice dentistry in this state must apply to the DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for and pass the following licensure examinations:

- The National Board of Dental Examiners dental examination (NBDE);
- A written examination on Florida laws and rules regulating the practice of dentistry; and
- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., and graded by a Florida-licensed dentist employed by the DOH for such purpose.⁶⁰

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation (CODA) or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.⁶¹ If the applicant is not a graduate of a CODA-accredited program, the applicant must demonstrate that he or she holds a degree from an accredited American dental school or has completed two years at a full-time supplemental general dentistry program accredited by CODA.⁶²

Under Florida law, non-dentists are prohibited from influencing or otherwise interfering with a dentist's exercise of his or her independent professional judgment. The profession of dentistry prohibits persons other than a dentist or professional corporation or limited liability company composed of dentists, from:

- Employing a dentist or dental hygienist in a dental office;
- Controlling the use of any dental equipment or material; or
- Directing, controlling, or interfering with a dentist's clinical judgment.⁶³

Conversely, dentists who are employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry will subject a dentist to a denial of license or disciplinary action.⁶⁴

⁵⁹ Section 465.1893, F.S.

⁶⁰ A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.

⁶¹ Section 466.006(2), F.S.

⁶² Section 466.006(3), F.S.

⁶³ Section 466.00285, F.S.

⁶⁴ Section 466.028, F.S.

Midwifery

“Midwifery” is the practice of supervising the conduct of a normal labor and childbirth, with the informed consent of the parent; the practice of advising the parents as to the progress of the childbirth; and the practice of rendering prenatal and postpartal care.⁶⁵

Chapter 467, F.S., is the Midwifery Practice Act. Any person who seeks to practice midwifery in Florida must be at least 21 years of age and:

- Licensed under s. 464.012, F.S., as an Advanced Practice Registered Nurse (APRN) nurse midwife; or
- Licensed as a midwife under ch. 467, F.S.

Section 467.009, F.S., governs midwifery programs and education and training requirements which are a minimum of three years in an approved program. An applicant must have:

- A high school diploma or the equivalent.
- Taken at least three college-level credits such as math and English.

It is unclear under current law whether both a high school diploma and three college level credits are required for admission, or whether one or the other will satisfy the admission requirement.

Section 467.009, F.S., also requires a student midwife, during training, to undertake the care of 50 women in each of the prenatal, intrapartal, and postpartal periods, and observe an additional 25 women in the intrapartal period under the supervision of a preceptor, but the same women need not be seen through all periods. Prenatal, intrapartal, and postpartal periods are not defined and the statute is unclear as to whether this requires 150 patients prenatal, intrapartal, and postpartal periods, or just 50 in any one of the three phases of pregnancy and delivery. The statute is also unclear as to whether the two references to intrapartal care and observation may be the same patient or require different patient contacts.

Section 467.009, F.S., uses the terms, “applicant” and “student midwife” interchangeably, which is inaccurate. These sections frame standards for admission, education, and clinical training in the context of student requirements. Preceptors direct, teach, supervise, and evaluate the learning experiences of the student midwife and may be physicians, licensed midwives, or a certified nurse midwife, who have a minimum of three years professional experience.⁶⁶ Persons with previous midwifery education, Registered Nurses (RNs), and Licensed Practical Nurses (LPNs) may have a reduced training period, but in no case less than two years.

Chapter 467.009, F.S., does not include any provisions explicitly allowing a new midwifery program to be provisionally approved nor does it provide guidance to schools regarding the circumstances under which the DOH may rescind the approval of program.

Section 467.011, F.S., licensure by examination, requires the DOH to:

- Administer the licensure examination to test the proficiency of applicants in the core competencies required to practice midwifery as specified in s. 467.009, F.S.;

⁶⁵ Section 467.003(8), F.S.

⁶⁶ Section 467.003(12), F.S.

- Develop, publish, and make available to interested parties at a reasonable cost a bibliography and guide for the examination; and
- Issue a license to practice midwifery to an applicant who has graduated from an approved midwifery program, successfully completed the examination, and paid a licensure fee.

The DOH no longer administers midwifery examinations, and, pursuant to s. 456.017(c), F.S., the DOH has approved the use of a national examination for midwives seeking to become licensed.⁶⁷

In lieu of examination, an applicant may apply for a license by endorsement based on verification that the applicant holds a current valid license to practice in another jurisdiction that has equivalent or more stringent licensure requirements than those in Florida.⁶⁸

A midwife may only accept and provide care for those women who are expected to have a normal pregnancy, labor, and delivery and must ensure that:

- The patient has signed an informed consent form; and
- If the patient is delivering at home, the home is safe and hygienic.

The statute does not define “normal delivery,” “low risk pregnancy,” or “high risk pregnancy.”

A midwife licensed under ch. 467, F.S., may administer the following:

- Prophylactic ophthalmic medication;
- Oxygen;
- Postpartum oxytocin;
- Vitamin K;
- Rho immune globulin (human); and
- Local anesthetic and other medications prescribed by practitioner.⁶⁹

A midwife’s care of mothers and infants throughout the prenatal, intrapartal, and postpartal periods must be in conformity with the DOH rules and the public health laws of this state. The midwife must:

- Prepare a written plan of action with the family to ensure continuity of medical care throughout labor and delivery and to provide for immediate medical care if an emergency arises;
- Instruct the patient and family regarding the preparation of the environment and ensure availability of equipment and supplies needed for delivery and infant care;
- Instruct the patient in the hygiene of pregnancy and nutrition as it relates to prenatal care;
- Maintain equipment and supplies;
- Determine the progress of labor and, when birth is imminent, be immediately available until delivery is accomplished and must:
 - Maintain a safe and hygienic environment;
 - Monitor the progress of labor and the status of the fetus;

⁶⁷ Department of Health, *Senate Bill 1568 Fiscal Analysis -Midwifery* (July 16, 2020) (on file with the Senate Committee on Health Policy.)

⁶⁸ Section 467.0125, F.S.

⁶⁹ Section 467.015, F.S.

- Recognize early signs of distress or complications; and
- Enact the written emergency plan when indicated;
- Remain with the postpartal mother until the conditions of the mother and the neonate are stabilized; and
- Instill into each eye of the newborn infant a prophylactic in accordance with s. 383.04, F.S.

Section 467.0125, F.S., also includes provisions for licensure by endorsement and temporary certification of a midwife who is qualifying for endorsement to practice in an area of critical need. This statute defines the term “area of critical need” differently from every other profession which has temporary certification that allows practice in an area of critical need. In addition, the current provisions for temporary certification of midwives require revocation if the area in which they practice loses its designation as an area of critical need.

Section 467.205, F.S., provides that any accredited or state-licensed institution of higher learning, public or private, may provide midwifery education and training. The statute sets out the DOH approval requirements for programs desiring to conduct an approved midwifery education program. Under the application and recertification process:

- The applicant must submit evidence of the program’s compliance with the requirements in s. 467.009, F.S.
- The DOH must survey the organization applying for approval. If the department is satisfied that the program meets the requirements of s. 467.009, F.S., it must approve the program.
- The DOH must certify whether each approved midwifery program complies with the standards developed under s. 467.009, F.S., at least every three years.
 - If the DOH finds that an approved program no longer meets the required standards, it may place the program on probation until such time as the standards are restored.
 - If a program fails to correct these conditions within a specified period of time, the department may rescind the approval.
 - Any program having its approval rescinded has the right to reapply.
- Provisional approval of a new program may be granted pending the licensure results of the first graduating class.

Practice of Orthotics, Prosthetics, and Pedorthics

The practice of Orthotics, Prosthetics, and Pedorthics is governed by part XIV of ch. 468, F.S., and all three professions evaluate, treatment formulation, measure, design, fabricate, assemble, fit, adjust, service, or provide the initial training necessary to accomplish the fitting of an orthosis or pedorthic device.⁷⁰

Section 468.803, F.S., provides minimum qualifications for licensure to practice orthotics, prosthetics, and pedorthics. Each profession includes the requirement of completion of a program from a “regionally accredited” institution. The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to “regional” and “national” accreditation. The letter specifies, “Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded.” Provisions implemented in 34 C.F.R. §

⁷⁰ Section 468.80, F.S.

602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Section 468.803 (2)(a), F.S., requires an applicant for licensure to submit to the DOH, along with the application, the fingerprint forms and to pay the cost of the state and national criminal history checks. The DOH no longer collects forms or fees from applicants to process the initial criminal history check for licensure. Applicants are required to complete fingerprinting electronically through independent vendors and provide an originating agency identifier number specific to the profession for the results to be submitted to the DOH. If a criminal history is indicated, the Board of Orthotists and Prosthetists will review the application for consideration of licensure.⁷¹

Clinical Lab Personnel

Part I of ch. 483, F.S., regulates clinical laboratory personnel. “Clinical laboratory personnel” includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.⁷²

Section 483.824(2), F.S., requires the doctoral degree held by a clinical laboratory director be from a regionally-accredited institution in a chemical, physical, or biological science.

The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to “regional” and “national” accreditation. The letter specifies, “[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded.” Provisions implemented in 34 C.F.R. s. 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.⁷³

Psychologists

Chapter 490, F.S., regulates the practice of psychology by psychologists. “Psychologist” is a person licensed by examination under s. 490.005(1), F.S., or endorsement under s. 490.006, F.S.

Section 390.003, F.S., defines a “doctoral-level psychological education” and “doctoral degree in psychology” as of July 1, 1999, to include a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated:

- Had institutional accreditation from an agency recognized and approved by the U.S. Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

⁷¹ Department of Health, *Senate Bill 1568 Fiscal Analysis - Practice of Orthotics, Prosthetics, and Pedorthics* (July 15, 2020) (on file with the Senate Committee on Health Policy.)

⁷² Section 483.803(4), F.S.

⁷³ Department of Health, *Senate Bill 1568 Fiscal Analysis - Clinical Lab Personnel* (July 16, 2020) (on file with the Senate Committee on Health Policy.)

- Had programmatic accreditation from the American Psychological Association.

Section 490.005, F.S., provides that any person desiring to be licensed by examination as a psychologist must apply to the DOH to take the licensure examination. The DOH will license each applicant who the Board of Psychology (BOP) certifies has:

- Completed an application and submitted a fee;
- Submitted proof satisfactory to the BOP that the applicant has received:
 - Doctoral-level psychological education; or
 - The equivalent of a doctoral-level psychological education, from a program at a school or university located outside the U.S.;
 - Had at least two years or 4,000 hours of experience in the field of psychology; and
 - Passed the licensing examination.

Section 490.0051, F.S., also requires the DOH to issue a provisional psychology license to each applicant who the BOP certifies has:

- Completed the application form and paid the fee;
- Earned a doctoral degree in psychology as defined in s. 490.003(3); and
- Met any additional requirements established by BOP rule.

Provisional licensees must practice under the supervision of a licensed psychologist until the provisional licensee receives a license or a letter from the DOH stating that he or she is licensed as a psychologist. A provisional license expires 24 months after the date it is issued and may not be renewed or reissued.

Mental Health Professionals

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements of s. 491.005, F.S., or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure, must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.⁷⁴

An individual who has not satisfied the postgraduate or post-master's level of experience requirements under s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience outside the academic arena, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.⁷⁵

⁷⁴ Section 491.0046, F.S.

⁷⁵ Section 491.0045, F.S.

Section 491.005(1), F.S., relates to licensure by examination for social workers. Section 491.005(3), F.S., relates to licensure by examination for marriage and family therapists. Section 491.005(4), F.S., relates to licensure by examination for mental health counselors.

Marriage and Family Therapy – Minimum Educational Requirements

During the 2020 Legislative Session, s. 491.0045, F.S., was amended to revise the minimum requirements for licensure as a marriage and family therapist to include graduation from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The minimum requirement for licensure revision was effective July 1, 2020.

Currently, there are six universities in Florida with a marriage and family program that is not accredited by either COAMFTE or CACREP, they are: Carlos Albizu, Jacksonville University, Palm Beach Atlantic University, St. Thomas University, University of Miami, and University of Phoenix. As a result, students who are presently enrolled in a marriage and family program at one of the specified universities will not meet minimum requirements for Florida licensure upon graduation, although the programs did meet the requirements at the time of enrollment.⁷⁶

Mental Health Counseling – Minimum Education Requirements

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.⁷⁷ To qualify for licensure as a mental health counselor, an individual must:⁷⁸

- Have a master’s degree from a mental health counseling program accredited by the Council of the Accreditation of Counseling and Related Educational Programs, or a program related to the practice of mental health counseling that includes coursework and a 1,000-hour practicum, internship, or fieldwork of at least 60 semester hours that meet certain requirements;
- Have at least two years of post-master’s supervised clinical experience in mental health counseling;
- Have passed a theory and practice examination provided by the DOH; and
- Have passed an eight-hour course on Florida laws and rules approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.⁷⁹

Beginning July 1, 2025, an applicant must have a master’s degree from a program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours to apply for licensure.

⁷⁶ Department of Health, *Senate Bill 1568 Fiscal Analysis - Mental Health Professionals* (July 15, 2020) (on file with the Senate Committee on Health Policy.)

⁷⁷ Sections 491.003(6) and (9), F.S.

⁷⁸ Section 491.005(4), F.S.

⁷⁹ Section 491.005(4), F.S., and Fla. Admin. Code R. 64B4-3.0035, (2021).

Registered Interns – Licensed Professional on Premises

As documented in the DOH Annual Report and Long-Range Plan, Fiscal Year 2018-2019, there are 13,474 registered mental health interns in Florida. To qualify as a registered intern, the applicant must have completed a master's or doctoral degree in a clinical counseling field and a practicum including face-to-face psychotherapy (clinical-level therapy sessions) under direct supervision of a licensed practitioner. Some registered interns may also complete internships prior to graduation. Registered interns routinely provide counseling and psychotherapy including the use of methods to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, behavioral disorders, interpersonal relationships, and addictions.

Psychotherapy and counseling may be provided in a variety of settings. Registered interns provide services at facilities including, but not limited to:

- Crisis Centers – e.g. suicide prevention programs, shelters for abuse victims, child endangerment response;
- Inpatient and outpatient behavioral health centers;
- Private practice settings;
- Hospitals;
- Hospice; and
- Rehabilitation centers.

Registered interns are required to complete 1,500 face-to-face psychotherapy hours prior to applying for full licensure. The face-to-face psychotherapy hours must be completed within five years. Registered interns are a force multiplier to increase the number of educated and prepared mental health practitioners to manage growing mental health concerns and currently provide these services in a variety of face-to-face settings.

In accordance with s. 491.005, F.S., registered interns are required to have a licensed professional on the premises during counseling sessions. The licensed professional is not required to be in the counseling room observing the session, but must be on the premises to provide oversight, guidance, and evaluation. This provision ensures that registered interns have a licensed professional readily available, if necessary, during a therapeutic session and to restrict registered interns from operating an independent practice without direct oversight available.

In response to the COVID-19 pandemic, the board revised Rule 64B4-2.002 of the Florida Administrative Code, defining supervision, to authorize registered interns to provide face-to-face psychotherapy by electronic methods (telehealth) if the intern establishes a written telehealth protocol and safety plan with their qualified supervisor. The protocol must include a provision that the supervisor remain readily available during electronic therapy sessions and that the registered intern and their qualified supervisor have determined that providing face-to-face psychotherapy by electronic methods is not detrimental to the patient, is necessary to protect the health, safety, or welfare of the patient, and does not violate any existing statutes.⁸⁰

⁸⁰ *Id.*

Regional Accreditation

The minimum qualifications for licensure specified in s. 491.005(3), F.S., includes the requirement of completion of a graduate program from a “regionally accredited body recognized by the Commission on Recognition of Postsecondary Accreditation.” The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to “regional” and “national” accreditation. The letter specifies, “Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded.” Provisions implemented in 34 C.F.R. s. 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.⁸¹

Department Examination

The DOH has discontinued the practice of conducting examinations or purchasing examinations for licensure. Applicants are presently responsible for coordinating the completion of an examination with an approved vendor and submitting passing scores to the board to meet minimum qualifications. Current statutory references to the department collecting fees for examinations or conducting examinations is not consistent with current practice.⁸²

911 Public Safety Telecommunicator Certification

Chapter 401, F.S., relates to medical telecommunications and transportation. Part I of ch. 401, F.S., is specific to the state’s emergency telecommunication systems, administered by the Department of Management Services. Part II of ch. 401, F.S., is specific to the emergency medical services (EMS) grants program administered by the DOH.

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., is specific to medical transportation services and provides for the regulation of EMS by the DOH, including the licensure of EMS service entities, the certification of staff employed by those services, and the permitting of vehicles used by such staff—whether for basic life support (BLS), advanced life support (ALS), or air ambulance services (AAS). At present, the DOH is responsible for the licensure and oversight of more than 60,000 emergency medical technicians and paramedics, more than 270 advanced and basic life support agencies, and over 4,500 EMS vehicles.⁸³

Section 401.465, F.S., is specific to 911 public safety telecommunicator (PST) certification, as administered as part of the DOH EMS program. For purposes of that section, the following terms are defined:⁸⁴

- “911 public safety telecommunicator” means a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. However, the term does not include administrative support personnel, such as, but not limited to,

⁸¹ *Id.*

⁸² *Id.*

⁸³ See <http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html> (last visited March 24, 2021).

⁸⁴ Section 401.465(1), F.S.

those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.

- “Public safety telecommunication training program” means a 911 emergency public safety telecommunication training program that the DOH determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the Department of Education (DOE) and consists of not less than 232 hours.

Any person employed as a PST at a public safety answering point, as defined in s. 365.172(3), F.S.,⁸⁵ must be certified by the DOH. A public safety agency, as defined in s. 365.171(3)(d), F.S.,⁸⁶ may employ a PST for a period not to exceed 12 months if the trainee works under the direct supervision of a certified 911 public safety telecommunicator, as determined by rule of the DOH, and is enrolled in a PST training program. An applicant for certification or recertification as a PST must apply to the DOH under oath on DOH provided forms. The DOH establishes by rule educational and training criteria for the certification and recertification of PSTs, determines whether the applicant meets the statutory and rule requirements, and issues a certificate to any person who meets such requirements including those specific to training program completion, an oath of no addiction, an oath that there is no physical or mental impairment, application fee, application submission, and passage of a certification examination.⁸⁷

A PST certification expires automatically if not renewed at the end of the two-year period and may be renewed if the certificate holder meets the DOH-established qualifications. The DOH establishes by rule a procedure that requires 20 hours of training for the biennial renewal certification of PSTs. The DOH may suspend or revoke a certificate at any time if it determines that the certificate holder does not meet the applicable qualifications. There is a process by which a certificate holder may request that his or her certificate be placed on inactive status.⁸⁸

A person who was employed as a PST or a state-certified firefighter before April 1, 2012, must pass the examination approved by the DOH which measures the competency and proficiency in the subject material of the PST program, and upon passage of the examination, the completion of the PST training program is waived. In addition, the requirement for certification as a PST is waived for a person employed as a sworn, state-certified law enforcement officer, provided specified criteria are met.⁸⁹

The following PST related fees are specified in statute:

- Initial application for original certification: \$50;
- Examination fee, set by the DOH, not to exceed \$75;
- Biennial renewal certificate, set by the DOH, not to exceed \$50;
- Training program fee, set by the DOH, not to exceed \$50; and
- Duplicate, substitute or replacement certificate fee, set by the DOH, not to exceed \$25.

⁸⁵ Section 365.172 (3)(y), F.S., defines a “public safety answering point” as the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.

⁸⁶Section 365.171(3)(d), F.S., defines a “public safety agency” as a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

⁸⁷ Section 401.465(2), F.S.

⁸⁸ Id.

⁸⁹ Id.

Fees collected are deposited into the DOH EMS Trust Fund and used solely for administering this program.⁹⁰ The fees currently applied by the DOH are the maximum fees indicated above.⁹¹

The DOH has adopted three rules specific to its PST program responsibilities. These rules, which address PST certification, certification renewal, and PST course equivalency, were adopted in 2012.⁹² These rules not only link to the DOH forms and reference documents but also link to the relevant DOE documents, such as PST curriculum framework.

The DOH website has extensive details specific to the PST program and includes links to all applicable forms for individuals who are seeking to become certified or re-certified as a PST, including PST examination details, training program requirements, and fees. Training programs must follow the DOE Public Safety Telecommunication Curriculum Framework and consist of not less than 232 hours in order to be approved as a PST training program. The DOH uses a vendor, Prometric,⁹³ to administer the testing for PST candidates.⁹⁴

The DOH develops the learning objectives for the PST program, and these are reflected in the 142-page program study guide.⁹⁵ Until State Fiscal Year 2014-2015, the DOH learning objectives and the DOE curriculum framework included a requirement that PST training must include CPR training. In conjunction with the DOE and other stakeholders, the CPR element of required training was discontinued.⁹⁶

According to the DOH, there are currently 115 active approved PST training programs in the state.⁹⁷

Curriculum Framework for Public Safety Telecommunication

One of the divisions within the DOE is the Division of Adult and Community Education. Under this division is the DOE's Career & Technical Education (CTE) Programs section, which is responsible for developing and maintaining educational programs that prepare individuals for occupations important to Florida's economic development. These programs are organized into 17 different career clusters and are geared toward middle school, high school, district technical school, and Florida College System students throughout the state. Listed among the DOE's

⁹⁰ Section 401.465(3), F.S.

⁹¹ See the Department of Health, *911 Public Safety Telecommunicator Program*, available at <http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/index.html> (last visited March 24, 2021).

⁹² Fla. Adm. Code R. 64J-3 (2012).

⁹³ Prometric is a provider of technology-enabled testing and assessment solutions to many licensing and certification organizations, academic institutions, and government agencies.

⁹⁴ *Supra* note 9.

⁹⁵ See the Department of Health, *Florida 911 Public Safety Telecommunicator Study Guide*, available at <http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/documents/911-pst-studyguide-2017E4.pdf> (last visited March 24, 2021).

⁹⁶ E-mail from Department of Education to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Health Policy).

⁹⁷ E-mail from the Department of Health to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Health Policy).

Career Clusters and Programs is Law, Public Safety, and Security. Among the certificate programs is the public safety telecommunicator program.⁹⁸

The DOE Curriculum Framework for the PST program title indicates that the program offers a sequence of courses that:

- Provide coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in DOE's Law, Public Safety and Security career cluster;
- Provide technical skill proficiency, and;
- Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, occupation-specific skills, and knowledge of all aspects of the Law, Public Safety and Security career cluster.⁹⁹

Cardiopulmonary Resuscitation (CPR): First Aid

Cardiopulmonary resuscitation (CPR) is a lifesaving technique useful in many emergencies, including a heart attack or near drowning, in which someone's breathing or heartbeat has stopped. At its most basic, CPR is a technique which utilizes chest compressions when a patient has suffered from cardiac arrest. The American Heart Association recommends that everyone — untrained bystanders and medical personnel alike — begin CPR with chest compressions. CPR can keep oxygenated blood flowing to the brain and other vital organs until more definitive medical treatment can restore a normal heart rhythm. When the heart stops, the lack of oxygenated blood can cause brain damage in only a few minutes. A person may die within eight to 10 minutes.¹⁰⁰

Adult Cardiovascular Services

There are two levels of hospital program licensure for ACS. A Level I program is authorized to perform adult percutaneous cardiac intervention (PCI)¹⁰¹ without onsite cardiac surgery and a Level II program is authorized to perform PCI with onsite cardiac surgery.¹⁰²

For a hospital seeking a Level I ACS program license, it must demonstrate that, for the most recent 12-month period as reported to Agency for Health Care Administration (AHCA), it has:

- Provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations; or

⁹⁸ Department of Educations, *Career and Technical Education*, available at <http://www.fldoe.org/academics/career-adult-edu/career-tech-edu/> (last visited March 24, 2021).

⁹⁹ *Id.*

¹⁰⁰ See Mayo Clinic: *Cardiopulmonary resuscitation (CPR): First aid*, available at <https://www.mayoclinic.org/first-aid/first-aid-cpr/basics/art-20056600> (last visited March 24, 2021).

¹⁰¹ Percutaneous cardiac intervention (PCI), commonly known as coronary angioplasty or angioplasty, is a nonsurgical technique for treating obstructive coronary artery disease.

¹⁰² Section 395.1055(18)(a), F.S.

- Discharged or transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease;¹⁰³ and that it has formalized, written transfer agreement with a hospital that has a Level II program.¹⁰⁴

A hospital seeking a Level II program license, it must demonstrate that, for the most recent 12-month period as reported to AHCA, it has:

- Performed a minimum of 1,100 adult inpatient and outpatient cardiac catheterizations, of which at least 400 must be therapeutic catheterizations; or
- Discharged at least 800 patients with the principal diagnosis of ischemic heart disease.

The AHCA currently maintains a list on its website of hospitals with Level I and Level II ACS programs.¹⁰⁵

Local Health Councils

Section 408.033, F.S., establishes local health councils as a network of non-profit agencies that conduct regional health planning and implementation activities.

Each council's district is designated in s. 408.032, F.S. The Board of Directors of these councils are composed of health care providers, purchasers, and nongovernmental consumers. Members serve for two years and are eligible for reappointment. Local health councils develop district health plans containing data, analysis, and recommendations that relate to health care status and needs in the community. The recommendations are designed to improve access to health care, reduce disparities in health status, assist state and local governments in the development of sound and rational health care policies, and advocate on behalf of the underserved.¹⁰⁶

Local health councils:

- Develop a district area health plan that permits each local health council to develop strategies and set priorities for implementation based on its unique local health needs.
- Advise the AHCA on health care issues and resource allocations.
- Promote public awareness of community health needs, emphasizing health promotion and cost-effective health service selection.
- Collect data and conduct analyses and studies related to health care needs of the district, including the needs of medically indigent persons, and assist the agency and other state agencies in carrying out data collection activities that relate to the functions in this subsection.

¹⁰³ Heart condition caused by narrowed heart arteries. This is also called “coronary artery disease” and “coronary heart disease.”

¹⁰⁴ Section 408.0361(3)(b), F.S.

¹⁰⁵ Agency for Health Care Administration, *Hospital & Outpatient Services Unit, Reports, Cardiovascular – Level I and II ACS*, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/Reports.shtml (last visited March 24, 2021).

¹⁰⁶ Florida’s Local Health Councils, available at <http://www.floridahealth.gov/provider-and-partner-resources/health-councils/index.html> (last visited April 14, 2021)

- Monitor the onsite construction progress, if any, of certificate-of-need approved projects and report council findings to the agency on forms provided by the Agency for Health Care Administration.
- Advise and assist any regional planning councils within each district that have elected to address health issues in their strategic regional policy plans with the development of the health element of the plans to address the health goals and policies in the State Comprehensive Plan.
- Advise and assist local governments within each district on the development of an optional health plan element of the comprehensive plan, to assure compatibility with the health goals and policies in the State Comprehensive Plan and district health plan. To facilitate the implementation of this section, the local health council annually provide the local governments in its service area, upon request, with:
 - A copy and appropriate updates of the district health plan;
 - A report of hospital and nursing home utilization statistics for facilities within the local government jurisdiction; and
 - Applicable AHCA rules and calculated need methodologies for health facilities and services regulated under s. 408.033, F.S., for the district served by the local health council.
- Monitor and evaluate the adequacy, appropriateness, and effectiveness, within the district, of local, state, federal, and private funds distributed to meet the needs of the medically indigent and other underserved population groups.
- In conjunction with the DOH, plan for services at the local level for persons infected with the human immunodeficiency virus.
- Provide technical assistance to encourage and support activities by providers, purchasers, consumers, and local, regional, and state agencies in meeting the health care goals, objectives, and policies adopted by the local health council.
- Provide the AHCA with data required by rule for the review of certificate-of-need applications and the projection of need for health services and facilities in the district.¹⁰⁷

III. Effect of Proposed Changes:

Onsite Sewage Treatment and Disposal Systems

This bill amends and creates multiple sections of the Florida statutes related to the Department of Health (DOH) regulation of OSTDS. The bill:

- Amends s. 381.0061, F.S., as amended by s. 41 of ch. 2020-150, Laws of Florida to strike DOH's authority to assess fines related to OSTDS and septic tank contracting. The regulation of these programs will transfer to the Department of Environmental Protection (DEP) on July 1, 2021.¹⁰⁸
- Creates s. 381.00635, F.S., to authorize the DOH to issue an order requiring a correction to improper conditions of any private or public water system not covered or included in the Florida Safe Drinking Water Act¹⁰⁹ which constitutes a nuisance or menace to public health.

¹⁰⁷ See <https://www.flhealthplanning.org/services/> (last visited April 14, 2021).

¹⁰⁸ Chapter 2020-150, Laws of Fla.

¹⁰⁹ Part VI of ch. 403, F.S.

- Amends s. 381.0067, F.S., to eliminate DEP authority over public and private water systems not included in the Florida Safe Drinking Water Act, the regulation of which is retained by the DOH. Amends s. 381.0101, F.S., to retain the requirement that onsite evaluations of OSTDS be done by certified environmental health professionals.

Targeted Outreach for Pregnant Women

The bill amends s. 381.0045, F.S., to:

- Add pregnant women who are suffering from mental health problems to the list of outreach targets;
- Encourage high risk pregnant women to get tested for other sexually transmissible diseases, as well as HIV, per the DOH rule;
- Provide pregnant women with information on:
 - The need for antiretroviral medications, deleting reference to a single type of antiretroviral (AZT), for themselves and their newborn; and
 - How to access antiretroviral medications after discharge from the hospital;
- Link women to mental health services; and
- Require additional follow up for HIV-exposed newborns to determine final HIV status and ensure continued linkages to care, if needed.

Telehealth to Provide Services

The bill amends s. 456.47(2)(6), F.S., to remove the prohibition on prescribing controlled substances through telehealth. This section authorizes a telehealth provider, acting within the scope of his or her practice, to prescribe controlled substances listed in Schedule III, Schedule IV, and Schedule V of s. 893.03, F.S. The bill also authorizes a telehealth provider to prescribe Schedule II controlled substances if prescribed for any of the following:

- The treatment of a psychiatric disorder.
- Inpatient treatment at a hospital licensed under ch. 395, F.S.
- The treatment of a patient receiving hospice services.
- The treatment of a resident of a nursing home facility.
- The treatment of a post-operative patient's acute pain resulting from surgery within 14 days after the surgery has been performed, in accordance with certain prescription supply requirements.

The telehealth provider must also comply with ch. 893, F.S., by consulting and reporting to the Prescription Drug Monitoring Program database.

Chiropractic Licensure

The bill amends s. 460.406, F.S., to delete references to the term "regional" and replaces it with the term "institutional" to conform to the U.S. Department of Education accreditation nomenclature for approving educational institutions.

Dentistry

The bill amends ss. 466.028 and 466.0285, F.S., to provide that a dentist may be employed by a hospital and adds children's hospitals licensed as of January 1, 2021, to the list of entities that may employ a dentist or dental hygienist in the operation of a dental office or that may control specified aspects of a dental practice.

Local Health Councils

The bill amends s. 408.033, F.S., to authorize local health councils to collect utilization data from licensed hospitals within their respective local health council districts for a specified purpose.

Pharmacy

The bill amends s. 465.1893, F.S., to provide additional long-acting medications pharmacists may administer under certain circumstances and revising requirements for a continuing education course such pharmacists must complete. This adds naltrexone that is an Intramuscular extended release medication approved by the Food and Drug Administration (FDA) to treat both opioid use disorder (OUD) and alcohol use disorder (AUD) as a medication-assisted treatment (MAT) option.

Nursing

The bill amends s. 464.008, F.S., deleting a requirement that certain nursing program graduates complete a specified preparatory course; and makes technical changes to s. 464.018, F.S., disciplinary actions.

911 Public Safety Telecommunicator Certification

The bill creates s. 395.3042, F.S., to require:

- The DOH to send a list of providers of Level I and Level II ACS to the medical director of each licensed EMS provider in the state by June 1 of each year.
- The DOH to develop a sample heart attack-triage assessment tool, post the tool on its webpage, and provide a copy of the tool to each licensed EMS provider.
- Each licensed EMS provider to use a heart attack-triage assessment tool that is substantially similar to the sample triage assessment tool provided by the DOH.
- The medical director of each licensed EMS provider to develop and implement assessment, treatment, and transport-destination protocols for heart attack patients, with the intent to assess and treat patients and transport them to the most appropriate hospital. Such protocols must include the development and implementation of a plan for the triage and transport of patients with acute heart attack symptoms.

The bill also amends s. 401.465, F.S., to define “telecommunicator cardiopulmonary resuscitation training” to mean specific training and continuing education that is evidence-based and uses nationally accepted guidelines for high-quality telecommunicator cardiopulmonary resuscitation, including for the recognition of out-of-hospital cardiac arrest over the telephone and the delivery of telephonic instructions for treating such cardiac arrest and performing compression-only

cardiopulmonary resuscitation. The bill adds telecommunicator cardiopulmonary resuscitation training to the list of training that each PST who takes telephone calls and provides dispatch functions for emergency medical conditions must take every two years.

Midwifery

The bill:

- Amends the definition of “preceptor” to clearly define that role in the midwifery education process. Specifically, it explicitly states that a preceptor may not supervise an individual as a midwifery student unless the student has been enrolled in an approved midwifery program;
- Defines “pre-licensure course” to mean a course of study, offered by an approved midwifery program and approved by the DOH, which an applicant for licensure must complete before a license may be issued and which provides instruction in the laws and rules of this state and demonstrates the student’s competency to practice midwifery;
- Clarifies language to promote consistency in terminology and that midwifery programs must incorporate all required standards, guidelines, and education objectives;
- Clarifies that both of the following may be required for admission to a midwifery program:
 - A high school diploma or the equivalent; and
 - Three college-level credits in math and English or demonstration of competency in communication and computation.
- Requires that clinical training include all of the following:
 - Care for 50 women in each of the prenatal, intrapartal, and postpartal periods under the supervision of a preceptor, and
 - Observation of an additional 25 women in the intrapartal period before qualifying for a license.
 - Training in a hospital and alternate birth settings or both; and
 - Assessment and differentiation between a high risk and low risk pregnancy.
- Amends s. 467.011, F.S., to require the following for the issuance of a midwifery license:
 - Application and fee, pursuant to 467.0135, F.S.;
 - Graduation from:
 - An approved midwifery program;
 - A medical or midwifery program offered in another jurisdiction whose graduation requirements were equivalent to or exceeded those required in Florida;
 - Completion of a pre-licensure course offered by an approved midwifery program; and
 - A passing score on the examination specified by the DOH.
- Amends s. 467.0125, F.S., to repeal the abbreviated oral examination to determine the applicant’s competency without a written examination for temporary certificates and clarifies criteria for obtaining a license by endorsement and temporary certificate to practice in areas of critical need. The bill does not define “areas of critical need” directly for temporary certificates, but requires the applicant to:
 - Specify that he or she will only practice in one or more of the following areas:
 - A county health department;
 - A correctional facility;
 - A Department of Veterans’ Affairs clinic;
 - A community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Service Act; or

- Any other agency or institution that is approved by the State Surgeon General that provides health care to meet the needs of an underserved populations in this state; and
 - Practice only under the supervision of a physician, an APRN certified nurse midwife, or a midwife licensed under ch. 467, F.S., who has a minimum of three years professional experience; and
 - Voluntarily relinquish the temporary certificate, or report a new practice area of critical need to the DOH, if his or her current practice area ceases to be an area of critical need.
- Amends s. 467.205, F.S., to update the DOH’s approval process of midwifery programs to allow midwifery programs to be provisionally approved for five years. This conforms to the five-year period provisional licensure period the Department of Education’s Commission for Independent Education uses when seeking accreditation status. For private institutions, demonstrates its accreditation by a member of the Council for Higher Education Accreditation, or an accrediting agency approved by the United States Department of Education. The DOH will be able to give provisional approval to a new program who has met all requirements except for showing their students have an 80-percent passage rate on the national exam. Programs provisionally approved will have five years to demonstrate the required exam approval rate after they are preliminary approved. This time period should allow completion of the three-year education program for at least one cohort of students, and for those students to take the exam before the DOH tries to determine the passing rate.¹¹⁰

Practice of Orthotics, Prosthetics, and Pedorthics

The bill amends part XIV of ch. 468, F.S., to update the statute and reflect current procedures for applicants to obtain a criminal history check and the method of transmission to the DOH for review.

The bill deletes references to the term “regionally accredited” and replaces it with the term “institutionally accredited” or simply references the programmatic accrediting body to conform to the United States Department of Education accreditation nomenclature for approving educational institutions.¹¹¹

Clinical Lab personnel

The bill amends s. 483.801, F.S., to exempt persons performing alternate-site testing within a hospital or offsite emergency department of a hospital and amends s. 483.824, F.S., to delete the reference to the term “regionally” in regard to the accredited institution that a clinical laboratory director is required to hold a doctoral degree in a chemical, physical, or biological science from.

Psychologists

The bill amends ss. 490.003, 490.005, 490.0051, and 491.005, F.S., to clarify the educational requirements for psychologists applying for licensure by examination or endorsement. Under the bill, psychologists may obtain a doctoral degree from:

¹¹⁰ Department of Health, *Senate Bill 1568 Fiscal Analysis - Midwifery* (July 16, 2020) (on file with the Senate Committee on Health Policy.)

¹¹¹ Department of Health, *Senate Bill 1568 Fiscal Analysis - Practice of Orthotics, Prosthetics, and Pedorthics* (July 15, 2020) (on file with the Senate Committee on Health Policy.)

- An American Psychological Association (APA) accredited program; or
- An institution accredited from an agency recognized by the United States Department of Education or Association of Universities and colleges of Canada.

Mental Health Counselors

The bill amends 491.005, to:

- Authorize programs not yet accredited by COAMFTE, CACREP, the Masters in Psychology and Counseling Accreditation Council or equivalent accrediting body a period of five years to become accredited;
- Authorize a licensed mental health professional to be available by phone or other electronic methods when clinical services are being provided by a registered intern by telehealth methods;
- Delete references to the term “regional” in s. 491.005(3), F.S., and replaces it with the term “institutional” to conform with the U.S. Department of Education accreditation nomenclature for approving educational institutions; and
- Delete current statutory references to the DOH collecting fees for examinations or conducting examinations.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health (DOH) Division of Medical Quality Assurance (MQA) may experience an increase in workload associated with additional complaints if a midwife holding a temporary certificate fails to comply with the provisions of this bill. It is anticipated that the impact will be minimal and can be absorbed with current resources.

The DOH MQA will experience a non-recurring workload associated with updating the online application and websites. The License and Enforcement Database System (LEIDS) must be updated and the Versa Online (on-line application) system will need to be modified. Current resources are adequate to absorb.

The DOH may have an indeterminate negative fiscal impact related to enforcing new training requirements for public safety telecommunicators; however, it is anticipated that current resources are adequate to absorb.¹¹²

The department MQA will incur non-recurring cost for rulemaking, which current budget authority is adequate to absorb.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0045, 381.0061, 381.0067, 381.0101, 401.465, 408.033, 456.47, 460.406, 464.008, 464.018, 465.1893, 466.028, 466.0285, 467.003, 467.009, 467.011, 467.0125, 467.205, 468.803, 483.801, 483.824, 490.003, 490.005, 490.0051, and 491.005.

This bill creates the following sections of the Florida Statutes: 381.00635 and 395.3042.

¹¹² Department of Health, Senate Bill 1568 Fiscal Analysis (Mar, 12, 2021) (on file with the Senate Committee on Health Policy.)

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 April 15, 2021:

The committee substitute:

- Authorizes local health councils to collect utilization data from licensed hospitals within their respective local health council districts for a specified purpose.
- Deletes a requirement that certain nursing program graduates complete a specified preparatory course.
- Provides long-acting medications pharmacists may administer under certain circumstances and revising requirements for a continuing education course such pharmacists must complete.
- Establishes requirements for the triage and transportation of heart attack victims to adult cardiovascular services (ACS) providers.
- Authorizes a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule III, IV, and V controlled substances through telehealth.
- Authorizes a telehealth provider, practicing in a manner consistent with his or her scope of practice, to prescribe Schedule II controlled substances under certain circumstances.
- Requires each 911 public safety telecommunicator to receive telecommunicator cardiopulmonary resuscitation training that is defined in the bill, every two years and establishes a procedure to monitor adherence to such training and allows the DOH to adjust state grant or shared revenue funding to a public safety agency based on the public safety agency's adherence to the training requirements.

CS by Health Policy on March 31, 2021:

The CS:

- Removes the underlying bill's revisions to medical marijuana statutes;
- Makes technical corrections to the underlying bill's provisions relating to onsite sewage treatment and disposal systems;
- Provides that a dentist may be employed by a hospital and adds children's hospitals licensed as of January 1, 2021, to the list of entities that may employ a dentist or dental hygienist in the operation of a dental office or that may control specified aspects of a dental practice;
- Amends s. 467.205, F.S., to add an accrediting agency approved by the United States Department of Education to those agencies that may accredit private midwifery programs;
- Amends s. 483.801, F.S., to exempt persons performing alternate-site testing within a hospital or off-site emergency department from statutory provisions and the Department of Health regulations pertaining to clinical laboratories and clinical laboratory personnel; and
- Provides an additional accreditation, plus other equivalent accreditations, that a master's degree program may have in order to qualify an applicant for a mental health counseling license, beginning July 1, 2025.

B. Amendments:

None.

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



165628

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 131 and 132

insert:

Section 4. Paragraph (1) of subsection (4) of section 381.0065, Florida Statutes, as amended by section 7 of chapter 2020-150, Laws of Florida, is amended to read

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not



11 construct, repair, modify, abandon, or operate an onsite sewage
12 treatment and disposal system without first obtaining a permit
13 approved by the department. The department may issue permits to
14 carry out this section, except that the issuance of a permit for
15 work seaward of the coastal construction control line
16 established under s. 161.053 shall be contingent upon receipt of
17 any required coastal construction control line permit from the
18 department. A construction permit is valid for 18 months after
19 the date of issuance and may be extended by the department for
20 one 90-day period under rules adopted by the department. A
21 repair permit is valid for 90 days after the date of issuance.
22 An operating permit must be obtained before the use of any
23 aerobic treatment unit or if the establishment generates
24 commercial waste. Buildings or establishments that use an
25 aerobic treatment unit or generate commercial waste shall be
26 inspected by the department at least annually to assure
27 compliance with the terms of the operating permit. The operating
28 permit for a commercial wastewater system is valid for 1 year
29 after the date of issuance and must be renewed annually. The
30 operating permit for an aerobic treatment unit is valid for 2
31 years after the date of issuance and must be renewed every 2
32 years. If all information pertaining to the siting, location,
33 and installation conditions or repair of an onsite sewage
34 treatment and disposal system remains the same, a construction
35 or repair permit for the onsite sewage treatment and disposal
36 system may be transferred to another person, if the transferee
37 files, within 60 days after the transfer of ownership, an
38 amended application providing all corrected information and
39 proof of ownership of the property. A fee is not associated with



165628

40 the processing of this supplemental information. A person may
41 not contract to construct, modify, alter, repair, service,
42 abandon, or maintain any portion of an onsite sewage treatment
43 and disposal system without being registered under part III of
44 chapter 489. A property owner who personally performs
45 construction, maintenance, or repairs to a system serving his or
46 her own owner-occupied single-family residence is exempt from
47 registration requirements for performing such construction,
48 maintenance, or repairs on that residence, but is subject to all
49 permitting requirements. A municipality or political subdivision
50 of the state may not issue a building or plumbing permit for any
51 building that requires the use of an onsite sewage treatment and
52 disposal system unless the owner or builder has received a
53 construction permit for such system from the department. A
54 building or structure may not be occupied and a municipality,
55 political subdivision, or any state or federal agency may not
56 authorize occupancy until the department approves the final
57 installation of the onsite sewage treatment and disposal system.
58 A municipality or political subdivision of the state may not
59 approve any change in occupancy or tenancy of a building that
60 uses an onsite sewage treatment and disposal system until the
61 department has reviewed the use of the system with the proposed
62 change, approved the change, and amended the operating permit.

63 (1) For the Florida Keys, the department shall adopt a
64 special rule for the construction, installation, modification,
65 operation, repair, maintenance, and performance of onsite sewage
66 treatment and disposal systems which considers the unique soil
67 conditions and water table elevations, densities, and setback
68 requirements. On lots where a setback distance of 75 feet from



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69 surface waters, saltmarsh, and buttonwood association habitat
70 areas cannot be met, an injection well, approved and permitted
71 by the department, may be used for disposal of effluent from
72 onsite sewage treatment and disposal systems. The following
73 additional requirements apply to onsite sewage treatment and
74 disposal systems in Monroe County:

75 1. The county, each municipality, and those special
76 districts established for the purpose of the collection,
77 transmission, treatment, or disposal of sewage shall ensure, in
78 accordance with the specific schedules adopted by the
79 Administration Commission under s. 380.0552, the completion of
80 onsite sewage treatment and disposal system upgrades to meet the
81 requirements of this paragraph.

82 2. Onsite sewage treatment and disposal systems must cease
83 discharge by December 31, 2015, or must comply with department
84 rules and provide the level of treatment which, on a permitted
85 annual average basis, produces an effluent that contains no more
86 than the following concentrations:

87 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

88 b. Suspended Solids of 10 mg/l.

89 c. Total Nitrogen, expressed as N, of 10 mg/l or a
90 reduction in nitrogen of at least 70 percent. A system that has
91 been tested and certified to reduce nitrogen concentrations by
92 at least 70 percent shall be deemed to be in compliance with
93 this standard.

94 d. Total Phosphorus, expressed as P, of 1 mg/l.

95

96 In addition, onsite sewage treatment and disposal systems
97 discharging to an injection well must provide basic disinfection



165628

98 as defined by department rule.

99 3. In areas not scheduled to be served by a central
100 sewerage system, onsite sewage treatment and disposal systems
101 must, by December 31, 2015, comply with department rules and
102 provide the level of treatment described in subparagraph 2.

103 4. In areas scheduled to be served by a central sewerage
104 system by December 31, 2015, if the property owner has paid a
105 connection fee or assessment for connection to the central
106 sewerage system, the property owner may install a holding tank
107 with a high water alarm or an onsite sewage treatment and
108 disposal system that meets the following minimum standards:

109 a. The existing tanks must be pumped and inspected and
110 certified as being watertight and free of defects in accordance
111 with department rule; and

112 b. A sand-lined drainfield or injection well in accordance
113 with department rule must be installed.

114 5. Onsite sewage treatment and disposal systems must be
115 monitored for total nitrogen and total phosphorus concentrations
116 as required by department rule.

117 6. The department shall enforce proper installation,
118 operation, and maintenance of onsite sewage treatment and
119 disposal systems pursuant to this chapter, including ensuring
120 that the appropriate level of treatment described in
121 subparagraph 2. is met.

122 7. The authority of a local government, including a special
123 district, to mandate connection of an onsite sewage treatment
124 and disposal system is governed by s. 4, chapter 99-395, Laws of
125 Florida.

126 8. Notwithstanding any other law, an onsite sewage



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127 treatment and disposal system installed after July 1, 2010, in
128 unincorporated Monroe County, excluding special wastewater
129 districts, that complies with the standards in subparagraph 2.
130 is not required to connect to a central sewerage system until
131 December 31, 2020.

132 9. The department may grant a waiver from the timeframe
133 specified in subparagraph 3. to the owner of an individual
134 septic system to install a new onsite sewage treatment and
135 disposal system and allow the owner to continue using his or her
136 current septic tank, provided that the individual septic systems
137 were identified in the original master plan and approved by the
138 permitting entities for the central sewerage system as being
139 excluded for service; the septic tanks are operated and
140 maintained on an annual basis; and when the owner's septic tank
141 is found to be failing, the new onsite sewage treatment and
142 disposal system as required by subparagraph 1. must be commenced
143 within 1 year.

144
145 ===== T I T L E A M E N D M E N T =====

146 And the title is amended as follows:

147 Delete line 23

148 and insert:

149 systems; amending s. 381.0065, F.S., as amended by s.
150 7 of chapter 2020-150, Laws of Florida; authorizing
151 the department to grant certain septic tank owners
152 waivers from specified requirements for onsite sewage
153 treatment and disposal systems under certain
154 circumstances; amending s. 381.0067, F.S.; conforming



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233

insert:

Section 6. Section 395.3042, Florida Statutes, is created to read:

395.3042 Emergency medical services providers; triage and transportation of heart attack victims to an adult cardiovascular services provider.—

(1) By June 1 of each year, the department shall send a



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11 list of providers of Level I and Level II adult cardiovascular
12 services to the medical director of each licensed emergency
13 medical services provider in this state.

14 (2) The department shall develop a sample heart attack-
15 triage assessment tool. The department shall post this sample
16 assessment tool on its website and provide a copy of the
17 assessment tool to each licensed emergency medical services
18 provider. Each licensed emergency medical services provider
19 shall use a heart attack-triage assessment tool that is
20 substantially similar to the sample heart attack-triage
21 assessment tool provided by the department.

22 (3) The medical director of each licensed emergency medical
23 services provider shall develop and implement assessment,
24 treatment, and transport-destination protocols for heart attack
25 patients with the intent to assess, treat, and transport heart
26 attack patients to the most appropriate hospital. Such protocols
27 must include the development and implementation of plans for the
28 triage and transport of patients with acute heart attack
29 symptoms.

30 (4) Each emergency medical services provider licensed under
31 chapter 401 must comply with this section.

32 Section 7. Present subsections (3) and (4) of section
33 401.465, Florida Statutes, are redesignated as subsections (4)
34 and (5), respectively, paragraph (d) is added to subsection (1)
35 and a new subsection (3) is added to that section, and
36 paragraphs (d) and (j) of subsection (2) of that section are
37 amended, to read:

38 401.465 911 public safety telecommunicator certification.-

39 (1) DEFINITIONS.-As used in this section, the term:



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40 (d) "Telecommunicator cardiopulmonary resuscitation
41 training" means specific training, including continuous
42 education, that is evidence based and contains nationally
43 accepted guidelines for high-quality telecommunicator
44 cardiopulmonary resuscitation with the recognition of out-of-
45 hospital cardiac arrest over the telephone and the delivery of
46 telephonic instructions for treating cardiac arrest and
47 performing compression-only cardiopulmonary resuscitation.

48 (2) PERSONNEL; STANDARDS AND CERTIFICATION.—

49 (d) The department shall determine whether the applicant
50 meets the requirements specified in this section and in rules of
51 the department and shall issue a certificate to any person who
52 meets such requirements. Such requirements must include the
53 following:

54 1. Completion of an appropriate 911 public safety
55 telecommunication training program;

56 2. Certification under oath that the applicant is not
57 addicted to alcohol or any controlled substance;

58 3. Certification under oath that the applicant is free from
59 any physical or mental defect or disease that might impair the
60 applicant's ability to perform his or her duties;

61 4. Submission of the application fee prescribed in
62 subsection (4) ~~(3)~~;

63 5. Submission of a completed application to the department
64 which indicates compliance with subparagraphs 1., 2., and 3.;
65 and

66 6. Effective October 1, 2012, passage of an examination
67 approved by the department which measures the applicant's
68 competency and proficiency in the subject material of the public



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69 safety telecommunication training program.

70 (j)1. The requirement for certification as a 911 public
71 safety telecommunicator is waived for a person employed as a
72 sworn state-certified law enforcement officer, provided the
73 officer:

74 a. Is selected by his or her chief executive to perform as
75 a 911 public safety telecommunicator;

76 b. Performs as a 911 public safety telecommunicator on an
77 occasional or limited basis; and

78 c. Passes the department-approved examination that measures
79 the competency and proficiency of an applicant in the subject
80 material comprising the public safety telecommunication program.

81 2. A sworn state-certified law enforcement officer who
82 fails an examination taken under subparagraph 1. must take a
83 department-approved public safety telecommunication training
84 program prior to retaking the examination.

85 3. The testing required under this paragraph is exempt from
86 the examination fee required under subsection (4) ~~(3)~~.

87 (3) TELECOMMUNICATOR CARDIOPULMONARY RESUSCITATION
88 TRAINING.—In addition to the certification and recertification
89 requirements imposed by this section, 911 public safety
90 telecommunicators who take telephone calls and provide dispatch
91 functions for emergency medical conditions also shall receive
92 telecommunicator cardiopulmonary resuscitation training every 2
93 years.

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete line 28



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98 and insert:

99 changes; creating s. 395.3042, F.S.; requiring the
100 department to send a list of certain providers of
101 adult cardiovascular services to the medical directors
102 of licensed emergency medical services providers by a
103 specified date each year; requiring the department to
104 develop a sample heart attack-triage assessment tool;
105 requiring the department to post the sample assessment
106 tool on its website and provide a copy of it to all
107 licensed emergency medical services providers;
108 requiring such providers to use an assessment tool
109 substantially similar to the one developed by the
110 department; requiring the medical director of each
111 licensed emergency medical services provider to
112 develop and implement certain protocols for heart
113 attack patients; providing requirements for such
114 protocols; requiring licensed emergency medical
115 services providers to comply with certain provisions;
116 amending s. 401.465, F.S.; defining the term
117 "telecommunicator cardiopulmonary resuscitation
118 training"; requiring certain 911 public safety
119 telecommunicators to receive biannual telecommunicator
120 cardiopulmonary resuscitation training; amending s.
121 460.406, F.S.; revising



328528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233

insert:

Section 6. Paragraph (h) is added to subsection (1) of section 408.033, Florida Statutes, to read:

408.033 Local and state health planning.—

(1) LOCAL HEALTH COUNCILS.—

(h) For the purpose of performing their duties under this section, local health councils may collect utilization data from



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11 each hospital licensed under chapter 395 which is located within
12 their respective local health council districts.

13

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

15 And the title is amended as follows:

16 Delete line 28

17 and insert:

18 changes; amending s. 408.033, F.S.; authorizing local
19 health councils to collect utilization data from
20 licensed hospitals within their respective local
21 health council districts for a specified purpose;
22 amending s. 460.406, F.S.; revising



649510

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 311 and 312

insert:

Section 7. Subsection (4) of section 464.008, Florida Statutes, is amended to read:

464.008 Licensure by examination.-

~~(4) If an applicant who graduates from an approved program does not take the licensure examination within 6 months after graduation, he or she must enroll in and successfully complete a~~



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11 ~~board approved licensure examination preparatory course. The~~
12 ~~applicant is responsible for all costs associated with the~~
13 ~~course and may not use state or federal financial aid for such~~
14 ~~costs. The board shall by rule establish guidelines for~~
15 ~~licensure examination preparatory courses.~~

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 30

20 and insert:

21 licensing; amending s. 464.008, F.S.; deleting a
22 requirement that certain nursing program graduates
23 complete a specified preparatory course; amending s.
24 464.018, F.S.; revising grounds



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 323 and 324

insert:

Section 8. Section 465.1893, Florida Statutes, is amended to read:

465.1893 Administration of long-acting ~~antipsychotic~~ medication by injection.—

(1)(a) A pharmacist, at the direction of a physician licensed under chapter 458 or chapter 459, may administer a



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11 long-acting antipsychotic medication or an extended-release
12 medication indicated to treat opioid use disorder, alcohol use
13 disorder, or other substance use disorders or dependencies,
14 including, but not limited to, buprenorphine, naltrexone, or
15 other medications that have been approved by the United States
16 Food and Drug Administration by injection to a patient if the
17 pharmacist:

18 1. Is authorized by and acting within the framework of an
19 established protocol with the prescribing physician.

20 2. Practices at a facility that accommodates privacy for
21 nondeltoid injections and conforms with state rules and
22 regulations regarding the appropriate and safe disposal of
23 medication and medical waste.

24 3. Has completed the course required under subsection (2).

25 (b) A separate prescription from a physician is required
26 for each injection administered by a pharmacist under this
27 subsection.

28 (2) (a) A pharmacist seeking to administer a ~~long-acting~~
29 ~~antipsychotic medication~~ described in paragraph (1) (a) by
30 ~~injection~~ must complete an 8-hour continuing education course
31 offered by:

32 1. A statewide professional association of physicians in
33 this state accredited to provide educational activities
34 designated for the American Medical Association Physician's
35 Recognition Award (AMA PRA) Category 1 Credit or the American
36 Osteopathic Association (AOA) Category 1-A continuing medical
37 education (CME) credit; and

38 2. A statewide association of pharmacists.

39 (b) The course may be offered in a distance learning format



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40 and must be included in the 30 hours of continuing professional
41 pharmaceutical education required under s. 465.009(1). The
42 course shall have a curriculum of instruction that concerns the
43 safe and effective administration of behavioral health,
44 addiction, and antipsychotic medications by injection,
45 including, but not limited to, potential allergic reactions to
46 such medications.

47

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

49 And the title is amended as follows:

50 Between lines 31 and 32

51 insert:

52 amending s. 465.1893, F.S.; providing additional long-
53 acting medications pharmacists may administer under
54 certain circumstances; revising requirements for a
55 continuing education course such pharmacists must
56 complete;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233

insert:

Section 6. Paragraph (c) of subsection (2) of section 456.47, Florida Statutes, is amended to read:

456.47 Use of telehealth to provide services.—

(2) PRACTICE STANDARDS.—

(c) A telehealth provider, acting within the scope of his or her practice and in accordance with chapter 893, may ~~not~~ use



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11 telehealth to prescribe a controlled substance listed in
12 Schedule III, Schedule IV, or Schedule V of s. 893.03 and may
13 use telehealth to prescribe a controlled substance listed in
14 Schedule II of s. 893.03 if ~~unless~~ the controlled substance is
15 prescribed for the following:

- 16 1. The treatment of a psychiatric disorder;
- 17 2. Inpatient treatment at a hospital licensed under chapter
18 395;
- 19 3. The treatment of a patient receiving hospice services as
20 defined in s. 400.601; ~~or~~
- 21 4. The treatment of a resident of a nursing home facility
22 as defined in s. 400.021; or
- 23 5. The treatment of a post-operative patient's acute pain
24 resulting from surgery within 14 days after the surgery has been
25 performed, in accordance with the prescription supply
26 requirements of s. 456.44(5).

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete line 28

31 and insert:

32 changes; amending s. 456.47, F.S.; authorizing
33 telehealth providers to prescribe specified controlled
34 substances through telehealth under certain
35 circumstances; amending s. 460.406, F.S.; revising

By the Committee on Health Policy; and Senator Rodriguez

588-03618-21

20211568c1

1 A bill to be entitled
 2 An act relating to the Department of Health; amending
 3 s. 381.0045, F.S.; revising the purpose of the
 4 department's targeted outreach program for certain
 5 pregnant women; requiring the department to encourage
 6 high-risk pregnant women of unknown status to be
 7 tested for sexually transmissible diseases; requiring
 8 the department to provide specified information to
 9 pregnant women who have human immunodeficiency virus
 10 (HIV); requiring the department to link women with
 11 mental health services when available; requiring the
 12 department to educate pregnant women who have HIV on
 13 certain information; requiring the department to
 14 provide, for a specified purpose, continued oversight
 15 of newborns exposed to HIV; amending s. 381.0061,
 16 F.S., as amended by s. 41 of chapter 2020-150, Laws of
 17 Florida; revising provisions related to administrative
 18 fines for violations relating to onsite sewage
 19 treatment and disposal systems and septic tank
 20 contracting; creating s. 381.00635, F.S.; transferring
 21 provisions from s. 381.0067, F.S., relating to
 22 corrective orders for private and certain public water
 23 systems; amending s. 381.0067, F.S.; conforming
 24 provisions to changes made by the act; amending s.
 25 381.0101, F.S.; revising certification requirements
 26 for persons performing evaluations of onsite sewage
 27 treatment and disposal systems; making technical
 28 changes; amending s. 460.406, F.S.; revising
 29 provisions related to chiropractic physician

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

588-03618-21

20211568c1

30 licensing; amending s. 464.018, F.S.; revising grounds
 31 for disciplinary action against licensed nurses;
 32 amending s. 466.028, F.S.; revising grounds for
 33 disciplinary action by the Board of Dentistry;
 34 amending s. 466.0285, F.S.; exempting certain
 35 specialty hospitals from prohibitions relating to the
 36 employment of dentists and dental hygienists and the
 37 control of dental equipment and materials by
 38 nondentists; exempting such hospitals from a
 39 prohibition on nondentists entering into certain
 40 agreements with dentists or dental hygienists; making
 41 technical changes; amending s. 467.003, F.S.; revising
 42 and defining terms; amending s. 467.009, F.S.;
 43 revising provisions related to approved midwifery
 44 programs; amending s. 467.011, F.S.; revising
 45 provisions relating to licensure of midwives; amending
 46 s. 467.0125, F.S.; revising provisions relating to
 47 licensure by endorsement of midwives; revising
 48 requirements for temporary certificates to practice
 49 midwifery in this state; amending s. 467.205, F.S.;
 50 revising provisions relating to approval, continued
 51 monitoring, probationary status, provisional approval,
 52 and approval rescission of midwifery programs;
 53 amending s. 468.803, F.S.; revising provisions related
 54 to orthotist and prosthetist registration,
 55 examination, and licensing; amending s. 483.801, F.S.;
 56 exempting certain persons from clinical laboratory
 57 personnel regulations; amending s. 483.824, F.S.;
 58 revising educational requirements for clinical

Page 2 of 44

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

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20211568c1

59 laboratory directors; amending s. 490.003, F.S.;

60 defining the terms "doctoral degree from an American

61 Psychological Association accredited program" and

62 "doctoral degree in psychology"; amending ss. 490.005

63 and 490.0051, F.S.; revising education requirements

64 for psychologist licensing and provisional licensing,

65 respectively; amending s. 491.005, F.S.; revising

66 licensing requirements for clinical social workers,

67 marriage and family therapists, and mental health

68 counselors; providing an effective date.

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

71

72 Section 1. Subsections (2) and (3) of section 381.0045,

73 Florida Statutes, are amended to read:

74 381.0045 Targeted outreach for pregnant women.—

75 (2) It is the purpose of this section to establish a

76 targeted outreach program for high-risk pregnant women who may

77 not seek proper prenatal care, who suffer from substance abuse

78 or mental health problems, or who have ~~are infected with~~ human

79 immunodeficiency virus (HIV), and to provide these women with

80 links to much needed services and information.

81 (3) The department shall:

82 (a) Conduct outreach programs through contracts with,

83 grants to, or other working relationships with persons or

84 entities where the target population is likely to be found.

85 (b) Provide outreach that is peer-based, culturally

86 sensitive, and performed in a nonjudgmental manner.

87 (c) Encourage high-risk pregnant women of unknown status to

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

588-03618-21

20211568c1

88 be tested for HIV and other sexually transmissible diseases as

89 specified by department rule.

90 (d) Educate women not receiving prenatal care as to the

91 benefits of such care.

92 (e) Provide ~~HIV infected~~ pregnant women who have HIV with

93 information on the need for antiretroviral medication for their

94 newborn, their medication options, and how they can access the

95 medication after their discharge from the hospital ~~so they can~~

96 ~~make an informed decision about the use of Zidovudine (AZT)~~.

97 (f) Link women with substance abuse treatment and mental

98 health services, when available, and act as a liaison with

99 Healthy Start coalitions, children's medical services, Ryan

100 White-funded providers, and other services of the Department of

101 Health.

102 (g) Educate pregnant women who have HIV on the importance

103 of engaging in and continuing HIV care.

104 (h) Provide continued oversight of ~~to~~ HIV-exposed newborns

105 exposed to HIV to determine the newborn's final HIV status and

106 ensure continued linkage to care if the newborn is diagnosed

107 with HIV.

108 Section 2. Subsection (1) of section 381.0061, Florida

109 Statutes, as amended by section 41 of chapter 2020-150, Laws of

110 Florida, is amended to read:

111 381.0061 Administrative fines.—

112 (1) In addition to any administrative action authorized by

113 chapter 120 or by other law, the department may impose a fine,

114 which may not exceed \$500 for each violation, for a violation of

115 s. 381.006(15), ~~s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part~~

116 ~~III of chapter 489, for a violation of any rule adopted under~~

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

588-03618-21

20211568c1

117 this chapter, or ~~for a violation of~~ chapter 386. Notice of
 118 intent to impose such fine shall be given by the department to
 119 the alleged violator. Each day that a violation continues may
 120 constitute a separate violation.

121 Section 3. Section 381.00635, Florida Statutes, is created
 122 to read:

123 381.00635 Corrective orders; private and certain public
 124 water systems.~~When the department or its agents, through~~
 125 investigation, find that any private water system or public
 126 water system not covered or included in the Florida Safe
 127 Drinking Water Act, part VI of chapter 403, constitutes a
 128 nuisance or menace to the public health or significantly
 129 degrades the groundwater or surface water, the department or its
 130 agents may issue an order requiring the owner to correct the
 131 improper condition.

132 Section 4. Section 381.0067, Florida Statutes, is amended
 133 to read:

134 381.0067 Corrective orders; ~~private and certain public~~
 135 ~~water systems and onsite sewage treatment and disposal systems.~~
 136 When the department or its agents, through investigation, find
 137 that any ~~private water system, public water system not covered~~
 138 ~~or included in the Florida Safe Drinking Water Act (part VI of~~
 139 ~~chapter 403), or~~ onsite sewage treatment and disposal system
 140 constitutes a nuisance or menace to the public health or
 141 significantly degrades the groundwater or surface water, the
 142 department or its agents may issue an order requiring the owner
 143 to correct the improper condition. If the improper condition
 144 relates to the drainfield of an onsite sewage treatment and
 145 disposal system, the department or its agents may issue an order

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146 requiring the owner to repair or replace the drainfield. If an
 147 onsite sewage treatment and disposal system has failed, the
 148 department or its agents shall issue an order requiring the
 149 owner to replace the system. For purposes of this section, an
 150 onsite sewage treatment and disposal system has failed if the
 151 operation of the system constitutes a nuisance or menace to the
 152 public health or significantly degrades the groundwater or
 153 surface water and the system cannot be repaired.

154 Section 5. Subsections (2) and (4) of section 381.0101,
 155 Florida Statutes, are amended to read:

156 381.0101 Environmental health professionals.—

157 (2) CERTIFICATION REQUIRED.—A person may not perform
 158 environmental health or sanitary evaluations in any primary
 159 program area of environmental health or an onsite sewage
 160 treatment and disposal program under ss. 381.0065 and 381.00651
 161 without being certified by the department as competent to
 162 perform such evaluations. This section does not apply to:

163 (a) Persons performing inspections of public food service
 164 establishments licensed under chapter 509; or

165 (b) Persons performing site evaluations in order to
 166 determine proper placement and installation of onsite sewage
 167 wastewater treatment and disposal systems who have successfully
 168 completed a department-approved soils morphology course and who
 169 are working under the direct responsible charge of an engineer
 170 licensed under chapter 471.

171 (4) STANDARDS FOR CERTIFICATION.—The department shall adopt
 172 rules that establish definitions of terms and minimum standards
 173 of education, training, or experience for those persons subject
 174 to this section. The rules must also address the process for

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175 application, examination, issuance, expiration, and renewal of
 176 certification and ethical standards of practice for the
 177 profession.

178 (a) Persons employed as environmental health professionals
 179 shall exhibit a knowledge of rules and principles of
 180 environmental and public health law in Florida through
 181 examination. A person may not conduct environmental health
 182 evaluations in a primary program area or an onsite sewage
 183 treatment and disposal program under ss. 381.0065 and 381.00651
 184 unless he or she is currently certified in that program area or
 185 works under the direct supervision of a certified environmental
 186 health professional.

187 1. All persons who begin employment in a primary
 188 environmental health program or an onsite sewage treatment and
 189 disposal system program on or after September 21, 1994, must be
 190 certified in that program within 6 months after employment.

191 2. Persons employed in the primary environmental health
 192 program of a food protection program or an onsite sewage
 193 treatment and disposal system program before ~~prior to~~ September
 194 21, 1994, are shall be considered certified while employed in
 195 that position and are shall be required to adhere to any
 196 professional standards established by the department pursuant to
 197 paragraph (b), complete any continuing education requirements
 198 imposed under paragraph (d), and pay the certificate renewal fee
 199 imposed under subsection (6).

200 3. Persons employed in the primary environmental health
 201 program of a food protection program or an onsite sewage
 202 treatment and disposal system program before ~~prior to~~ September
 203 21, 1994, who change positions or program areas and transfer

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204 into another primary environmental health program area on or
 205 after September 21, 1994, must be certified in that program
 206 within 6 months after such transfer, except that they are will
 207 ~~not be~~ required to possess the college degree required under
 208 paragraph (e).

209 4. Registered sanitarians are shall be considered certified
 210 and are shall be required to adhere to any professional
 211 standards established by the department pursuant to paragraph
 212 (b).

213 (b) At a minimum, the department shall establish standards
 214 for professionals in the areas of food hygiene and onsite sewage
 215 treatment and disposal.

216 (c) Those persons conducting primary environmental health
 217 evaluations or evaluations of onsite sewage treatment and
 218 disposal systems must shall be certified by examination to be
 219 knowledgeable in any primary area of environmental health in
 220 which they are routinely assigned duties.

221 (d) Persons who are certified shall renew their
 222 certification biennially by completing a minimum of not less
 223 ~~than~~ 24 contact hours of continuing education for each program
 224 area in which they maintain certification, subject to a maximum
 225 of 48 hours for multiprogram certification.

226 (e) Applicants for certification must shall have graduated
 227 from an accredited 4-year college or university with a degree or
 228 major coursework in public health, environmental health,
 229 environmental science, or a physical or biological science.

230 (f) A certificateholder must shall notify the department
 231 within 60 days after any change of name or address from that
 232 which appears on the current certificate.

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233 Section 6. Subsection (1) of section 460.406, Florida
234 Statutes, is amended to read:

235 460.406 Licensure by examination.—

236 (1) Any person desiring to be licensed as a chiropractic
237 physician must apply to the department to take the licensure
238 examination. There shall be an application fee set by the board
239 not to exceed \$100 which shall be nonrefundable. There shall
240 also be an examination fee not to exceed \$500 plus the actual
241 per applicant cost to the department for purchase of portions of
242 the examination from the National Board of Chiropractic
243 Examiners or a similar national organization, which may be
244 refundable if the applicant is found ineligible to take the
245 examination. The department shall examine each applicant who the
246 board certifies has met all of the following criteria:

247 (a) Completed the application form and remitted the
248 appropriate fee.

249 (b) Submitted proof satisfactory to the department that he
250 or she is not less than 18 years of age.

251 (c) Submitted proof satisfactory to the department that he
252 or she is a graduate of a chiropractic college which is
253 accredited by or has status with the Council on Chiropractic
254 Education or its predecessor agency. However, any applicant who
255 is a graduate of a chiropractic college that was initially
256 accredited by the Council on Chiropractic Education in 1995, who
257 graduated from such college within the 4 years immediately
258 preceding such accreditation, and who is otherwise qualified is
259 ~~shall be~~ eligible to take the examination. An ~~No~~ application for
260 a license to practice chiropractic medicine may not ~~shall~~ be
261 denied solely because the applicant is a graduate of a

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262 chiropractic college that subscribes to one philosophy of
263 chiropractic medicine as distinguished from another.

264 (d)1. For an applicant who has matriculated in a
265 chiropractic college ~~before prior to~~ July 2, 1990, completed at
266 least 2 years of residence college work, consisting of a minimum
267 of one-half the work acceptable for a bachelor's degree granted
268 on the basis of a 4-year period of study, in a college or
269 university accredited by an institutional accrediting agency
270 recognized and approved by the United States Department of
271 Education. However, ~~before prior to~~ being certified by the board
272 to sit for the examination, each applicant who has matriculated
273 in a chiropractic college after July 1, 1990, must ~~shall~~ have
274 been granted a bachelor's degree, based upon 4 academic years of
275 study, by a college or university accredited by an institutional
276 ~~a regional~~ accrediting agency which is a member of the
277 Commission on Recognition of Postsecondary Accreditation.

278 2. Effective July 1, 2000, completed, ~~before prior to~~
279 matriculation in a chiropractic college, at least 3 years of
280 residence college work, consisting of a minimum of 90 semester
281 hours leading to a bachelor's degree in a liberal arts college
282 or university accredited by an institutional accrediting agency
283 recognized and approved by the United States Department of
284 Education. However, ~~before prior to~~ being certified by the board
285 to sit for the examination, each applicant who has matriculated
286 in a chiropractic college after July 1, 2000, must ~~shall~~ have
287 been granted a bachelor's degree from an institution holding
288 accreditation for that degree from an institutional ~~a regional~~
289 accrediting agency which is recognized by the United States
290 Department of Education. The applicant's chiropractic degree

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291 must consist of credits earned in the chiropractic program and
292 may not include academic credit for courses from the bachelor's
293 degree.

294 (e) Successfully completed the National Board of
295 Chiropractic Examiners certification examination in parts I, II,
296 III, and IV, and the physiotherapy examination of the National
297 Board of Chiropractic Examiners, with a score approved by the
298 board.

299 (f) Submitted to the department a set of fingerprints on a
300 form and under procedures specified by the department, along
301 with payment in an amount equal to the costs incurred by the
302 Department of Health for the criminal background check of the
303 applicant.

304

305 The board may require an applicant who graduated from an
306 institution accredited by the Council on Chiropractic Education
307 more than 10 years before the date of application to the board
308 to take the National Board of Chiropractic Examiners Special
309 Purposes Examination for Chiropractic, or its equivalent, as
310 determined by the board. The board shall establish by rule a
311 passing score.

312 Section 7. Paragraph (e) of subsection (1) of section
313 464.018, Florida Statutes, is amended to read:

314 464.018 Disciplinary actions.—

315 (1) The following acts constitute grounds for denial of a
316 license or disciplinary action, as specified in ss. 456.072(2)
317 and 464.0095:

318 (e) Having been found guilty of, ~~regardless of~~
319 ~~adjudication~~, or entered a plea of nolo contendere or guilty to,

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320 regardless of adjudication, any offense prohibited under s.
321 435.04 or similar statute of another jurisdiction; or having
322 committed an act which constitutes domestic violence as defined
323 in s. 741.28.

324 Section 8. Paragraph (h) of subsection (1) of section
325 466.028, Florida Statutes, is amended to read:

326 466.028 Grounds for disciplinary action; action by the
327 board.—

328 (1) The following acts constitute grounds for denial of a
329 license or disciplinary action, as specified in s. 456.072(2):

330 (h) Being employed by any corporation, organization, group,
331 or person other than a dentist, a hospital, or a professional
332 corporation or limited liability company composed of dentists to
333 practice dentistry.

334 Section 9. Section 466.0285, Florida Statutes, is amended
335 to read:

336 466.0285 Proprietorship by nondentists.—

337 (1) A person or an entity ~~No person~~ other than a dentist
338 licensed under pursuant to this chapter, a specialty-licensed
339 children's hospital licensed under chapter 395 as of January 1,
340 2021, or nor any entity other than a professional corporation or
341 limited liability company composed of dentists, may not:

342 (a) Employ a dentist or dental hygienist in the operation
343 of a dental office.

344 (b) Control the use of any dental equipment or material
345 while such equipment or material is being used for the provision
346 of dental services, whether those services are provided by a
347 dentist, a dental hygienist, or a dental assistant.

348 (c) Direct, control, or interfere with a dentist's clinical

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349 judgment. To direct, control, or interfere with a dentist's
 350 clinical judgment does not mean ~~may not be interpreted to mean~~
 351 dental services contractually excluded, the application of
 352 alternative benefits that may be appropriate given the dentist's
 353 prescribed course of treatment, or the application of
 354 contractual provisions and scope of coverage determinations in
 355 comparison with a dentist's prescribed treatment on behalf of a
 356 covered person by an insurer, health maintenance organization,
 357 or a prepaid limited health service organization.

358

359 Any lease agreement, rental agreement, or other arrangement
 360 between a nondentist and a dentist whereby the nondentist
 361 provides the dentist with dental equipment or dental materials
 362 must shall contain a provision whereby the dentist expressly
 363 maintains complete care, custody, and control of the equipment
 364 or practice.

365 (2) The purpose of this section is to prevent a nondentist
 366 from influencing or otherwise interfering with the exercise of a
 367 dentist's independent professional judgment. In addition to the
 368 acts specified in subsection (1), a no person or an entity that
 369 ~~who~~ is not a dentist licensed under pursuant to this chapter, a
 370 specialty-licensed children's hospital licensed under chapter
 371 395 as of January 1, 2021, or nor any entity that is not a
 372 professional corporation or limited liability company composed
 373 of dentists may not shall enter into a relationship with a
 374 licensee pursuant to which such unlicensed person or such entity
 375 exercises control over any of the following:

376 (a) The selection of a course of treatment for a patient,
 377 the procedures or materials to be used as part of such course of

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378 treatment, and the manner in which such course of treatment is
 379 carried out by the licensee.

380 (b) The patient records of a dentist.

381 (c) Policies and decisions relating to pricing, credit,
 382 refunds, warranties, and advertising, ~~and~~

383 (d) Decisions relating to office personnel and hours of
 384 practice.

385 (3) Any person who violates this section commits a felony
 386 of the third degree, punishable as provided in s. 775.082, s.
 387 775.083, or s. 775.084.

388 (4) Any contract or arrangement entered into or undertaken
 389 in violation of this section is shall be void as contrary to
 390 public policy. This section applies to contracts entered into or
 391 renewed on or after October 1, 1997.

392 Section 10. Present subsections (13) and (14) of section
 393 467.003, Florida Statutes, are redesignated as subsections (14)
 394 and (15), respectively, a new subsection (13) is added to that
 395 section, and subsections (1) and (12) of that section are
 396 amended, to read:

397 467.003 Definitions.—As used in this chapter, unless the
 398 context otherwise requires:

399 (1) "Approved midwifery program" means ~~a midwifery school~~
 400 ~~or~~ a midwifery training program that which is approved by the
 401 department pursuant to s. 467.205.

402 (12) "Preceptor" means a physician licensed under chapter
 403 458 or chapter 459, a licensed midwife licensed under this
 404 chapter, or a certified nurse midwife licensed under chapter
 405 464, who has a minimum of 3 years' professional experience, ~~and~~
 406 who directs, teaches, supervises, and evaluates the learning

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407 experiences of ~~a the~~ student midwife as part of an approved
 408 midwifery program.

409 (13) "Prelicensure course" means a course of study, offered
 410 by an approved midwifery program and approved by the department,
 411 which an applicant for licensure must complete before a license
 412 may be issued and which provides instruction in the laws and
 413 rules of this state and demonstrates the student's competency to
 414 practice midwifery under this chapter.

415 Section 11. Section 467.009, Florida Statutes, is amended
 416 to read:

417 467.009 Approved midwifery programs; education and training
 418 requirements.-

419 (1) The department shall adopt standards for approved
 420 midwifery programs which must include, but need not be limited
 421 to, standards for all of the following:

422 (a) ~~The standards shall encompass~~ Clinical and classroom
 423 instruction in all aspects of prenatal, intrapart, and
 424 postpartal care, including all of the following:

- 425 1. Obstetrics.
- 426 2. Neonatal pediatrics.
- 427 3. Basic sciences.
- 428 4. Female reproductive anatomy and physiology.
- 429 5. Behavioral sciences.
- 430 6. Childbirth education.
- 431 7. Community care.
- 432 8. Epidemiology.
- 433 9. Genetics.
- 434 10. Embryology.
- 435 11. Neonatology.

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436 12. Applied pharmacology.

437 13. The medical and legal aspects of midwifery.

438 14. Gynecology and women's health.

439 15. Family planning.

440 16. Nutrition during pregnancy and lactation.

441 17. Breastfeeding. ~~and~~

442 18. Basic nursing skills; ~~and any other instruction~~

443 ~~determined by the department and council to be necessary.~~

444 (b) ~~The standards shall incorporate the Core competencies,~~
 445 incorporating those established by the American College of Nurse
 446 Midwives and the Midwives Alliance of North America, including
 447 knowledge, skills, and professional behavior in all of the
 448 following areas:

449 1. Primary management, collaborative management, referral,
 450 and medical consultation.

451 2. Antepartal, intrapartal, postpartal, and neonatal care.

452 3. Family planning and gynecological care.

453 4. Common complications. ~~and~~

454 5. Professional responsibilities.

455 (c) Noncurricular ~~The standards shall include noncurriculum~~
 456 ~~matters under this section, including, but not limited to,~~
 457 ~~staffing and teacher qualifications.~~

458 (2) An approved midwifery program must offer ~~shall include~~
 459 ~~a course of study and clinical training~~ for a minimum of 3 years
 460 which incorporates all of the standards, curriculum guidelines,
 461 and educational objectives provided in this section and the
 462 rules adopted hereunder.

463 (3) An approved midwifery program may reduce ~~If the~~
 464 ~~applicant is a registered nurse or a licensed practical nurse or~~

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465 ~~has previous nursing or midwifery education,~~ the required period
 466 of training ~~may be reduced~~ to the extent of the student's
 467 applicant's qualifications as a registered nurse or licensed
 468 practical nurse or based on prior completion of equivalent
 469 nursing or midwifery education, as determined ~~under rules~~
 470 ~~adopted by the department rule. In no case shall the training be~~
 471 ~~reduced to a period of less than 2 years.~~

472 ~~(4)(3) An approved midwifery program may accept students~~
 473 ~~who To be accepted into an approved midwifery program, an~~
 474 ~~applicant shall have both:~~

475 (a) A high school diploma or its equivalent.

476 (b) Taken three college-level credits each of math and
 477 English or demonstrated competencies in communication and
 478 computation.

479 (5)(4) As part of its course of study, an approved
 480 midwifery program must require clinical training that includes
 481 all of the following:

482 (a) A student midwife, during training, shall undertake,
 483 under the supervision of a preceptor, The care of 50 women in
 484 each of the prenatal, intrapartal, and postpartal periods under
 485 the supervision of a preceptor. ~~but~~ The same women need not be
 486 seen through all three periods.

487 (b)(5) Observation of ~~The student midwife shall observe an~~
 488 ~~additional 25 women in the intrapartal period before qualifying~~
 489 ~~for a license.~~

490 (6) Clinical ~~The training required under this section must~~
 491 include all of the following:

492 (a) shall include Training in ~~either~~ hospitals, ~~or~~
 493 alternative birth settings, or both.

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494 (b) A requirement that students demonstrate competency in
 495 the assessment of and differentiation, ~~with particular emphasis~~
 496 ~~on learning the ability to differentiate~~ between low-risk
 497 pregnancies and high-risk pregnancies.

498 (7) A hospital or birthing center receiving public funds
 499 shall be required to provide student midwives access to observe
 500 labor, delivery, and postpartal procedures, provided the woman
 501 in labor has given informed consent. The Department of Health
 502 shall assist in facilitating access to hospital training for
 503 approved midwifery programs.

504 (8)(7) The Department of Education shall adopt curricular
 505 frameworks for midwifery programs conducted within public
 506 educational institutions under pursuant to this section.

507 ~~(8) Nonpublic educational institutions that conduct~~
 508 ~~approved midwifery programs shall be accredited by a member of~~
 509 ~~the Commission on Recognition of Postsecondary Accreditation and~~
 510 ~~shall be licensed by the Commission for Independent Education.~~

511 Section 12. Section 467.011, Florida Statutes, is amended
 512 to read:

513 467.011 Licensed midwives; qualifications; examination
 514 Licensure by examination.

515 ~~(1) The department shall administer an examination to test~~
 516 ~~the proficiency of applicants in the core competencies required~~
 517 ~~to practice midwifery as specified in s. 467.009.~~

518 ~~(2) The department shall develop, publish, and make~~
 519 ~~available to interested parties at a reasonable cost a~~
 520 ~~bibliography and guide for the examination.~~

521 ~~(3) The department shall issue a license to practice~~
 522 midwifery to an applicant who meets all of the following

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523 criteria:524 (1) Demonstrates that he or she has graduated from one of
525 the following:526 (a) An approved midwifery program.527 (b) A medical or midwifery program offered in another
528 state, jurisdiction, territory, or country whose graduation
529 requirements were equivalent to or exceeded those required by s.
530 467.009 and the rules adopted thereunder at the time of
531 graduation.532 (2) Demonstrates that he or she has and successfully
533 completed a prelicensure course offered by an approved midwifery
534 program. Students graduating from an approved midwifery program
535 may meet this requirement by showing that the content
536 requirements for the prelicensure course were covered as part of
537 their course of study.538 (3) Submits an application for licensure on a form approved
539 by the department and pays the appropriate fee.540 (4) Demonstrates that he or she has received a passing
541 score on an the examination specified by the department, upon
542 payment of the required licensure fee.543 Section 13. Section 467.0125, Florida Statutes, is amended
544 to read:545 467.0125 Licensed midwives; qualifications; Licensure by
546 endorsement; temporary certificates.-547 (1) The department shall issue a license by endorsement to
548 practice midwifery to an applicant who, upon applying to the
549 department, demonstrates to the department that she or he meets
550 all of the following criteria:551 (a)1. Holds a valid certificate or diploma from a foreign

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552 ~~institution of medicine or midwifery or from a midwifery program~~
553 ~~offered in another state, bearing the seal of the institution or~~
554 ~~otherwise authenticated, which renders the individual eligible~~
555 ~~to practice midwifery in the country or state in which it was~~
556 ~~issued, provided the requirements therefor are deemed by the~~
557 ~~department to be substantially equivalent to, or to exceed,~~
558 ~~those established under this chapter and rules adopted under~~
559 ~~this chapter, and submits therewith a certified translation of~~
560 ~~the foreign certificate or diploma; or~~561 2. Holds an active, unencumbered a valid certificate or
562 license to practice midwifery in another state, jurisdiction, or
563 territory issued by that state, provided the licensing
564 requirements of that state, jurisdiction, or territory at the
565 time the license was issued were therefor are deemed by the
566 department to be substantially equivalent to, or exceeded to
567 exceed, those established under this chapter and the rules
568 adopted thereunder under this chapter.569 (b) Has successfully completed a 4-month prelicensure
570 course conducted by an approved midwifery program and has
571 submitted documentation to the department of successful
572 completion.573 (c) Submits an application for licensure on a form approved
574 by the department and pays the appropriate fee ~~Has successfully~~
575 ~~passed the licensed midwifery examination.~~576 (2) The department may issue a temporary certificate to
577 practice in areas of critical need to an applicant ~~any midwife~~
578 who is qualifying for a midwifery license licensure by
579 endorsement under subsection (1) who meets all of the following
580 criteria, with the following restrictions:

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581 (a) Submits an application for a temporary certificate on a
 582 form approved by the department and pays the appropriate fee,
 583 which may not exceed \$50 and is in addition to the fee required
 584 for licensure by endorsement under subsection (1);

585 (b) Specifies on the application that he or she will ~~The~~
 586 ~~Department of Health shall determine the areas of critical need,~~
 587 ~~and the midwife so certified shall practice only in one or more~~
 588 of the following locations:

589 1. A county health department;

590 2. A correctional facility;

591 3. A Department of Veterans' Affairs clinic;

592 4. A community health center funded by s. 329, s. 330, or
 593 s. 340 of the United States Public Health Service Act; or

594 5. Any other agency or institution that is approved by the
 595 State Surgeon General and provides health care to meet the needs
 596 of an underserved population in this state; and ~~those specific~~
 597 ~~areas,~~

598 (c) Will practice only under the supervision ~~auspices~~ of a
 599 physician licensed under ~~pursuant to~~ chapter 458 or chapter 459,
 600 a certified nurse midwife licensed under ~~pursuant to~~ part I of
 601 chapter 464, or a midwife licensed under this chapter, who has a
 602 minimum of 3 years' professional experience.

603 (3) The department may issue a temporary certificate under
 604 this section with the following restrictions:

605 (a) A requirement that a temporary certificateholder
 606 practice only in areas of critical need. The State Surgeon
 607 General shall determine the areas of critical need, which ~~Such~~
 608 ~~areas shall include, but are not be limited to, health~~
 609 ~~professional shortage areas designated by the United States~~

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610 Department of Health and Human Services.

611 (b) A requirement that if a temporary certificateholder's
 612 practice area ceases to be an area of critical need, within 30
 613 days after such change the certificateholder must either:

614 1. Report a new practice area of critical need to the
 615 department; or

616 2. Voluntarily relinquish the temporary certificate.

617 (c) The department shall review a temporary
 618 certificateholder's practice at least annually to determine
 619 whether the certificateholder is meeting the requirements of
 620 subsections (2) and (3) and the rules adopted thereunder. If the
 621 department determines that a certificateholder is not meeting
 622 these requirements, the department must revoke the temporary
 623 certificate.

624 (d) A temporary certificate issued under this section is
 625 shall be valid only as long as an area for which it is issued
 626 remains an area of critical need, but no longer than 2 years,
 627 and is shall not be renewable.

628 (e) ~~The department may administer an abbreviated oral~~
 629 ~~examination to determine the midwife's competency, but no~~
 630 ~~written regular examination shall be necessary.~~

631 (d) ~~The department shall not issue a temporary certificate~~
 632 ~~to any midwife who is under investigation in another state for~~
 633 ~~an act which would constitute a violation of this chapter until~~
 634 ~~such time as the investigation is complete, at which time the~~
 635 ~~provisions of this section shall apply.~~

636 (e) ~~The department shall review the practice under a~~
 637 ~~temporary certificate at least annually to ascertain that the~~
 638 ~~minimum requirements of the midwifery rules promulgated under~~

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639 this chapter are being met. If it is determined that the minimum
640 requirements are not being met, the department shall immediately
641 revoke the temporary certificate.

642 ~~(f) The fee for a temporary certificate shall not exceed~~
643 ~~\$50 and shall be in addition to the fee required for licensure.~~

644 Section 14. Section 467.205, Florida Statutes, is amended
645 to read:

646 467.205 Approval of midwifery programs.—

647 (1) The department shall approve an accredited or state-
648 licensed public or private institution seeking to provide
649 midwifery education and training as an approved midwifery
650 program in this state if the institution meets all of the
651 following criteria:

652 (a) Submits an application for approval on a form approved
653 by the department.

654 (b) Demonstrates to the department's satisfaction that the
655 proposed midwifery program complies with s. 467.009 and the
656 rules adopted thereunder.

657 (c) For a private institution, demonstrates its
658 accreditation by a member of the Council for Higher Education
659 Accreditation or an accrediting agency approved by the United
660 States Department of Education and its licensing or provisional
661 licensing by the Commission for Independent Education ~~An~~
662 organization desiring to conduct an approved program for the
663 education of midwives shall apply to the department and submit
664 such evidence as may be required to show that it complies with
665 s. 467.009 and with the rules of the department. Any accredited
666 or state-licensed institution of higher learning, public or
667 private, may provide midwifery education and training.

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668 ~~(2) The department shall adopt rules regarding educational~~
669 ~~objectives, faculty qualifications, curriculum guidelines,~~
670 ~~administrative procedures, and other training requirements as~~
671 ~~are necessary to ensure that approved programs graduate midwives~~
672 ~~competent to practice under this chapter.~~

673 ~~(3) The department shall survey each organization applying~~
674 ~~for approval. If the department is satisfied that the program~~
675 ~~meets the requirements of s. 467.009 and rules adopted pursuant~~
676 ~~to that section, it shall approve the program.~~

677 ~~(2)(4)~~ The department shall, at least once every 3 years,
678 certify whether each approved midwifery program is currently
679 compliant, and has maintained compliance, ~~complies~~ with the
680 requirements of standards developed under s. 467.009 and the
681 rules adopted thereunder.

682 ~~(3)(5)~~ If the department finds that an approved midwifery
683 program is not in compliance with the requirements of s. 467.009
684 or the rules adopted thereunder, or has lost its accreditation
685 status, the department must provide its finding to the program
686 in writing and ~~no longer meets the required standards, it~~ may
687 place the program on probationary status for a specified period
688 of time, which may not exceed 3 years until such time as the
689 standards are restored.

690 ~~(4)~~ If a program on probationary status does not come into
691 compliance with the requirements of s. 467.009 or the rules
692 adopted thereunder, or regain its accreditation status, as
693 applicable, within the period specified by the department ~~fails~~
694 to correct these conditions within a specified period of time,
695 the department may rescind the program's approval.

696 ~~(5)~~ A Any program that has ~~having~~ its approval rescinded

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697 ~~has shall have~~ the right to reapply for approval.

698 (6) The department may grant provisional approval of a new
699 program seeking accreditation status, for a period not to exceed
700 5 years, provided that all other requirements of this section
701 are met.

702 (7) The department may rescind provisional approval of a
703 program that fails to the meet the requirements of s. 467.009,
704 this section, or the rules adopted thereunder, in accordance
705 with procedures provided in subsections (3) and (4) may be
706 granted pending the licensure results of the first graduating
707 class.

708 Section 15. Subsections (2), (3), and (4) and paragraphs
709 (a) and (b) of subsection (5) of section 468.803, Florida
710 Statutes, are amended to read:

711 468.803 License, registration, and examination
712 requirements.—

713 (2) An applicant for registration, examination, or
714 licensure must apply to the department on a form prescribed by
715 the board for consideration of board approval. Each initial
716 applicant shall submit ~~a set of~~ fingerprints to the department
717 ~~on a form and~~ under procedures specified by the department,
718 ~~along with payment in an amount equal to the costs incurred by~~
719 ~~the department~~ for state and national criminal history checks of
720 the applicant. ~~The department shall submit the fingerprints~~
721 ~~provided by an applicant to the Department of Law Enforcement~~
722 ~~for a statewide criminal history check, and the Department of~~
723 ~~Law Enforcement shall forward the fingerprints to the Federal~~
724 ~~Bureau of Investigation for a national criminal history check of~~
725 ~~the applicant.~~ The board shall screen the results to determine

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726 if an applicant meets licensure requirements. The board shall
727 consider for examination, registration, or licensure each
728 applicant who the board verifies:

729 (a) Has submitted the completed application and completed
730 the fingerprinting requirements ~~fingerprint forms~~ and has paid
731 the applicable application fee, not to exceed \$500, ~~and the cost~~
732 ~~of the state and national criminal history checks.~~ The
733 application fee is ~~and cost of the criminal history checks shall~~
734 ~~be~~ nonrefundable;

735 (b) Is of good moral character;

736 (c) Is 18 years of age or older; and

737 (d) Has completed the appropriate educational preparation.

738 (3) A person seeking to attain the orthotics or prosthetics
739 experience required for licensure in this state must be approved
740 by the board and registered as a resident by the department.
741 Although a registration may be held in both disciplines, for
742 independent registrations the board may not approve a second
743 registration until at least 1 year after the issuance of the
744 first registration. Notwithstanding subsection (2), a person who
745 has been approved by the board and registered by the department
746 in one discipline may apply for registration in the second
747 discipline without an additional state or national criminal
748 history check during the period in which the first registration
749 is valid. Each independent registration or dual registration is
750 valid for 2 years after the date of issuance unless otherwise
751 revoked by the department upon recommendation of the board. The
752 board shall set a registration fee not to exceed \$500 to be paid
753 by the applicant. A registration may be renewed once by the
754 department upon recommendation of the board for a period no

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755 longer than 1 year, as such renewal is defined by the board by
 756 rule. The renewal fee may not exceed one-half the current
 757 registration fee. To be considered by the board for approval of
 758 registration as a resident, the applicant must have one of the
 759 following:

760 (a) A Bachelor of Science or higher-level postgraduate
 761 degree in orthotics and prosthetics from an a-regionally
 762 accredited college or university recognized by the Commission on
 763 Accreditation of Allied Health Education Programs.

764 (b) A minimum of a bachelor's degree from an
 765 institutionally a-regionally accredited college or university
 766 and a certificate in orthotics or prosthetics from a program
 767 recognized by the Commission on Accreditation of Allied Health
 768 Education Programs, or its equivalent, as determined by the
 769 board.

770 (c) A minimum of a bachelor's degree from an
 771 institutionally a-regionally accredited college or university
 772 and a dual certificate in both orthotics and prosthetics from
 773 programs recognized by the Commission on Accreditation of Allied
 774 Health Education Programs, or its equivalent, as determined by
 775 the board.

776 (4) The department may develop and administer a state
 777 examination for an orthotist or a prosthetist license, or the
 778 board may approve the existing examination of a national
 779 standards organization. The examination must be predicated on a
 780 minimum of a baccalaureate-level education and formalized
 781 specialized training in the appropriate field. Each examination
 782 must demonstrate a minimum level of competence in basic
 783 scientific knowledge, written problem solving, and practical

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784 clinical patient management. The board shall require an
 785 examination fee not to exceed the actual cost to the board in
 786 developing, administering, and approving the examination, which
 787 fee must be paid by the applicant. To be considered by the board
 788 for examination, the applicant must have:

789 (a) For an examination in orthotics:

790 1. A Bachelor of Science or higher-level postgraduate
 791 degree in orthotics and prosthetics from an institutionally a
 792 regionally accredited college or university recognized by the
 793 Commission on Accreditation of Allied Health Education Programs
 794 or, at a minimum, a bachelor's degree from an institutionally a
 795 regionally accredited college or university and a certificate in
 796 orthotics from a program recognized by the Commission on
 797 Accreditation of Allied Health Education Programs, or its
 798 equivalent, as determined by the board; and

799 2. An approved orthotics internship of 1 year of qualified
 800 experience, as determined by the board, or an orthotic residency
 801 or dual residency program recognized by the board.

802 (b) For an examination in prosthetics:

803 1. A Bachelor of Science or higher-level postgraduate
 804 degree in orthotics and prosthetics from an institutionally a
 805 regionally accredited college or university recognized by the
 806 Commission on Accreditation of Allied Health Education Programs
 807 or, at a minimum, a bachelor's degree from an institutionally a
 808 regionally accredited college or university and a certificate in
 809 prosthetics from a program recognized by the Commission on
 810 Accreditation of Allied Health Education Programs, or its
 811 equivalent, as determined by the board; and

812 2. An approved prosthetics internship of 1 year of

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813 qualified experience, as determined by the board, or a
 814 prosthetic residency or dual residency program recognized by the
 815 board.

816 (5) In addition to the requirements in subsection (2), to
 817 be licensed as:

818 (a) An orthotist, the applicant must pay a license fee not
 819 to exceed \$500 and must have:

820 1. A Bachelor of Science or higher-level postgraduate
 821 degree in Orthotics and Prosthetics from an institutionally a
 822 regionally accredited college or university recognized by the
 823 Commission on Accreditation of Allied Health Education Programs,
 824 or a bachelor's degree from an institutionally accredited
 825 college or university and with a certificate in orthotics from a
 826 program recognized by the Commission on Accreditation of Allied
 827 Health Education Programs, or its equivalent, as determined by
 828 the board;

829 2. An approved appropriate internship of 1 year of
 830 qualified experience, as determined by the board, or a residency
 831 program recognized by the board;

832 3. Completed the mandatory courses; and

833 4. Passed the state orthotics examination or the board-
 834 approved orthotics examination.

835 (b) A prosthetist, the applicant must pay a license fee not
 836 to exceed \$500 and must have:

837 1. A Bachelor of Science or higher-level postgraduate
 838 degree in Orthotics and Prosthetics from an institutionally a
 839 regionally accredited college or university recognized by the
 840 Commission on Accreditation of Allied Health Education Programs,
 841 or a bachelor's degree from an institutionally accredited

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842 college or university and with a certificate in prosthetics from
 843 a program recognized by the Commission on Accreditation of
 844 Allied Health Education Programs, or its equivalent, as
 845 determined by the board;

846 2. An internship of 1 year of qualified experience, as
 847 determined by the board, or a residency program recognized by
 848 the board;

849 3. Completed the mandatory courses; and

850 4. Passed the state prosthetics examination or the board-
 851 approved prosthetics examination.

852 Section 16. Subsection (7) is added to section 483.801,
 853 Florida Statutes, to read:

854 483.801 Exemptions.—This part applies to all clinical
 855 laboratories and clinical laboratory personnel within this
 856 state, except:

857 (7) Persons performing alternate-site testing within a
 858 hospital or offsite emergency department licensed under chapter
 859 395.

860 Section 17. Section 483.824, Florida Statutes, is amended
 861 to read:

862 483.824 Qualifications of clinical laboratory director.—A
 863 clinical laboratory director must have 4 years of clinical
 864 laboratory experience with 2 years of experience in the
 865 specialty to be directed or be nationally board certified in the
 866 specialty to be directed, and must meet one of the following
 867 requirements:

868 (1) Be a physician licensed under chapter 458 or chapter

869 459;

870 (2) Hold an earned doctoral degree in a chemical, physical,

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871 or biological science from ~~an a regionally~~ accredited
872 institution and maintain national certification requirements
873 equal to those required by the federal Health Care Financing
874 Administration; or

875 (3) For the subspecialty of oral pathology, be a physician
876 licensed under chapter 458 or chapter 459 or a dentist licensed
877 under chapter 466.

878 Section 18. Subsection (3) of section 490.003, Florida
879 Statutes, is amended to read:

880 490.003 Definitions.—As used in this chapter:

881 (3) (a) “Doctoral degree from an American Psychological
882 Association accredited program” means Effective July 1, 1999,
883 “doctoral level psychological education” and “doctoral degree in
884 psychology” mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in
885 psychology from a psychology program at an educational
886 institution that, at the time the applicant was enrolled and
887 graduated:

888 1. (a) Had institutional accreditation from an agency
889 recognized and approved by the United States Department of
890 Education or was recognized as a member in good standing with
891 the Association of Universities and Colleges of Canada; and

892 2. (b) Had programmatic accreditation from the American
893 Psychological Association.

894 (b) “Doctoral degree in psychology” means a Psy.D., an
895 Ed.D. in psychology, or a Ph.D. in psychology from a psychology
896 program at an educational institution that, at the time the
897 applicant was enrolled and graduated, had institutional
898 accreditation from an agency recognized and approved by the
899 United States Department of Education or was recognized as a

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900 member in good standing with the Association of Universities and
901 Colleges of Canada.

902 Section 19. Subsection (1) of section 490.005, Florida
903 Statutes, is amended to read:

904 490.005 Licensure by examination.—

905 (1) Any person desiring to be licensed as a psychologist
906 shall apply to the department to take the licensure examination.
907 The department shall license each applicant who the board
908 certifies has met all of the following requirements:

909 (a) Completed the application form and remitted a
910 nonrefundable application fee not to exceed \$500 and an
911 examination fee set by the board sufficient to cover the actual
912 per applicant cost to the department for development, purchase,
913 and administration of the examination, but not to exceed \$500.

914 (b) Submitted proof satisfactory to the board that the
915 applicant has received:

916 1. A doctoral degree from an American Psychological
917 Association accredited program ~~Doctoral-level psychological~~
918 ~~education; or~~

919 2. The equivalent of a doctoral degree from an American
920 Psychological Association accredited program ~~doctoral-level~~
921 ~~psychological education, as defined in s. 490.003(3),~~ from a
922 program at a school or university located outside the United
923 States of America which was officially recognized by the
924 government of the country in which it is located as an
925 institution or program to train students to practice
926 professional psychology. The applicant has the burden of
927 establishing that this requirement has been met.

928 (c) Had at least 2 years or 4,000 hours of experience in

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929 the field of psychology in association with or under the
 930 supervision of a licensed psychologist meeting the academic and
 931 experience requirements of this chapter or the equivalent as
 932 determined by the board. The experience requirement may be met
 933 by work performed on or off the premises of the supervising
 934 psychologist if the off-premises work is not the independent,
 935 private practice rendering of psychological services that does
 936 not have a psychologist as a member of the group actually
 937 rendering psychological services on the premises.

938 (d) Passed the examination. However, an applicant who has
 939 obtained a passing score, as established by the board by rule,
 940 on the psychology licensure examination designated by the board
 941 as the national licensure examination need only pass the Florida
 942 law and rules portion of the examination.

943 Section 20. Subsection (1) of section 490.0051, Florida
 944 Statutes, is amended to read:

945 490.0051 Provisional licensure; requirements.—

946 (1) The department shall issue a provisional psychology
 947 license to each applicant who the board certifies has:

948 (a) Completed the application form and remitted a
 949 nonrefundable application fee not to exceed \$250, as set by
 950 board rule.

951 (b) Earned a doctoral degree from an American Psychological
 952 Association accredited program in psychology as defined in s.
 953 490.003(3).

954 (c) Met any additional requirements established by board
 955 rule.

956 Section 21. Subsections (1), (3), and (4) of section
 957 491.005, Florida Statutes, are amended to read:

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958 491.005 Licensure by examination.—

959 (1) CLINICAL SOCIAL WORK.—Upon verification of
 960 documentation and payment of a fee not to exceed \$200, as set by
 961 board rule, ~~plus the actual per applicant cost to the department~~
 962 ~~for purchase of the examination from the American Association of~~
 963 ~~State Social Worker's Boards or a similar national organization,~~
 964 the department shall issue a license as a clinical social worker
 965 to an applicant who the board certifies has met all of the
 966 following criteria:

967 (a) ~~Has~~ Submitted an application and paid the appropriate
 968 fee.

969 (b)1. ~~Has~~ Received a doctoral degree in social work from a
 970 graduate school of social work which at the time the applicant
 971 graduated was accredited by an accrediting agency recognized by
 972 the United States Department of Education or ~~has~~ received a
 973 master's degree in social work from a graduate school of social
 974 work which at the time the applicant graduated:

975 a. Was accredited by the Council on Social Work Education;
 976 b. Was accredited by the Canadian Association of Schools of
 977 Social Work; or

978 c. Has been determined to have been a program equivalent to
 979 programs approved by the Council on Social Work Education by the
 980 Foreign Equivalency Determination Service of the Council on
 981 Social Work Education. An applicant who graduated from a program
 982 at a university or college outside of the United States or
 983 Canada must present documentation of the equivalency
 984 determination from the council in order to qualify.

985 2. The applicant's graduate program must have emphasized
 986 direct clinical patient or client health care services,

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987 including, but not limited to, coursework in clinical social
 988 work, psychiatric social work, medical social work, social
 989 casework, psychotherapy, or group therapy. The applicant's
 990 graduate program must have included all of the following
 991 coursework:

992 a. A supervised field placement which was part of the
 993 applicant's advanced concentration in direct practice, during
 994 which the applicant provided clinical services directly to
 995 clients.

996 b. Completion of 24 semester hours or 32 quarter hours in
 997 theory of human behavior and practice methods as courses in
 998 clinically oriented services, including a minimum of one course
 999 in psychopathology, and no more than one course in research,
 1000 taken in a school of social work accredited or approved pursuant
 1001 to subparagraph 1.

1002 3. If the course title which appears on the applicant's
 1003 transcript does not clearly identify the content of the
 1004 coursework, the applicant shall be required to provide
 1005 additional documentation, including, but not limited to, a
 1006 syllabus or catalog description published for the course.

1007 (c) ~~Has~~ Had at least 2 years of clinical social work
 1008 experience, which took place subsequent to completion of a
 1009 graduate degree in social work at an institution meeting the
 1010 accreditation requirements of this section, under the
 1011 supervision of a licensed clinical social worker or the
 1012 equivalent who is a qualified supervisor as determined by the
 1013 board. An individual who intends to practice in Florida to
 1014 satisfy clinical experience requirements must register pursuant
 1015 to s. 491.0045 before commencing practice. If the applicant's

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1016 graduate program was not a program which emphasized direct
 1017 clinical patient or client health care services as described in
 1018 subparagraph (b)2., the supervised experience requirement must
 1019 take place after the applicant has completed a minimum of 15
 1020 semester hours or 22 quarter hours of the coursework required. A
 1021 doctoral internship may be applied toward the clinical social
 1022 work experience requirement. A licensed mental health
 1023 professional must be on the premises when clinical services are
 1024 provided by a registered intern in a private practice setting.
 1025 When a registered intern is providing clinical services through
 1026 telehealth, a licensed mental health professional must be
 1027 accessible by telephone or electronic means.

1028 (d) ~~Has~~ Passed a theory and practice examination designated
 1029 by board rule provided by the department for this purpose.

1030 (e) ~~Has~~ Demonstrated, in a manner designated by rule of the
 1031 board, knowledge of the laws and rules governing the practice of
 1032 clinical social work, marriage and family therapy, and mental
 1033 health counseling.

1034 (3) MARRIAGE AND FAMILY THERAPY.—Upon verification of
 1035 documentation and payment of a fee not to exceed \$200, as set by
 1036 board rule, plus the actual cost of the purchase of the
 1037 examination from the Association of Marital and Family Therapy
 1038 Regulatory Board, or similar national organization, the
 1039 department shall issue a license as a marriage and family
 1040 therapist to an applicant who the board certifies has met all of
 1041 the following criteria:

1042 (a) ~~Has~~ Submitted an application and paid the appropriate
 1043 fee.

1044 (b) 1. Obtained one of the following:

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1045 a. ~~Has~~ A minimum of a master's degree with major emphasis
 1046 in marriage and family therapy or a closely related field from a
 1047 program accredited by the Commission on Accreditation for
 1048 Marriage and Family Therapy Education or from a Florida
 1049 university program accredited by the Council for Accreditation
 1050 of Counseling and Related Educational Programs.

1051 b. A minimum of a master's degree with an emphasis in
 1052 marriage and family therapy with a degree conferred date before
 1053 July 1, 2026, from an institutionally accredited Florida college
 1054 or university that is not yet accredited by the Commission on
 1055 Accreditation for Marriage and Family Therapy Education or the
 1056 Council for Accreditation of Counseling and Related Educational
 1057 Programs.

1058 2. Completed and graduate courses approved by the Board of
 1059 Clinical Social Work, Marriage and Family Therapy, and Mental
 1060 Health Counseling.

1061
 1062 If the course title that appears on the applicant's transcript
 1063 does not clearly identify the content of the coursework, the
 1064 applicant shall provide additional documentation, including, but
 1065 not limited to, a syllabus or catalog description published for
 1066 the course. The required master's degree must have been received
 1067 in an institution of higher education that, at the time the
 1068 applicant graduated, was fully accredited by an institutional a
 1069 ~~regional~~ accrediting body recognized by the Commission on
 1070 Recognition of Postsecondary Accreditation or publicly
 1071 recognized as a member in good standing with the Association of
 1072 Universities and Colleges of Canada, or an institution of higher
 1073 education located outside the United States and Canada which, at

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1074 the time the applicant was enrolled and at the time the
 1075 applicant graduated, maintained a standard of training
 1076 substantially equivalent to the standards of training of those
 1077 institutions in the United States which are accredited by an
 1078 institutional a regional accrediting body recognized by the
 1079 Commission on Recognition of Postsecondary Accreditation. Such
 1080 foreign education and training must have been received in an
 1081 institution or program of higher education officially recognized
 1082 by the government of the country in which it is located as an
 1083 institution or program to train students to practice as
 1084 professional marriage and family therapists or psychotherapists.
 1085 The applicant has the burden of establishing that the
 1086 requirements of this provision have been met, and the board
 1087 shall require documentation, such as an evaluation by a foreign
 1088 equivalency determination service, as evidence that the
 1089 applicant's graduate degree program and education were
 1090 equivalent to an accredited program in this country. An
 1091 applicant with a master's degree from a program that did not
 1092 emphasize marriage and family therapy may complete the
 1093 coursework requirement in a training institution fully
 1094 accredited by the Commission on Accreditation for Marriage and
 1095 Family Therapy Education recognized by the United States
 1096 Department of Education.

1097 (c) ~~Has~~ Had at least 2 years of clinical experience during
 1098 which 50 percent of the applicant's clients were receiving
 1099 marriage and family therapy services, which must have been ~~be~~ at
 1100 the post-master's level under the supervision of a licensed
 1101 marriage and family therapist with at least 5 years of
 1102 experience, or the equivalent, who is a qualified supervisor as

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1103 determined by the board. An individual who intends to practice
 1104 in Florida to satisfy the clinical experience requirements must
 1105 register pursuant to s. 491.0045 before commencing practice. If
 1106 a graduate has a master's degree with a major emphasis in
 1107 marriage and family therapy or a closely related field which did
 1108 not include all of the coursework required by paragraph (b),
 1109 credit for the post-master's level clinical experience may not
 1110 commence until the applicant has completed a minimum of 10 of
 1111 the courses required by paragraph (b), as determined by the
 1112 board, and at least 6 semester hours or 9 quarter hours of the
 1113 course credits must have been completed in the area of marriage
 1114 and family systems, theories, or techniques. Within the 2 years
 1115 of required experience, the applicant must ~~shall~~ provide direct
 1116 individual, group, or family therapy and counseling to cases
 1117 including those involving unmarried dyads, married couples,
 1118 separating and divorcing couples, and family groups that include
 1119 children. A doctoral internship may be applied toward the
 1120 clinical experience requirement. A licensed mental health
 1121 professional must be on the premises when clinical services are
 1122 provided by a registered intern in a private practice setting.
 1123 When a registered intern is providing clinical services through
 1124 telehealth, a licensed mental health professional must be
 1125 accessible by telephone or other electronic means.
 1126 (d) ~~Has~~ Passed a theory and practice examination designated
 1127 by board rule ~~provided by the department.~~
 1128 (e) ~~Has~~ Demonstrated, in a manner designated by board rule,
 1129 knowledge of the laws and rules governing the practice of
 1130 clinical social work, marriage and family therapy, and mental
 1131 health counseling.

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1132
 1133 For the purposes of dual licensure, the department shall license
 1134 as a marriage and family therapist any person who meets the
 1135 requirements of s. 491.0057. Fees for dual licensure may not
 1136 exceed those stated in this subsection.
 1137 (4) MENTAL HEALTH COUNSELING.—Upon verification of
 1138 documentation and payment of a fee not to exceed \$200, as set by
 1139 board rule, ~~plus the actual per applicant cost of purchase of~~
 1140 ~~the examination from the National Board for Certified Counselors~~
 1141 ~~or its successor organization,~~ the department shall issue a
 1142 license as a mental health counselor to an applicant who the
 1143 board certifies has met all of the following criteria:
 1144 (a) ~~Has~~ Submitted an application and paid the appropriate
 1145 fee.
 1146 (b)1. Obtained ~~Has~~ a minimum of an earned master's degree
 1147 from a mental health counseling program accredited by the
 1148 Council for the Accreditation of Counseling and Related
 1149 Educational Programs which consists of at least 60 semester
 1150 hours or 80 quarter hours of clinical and didactic instruction,
 1151 including a course in human sexuality and a course in substance
 1152 abuse. If the master's degree is earned from a program related
 1153 to the practice of mental health counseling which is not
 1154 accredited by the Council for the Accreditation of Counseling
 1155 and Related Educational Programs, then the coursework and
 1156 practicum, internship, or fieldwork must consist of at least 60
 1157 semester hours or 80 quarter hours and meet all of the following
 1158 requirements:
 1159 a. Thirty-three semester hours or 44 quarter hours of
 1160 graduate coursework, which must include a minimum of 3 semester

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1161 hours or 4 quarter hours of graduate-level coursework in each of
 1162 the following 11 content areas: counseling theories and
 1163 practice; human growth and development; diagnosis and treatment
 1164 of psychopathology; human sexuality; group theories and
 1165 practice; individual evaluation and assessment; career and
 1166 lifestyle assessment; research and program evaluation; social
 1167 and cultural foundations; substance abuse; and legal, ethical,
 1168 and professional standards issues in the practice of mental
 1169 health counseling. Courses in research, thesis or dissertation
 1170 work, practicums, internships, or fieldwork may not be applied
 1171 toward this requirement.

1172 b. A minimum of 3 semester hours or 4 quarter hours of
 1173 graduate-level coursework addressing diagnostic processes,
 1174 including differential diagnosis and the use of the current
 1175 diagnostic tools, such as the current edition of the American
 1176 Psychiatric Association's Diagnostic and Statistical Manual of
 1177 Mental Disorders. The graduate program must have emphasized the
 1178 common core curricular experience.

1179 c. The equivalent, as determined by the board, of at least
 1180 700 hours of university-sponsored supervised clinical practicum,
 1181 internship, or field experience that includes at least 280 hours
 1182 of direct client services, as required in the accrediting
 1183 standards of the Council for Accreditation of Counseling and
 1184 Related Educational Programs for mental health counseling
 1185 programs. This experience may not be used to satisfy the post-
 1186 master's clinical experience requirement.

1187 2. ~~Has~~ Provided additional documentation if a course title
 1188 that appears on the applicant's transcript does not clearly
 1189 identify the content of the coursework. The documentation must

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1190 include, but is not limited to, a syllabus or catalog
 1191 description published for the course.

1192
 1193 Education and training in mental health counseling must have
 1194 been received in an institution of higher education that, at the
 1195 time the applicant graduated, was fully accredited by an
 1196 institutional ~~a regional~~ accrediting body recognized by the
 1197 Council for Higher Education Accreditation or its successor
 1198 organization or publicly recognized as a member in good standing
 1199 with the Association of Universities and Colleges of Canada, or
 1200 an institution of higher education located outside the United
 1201 States and Canada which, at the time the applicant was enrolled
 1202 and at the time the applicant graduated, maintained a standard
 1203 of training substantially equivalent to the standards of
 1204 training of those institutions in the United States which are
 1205 accredited by an institutional ~~a regional~~ accrediting body
 1206 recognized by the Council for Higher Education Accreditation or
 1207 its successor organization. Such foreign education and training
 1208 must have been received in an institution or program of higher
 1209 education officially recognized by the government of the country
 1210 in which it is located as an institution or program to train
 1211 students to practice as mental health counselors. The applicant
 1212 has the burden of establishing that the requirements of this
 1213 provision have been met, and the board shall require
 1214 documentation, such as an evaluation by a foreign equivalency
 1215 determination service, as evidence that the applicant's graduate
 1216 degree program and education were equivalent to an accredited
 1217 program in this country. Beginning July 1, 2025, an applicant
 1218 must have a master's degree from a program that is accredited by

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1219 the Council for Accreditation of Counseling and Related
 1220 Educational Programs, the Masters in Psychology and Counseling
 1221 Accreditation Council, or an equivalent accrediting body which
 1222 consists of at least 60 semester hours or 80 quarter hours to
 1223 apply for licensure under this paragraph.

1224 (c) ~~Has~~ Had at least 2 years of clinical experience in
 1225 mental health counseling, which must be at the post-master's
 1226 level under the supervision of a licensed mental health
 1227 counselor or the equivalent who is a qualified supervisor as
 1228 determined by the board. An individual who intends to practice
 1229 in Florida to satisfy the clinical experience requirements must
 1230 register pursuant to s. 491.0045 before commencing practice. If
 1231 a graduate has a master's degree with a major related to the
 1232 practice of mental health counseling which did not include all
 1233 the coursework required under sub-subparagraphs (b)1.a. and b.,
 1234 credit for the post-master's level clinical experience may not
 1235 commence until the applicant has completed a minimum of seven of
 1236 the courses required under sub-subparagraphs (b)1.a. and b., as
 1237 determined by the board, one of which must be a course in
 1238 psychopathology or abnormal psychology. A doctoral internship
 1239 may be applied toward the clinical experience requirement. A
 1240 licensed mental health professional must be on the premises when
 1241 clinical services are provided by a registered intern in a
 1242 private practice setting. When a registered intern is providing
 1243 clinical services through telehealth, a licensed mental health
 1244 professional must be accessible by telephone or other electronic
 1245 means.

1246 (d) ~~Has~~ Passed a theory and practice examination designated
 1247 by department rule provided by the department for this purpose.

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

588-03618-21 20211568c1

1248 (e) ~~Has~~ Demonstrated, in a manner designated by board rule,
 1249 knowledge of the laws and rules governing the practice of
 1250 clinical social work, marriage and family therapy, and mental
 1251 health counseling.

1252 Section 22. This act shall take effect July 1, 2021.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1568

Bill Number (if applicable)

328528

Amendment Barcode (if applicable)

Topic health

Name Lane Stephens

Job Title Lobbyist

Address 111 N Calhoun St

Phone 933-3583

Street

TALLY

32301

Email lane@scfsova.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Health Planning Agencies

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)

4/19/17

Meeting Date

SB 1568

Bill Number (if applicable)

715880

Amendment Barcode (if applicable)

Topic Department of Health (Amendment)

Name Tiffany McCaskill Henderson (715880)

Job Title Government Relations Director

Address 1851 Remington Green Cir.

Phone 850 933 5928

Street

Tallahassee, FL 32308

City

State

Zip

Email tiffany.hendersun@heart.org

Speaking: [] For [] Against [] Information

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

Representing American Heart Association

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

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/15/21
Meeting Date

SB 1568
Bill Number (if applicable)

Topic Department of Health

Amendment Barcode (if applicable)

Name Tiffany McCaskill Henderson

Job Title Government Relations Director

Address 2551 Remington Green Cir.

Phone 850 933 5928

Jallahassee, FL 32308

Email tiffany.henderson@heart.org

Speaking: For Against Information

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

Representing American Heart 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.

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 Appropriations

BILL: CS/CS/SB 1570

INTRODUCER: Appropriations Committee; Governmental Oversight and Accountability Committee; and Senator Rodriguez

SUBJECT: Quasi-public Entities

DATE: April 18, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Candelaria</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2. <u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1570 creates section 20.059, Florida Statutes, relating to quasi-public entities. The bill provides definitions, requirements, and responsibilities for quasi-public entities.

The bill defines “quasi-public entity” to mean an entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under sections 627.311 or 627.351, Florida Statutes; a research institute of the state university system; or an entity licensed as a health care facility under chapter 395, Florida Statutes.

The bill requires the Governor to designate a department with which each quasi-public entity will be affiliated and the requirements of the affiliated department.

The bill requires each quasi-public entity to submit an annual report, on September 15, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and its affiliated department.

The bill requires a quasi-public entity to include additional specified information if the entity is organized as a corporation or has created an affiliated entity.

The bill requires each quasi-public entity to maintain a publicly available website with certain content.

A quasi-public entity is prohibited from using public funds to retain a lobbyist to represent the entity before the legislative or executive branch. However, a full-time employee of the entity may register as a lobbyist to provide such representation.

The bill prohibits a quasi-public entity from creating an entity separate from itself, including a citizen support organization or a direct-support organization.

The bill requires any meeting of a quasi-public entity to be video recorded. Additionally, the bill prohibits the executive director or an officer with similar responsibilities from recommending or being involved with the selection, appointment or retention of any member of the quasi-public entity's governing body.

The bill requires each quasi-public entity to post certain information on the Department of Financial Services contracting tracking system within 30 days after executing a contract.

The bill directs the Auditor General to compile a list of quasi-public entities subject to the bill and submit the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee by October 1, 2021. Furthermore, the Auditor General is required to make the list available on its website for public review.

The bill directs the Legislative Auditing Committee to establish procedures for annual selection of random samples of five of the identified quasi-public entities to undergo an operational audit by the Auditor General. Quasi-public entities who had operational audits completed within the preceding four years or who are subject to a statutorily-required operational audit are not included in the random sample.

The bill requires each quasi-public entity to post certain information on the Department of Financial Services contracting system within 30 days after executing a contract.

The bill requires the Department of Management Services (DMS) to include quasi-public entities on its Florida Has a Right to Know website. Further, the information included on the DMS website is required to be searchable by the term "quasi-public entity" and downloadable in a format that allows offline analysis.

The bill has an indeterminate fiscal impact to state revenues and funds. (*See V. Fiscal Impact Statement.*)

The bill takes effect July 1, 2021.

II. Present Situation:

Quasi-Public Entity

The term “quasi-public entity” is not defined in Florida Statutes. Quasi-public entities are generally considered a hybrid of private and public organizations, organized and established in law to provide and promote a public purpose by administering a governmental function of state government.¹ A quasi-public entity is typically appropriated funds from the state in order to accomplish the public purpose of its contract.

The table below is not intended to be a comprehensive list of entities but are examples of quasi-public entities:

Entity	Statute	Date of Creation
Correctional Work Programs Corporation	s. 946.504, F.S.	1983 (Ch. 83-209, L.O.F.)
Florida Independent Living Council	s. 413.395, F.S.	1988 (Ch. 88-214, L.O.F.)
Florida Birth-Related Neurological Injury Compensation Association	s. 766.315(1)(a), F.S.	1988 (Ch. 88-1, L.O.F.)
Inland Protection Financing Corporation	s. 376.3071, F.S.	1989 (Ch. 16-159, L.O.F.)
One Church, One Child of Florida Corporation	s. 409.1755, F.S.	1990 (Ch. 90-306, L.O.F.)
Florida Healthy Kids Corporation	s. 624.91(5), F.S.	1990 (Ch. 90-199, L.O.F.)
Enterprise Florida	s. 288.901(1), F.S.	1992 (Ch. 92-277, L.O.F.)
Sunshine State One-Call of Florida, Inc. (Sunshine 811)	s. 556.103, F.S.	1993 (Ch. 93-240, L.O.F.)
Florida Export Finance Corporation	s. 288.773, F.S.	1993 (Ch. 93-187, L.O.F.)
Florida Development Finance Corporation	s. 288.9604, F.S.	1993 (Ch. 93-187, L.O.F.)
CareerSource Florida, Inc.	s. 445.004, F.S.	1994 (Ch. 94-232, L.O.F.)
Assistive Technology Advisory Council	s. 413.407, F.S.	1994 (Ch. 94-324, L.O.F.)
Florida Engineers Management Corporation	s. 471.038, F.S.	1997 (Ch. 97-312, L.O.F.)
Florida Workers' Compensation Insurance Guaranty Association Guaranty Association, Inc.	s. 631.911, F.S.	1997 (Ch. 97-262, L.O.F.)
Ounce of Prevention Fund of Florida	s. 409.153, F.S.	1998 (Ch. 98-175, L.O.F.)
Tobacco Settlement Financing Corporation	s. 215.56005, F.S.	2000 (Ch. 2000-128, L.O.F.)
Florida Association of Drug Court Professionals	s. 397.334(7)(a), F.S.	2001 (Ch. 2001-48, L.O.F.)
Florida Mobile Home Relocation Corporation	s. 723.0611, F.S.	2001 (Ch. 2001-227, L.O.F.)
Florida Health Choices, Inc.	s. 408.910, F.S.	2002 (Ch. 2008-32, L.O.F.)
Florida Education Fund, Inc.	s. 1009.70, F.S.	2002 (Ch. 2002-387, L.O.F.)
Scripps Florida Funding Corporation	s. 288.955, F.S.	2003 (Ch. 2003-420, L.O.F.)
Florida Clerks of Court Operations Corporation	s. 28.35(1)(a), F.S.	2003 (Ch. 2003-402, L.O.F.)
Florida Public Health Institute, Inc.	s. 381.98, F.S.	2004 (Ch. 2004-2, L.O.F.)
Public Cord Blood Tissue Bank	s. 381.06015, F.S.	2005 (Ch. 2005-305, L.O.F.)
Florida Opportunity Fund	s. 288.9624, F.S.	2007 (Ch. 2007-189, L.O.F.)
Institute for Commercialization of Florida Technology	s. 288.9625, F.S.	2013 (Ch. 2013-120, L.O.F.)
Florida is for Veterans, Inc.	s. 295.21, F.S.	2014 (Ch. 2014-1, L.O.F.)

Citizen Support and Direct Support Organizations

A citizen support organization (CSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of ch. 617, F.S., and is authorized by Florida law to exist

¹ *McClung-Gagne v. Harbour City Volunteer Ambulance Squad, Inc.*, 721 So.2d 799 (Fla. App. 1 Dist., 1998)

as a citizen-support organization to benefit or provide assistance to a governmental entity.² A CSO is organized and operated to: conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of their affiliated department or agency.

A direct support organization (DSO) is an organization that is a Florida corporation not-for-profit incorporated under the provisions of ch. 617, F.S., and is authorized by Florida law to exist as a direct-support organization to benefit or provide assistance to a governmental entity.³

Section 20.058, F.S., establishes that by August 1st of each year, each CSO and DSO must submit the following information to their affiliated department or agency:

- The name, mailing address, telephone number, and website address of the CSO;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

By August 15th of each year, the appropriate agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each organization.⁴

Transparency in Government Spending & the Contract Tracking System

Section 215.985, F.S., is referred to as the Transparency Government Act (the Act). The Act requires the Chief Financial Officer (CFO) to establish and maintain a secure contract tracking system available for viewing and downloading by the public through a secure website. The Department of Financial Services (DFS) maintains and updates the contract tracking system. The tracking system contains contracts, grant awards, and amendments to contracts.

Within 30 days after executing a contract, each state entity is required to post the following information relating to the contract on the contract tracking system:

- The names of the contracting entities;
- The procurement method;
- The contract beginning and ending dates;
- The nature or type of commodities or services purchased;
- Applicable contract unit prices and deliverables;
- Total compensation to be paid or received under the contract;
- All payments made to the contractor to date;
- Applicable contract performance measures;

² Section 20.2551, F.S.

³ Section 16.618, F.S.

⁴ Section 20.058, F.S.

- If a competitive solicitation was not used to procure the goods and services, the justification of the action, including citation to a statutory exemption from competitive solicitation if any;⁵ and
- Electronic copies of the contract and procurement documents that have been redacted to exclude confidential information or exempt information.

Within 30 calendar days after an amendment to an existing contract, the state entity that is a party to the contract must update the information on the contract tracking system.

State entities are required to redact confidential or exempt information from the contract and procurement documents before posting an electronic copy on the contract tracking system. If a state entity becomes aware that an electronic copy of a contract or procurement document has been posted but has not been properly redacted, the state entity must notify the CFO and remove the documents from the contract tracking system.⁶ Consequently, the state entity has seven business days to post a properly redacted copy of the contract or procurement document on the contract tracking system. Request to redact confidential and exempt information must be made in writing, and delivered by mail, facsimile, electronic transmission, or in person to the state entity. The CFO is not responsible for redacting confidential and exempt information posted by a state entity on the system and is not liable for the failure of the state entity to post the information.

This section establishes the posting of information on the contract tracking system does not supersede the duty of the state entity to respond to a public records request or subpoena for the information. A request for a copy of a contract or procurement document must be made to the state entity. A subpoena for a copy of a contract or procurement document must be served on the quasi-public entity.

This section authorizes the CFO to regulate and prohibit the posting of records that could facilitate identity theft or fraud; however, such action by the CFO does not supersede the duty of a state entity to provide a copy of a public record upon request.

Florida Accountability Contract Tracking System (FACTS)

The Department of Financial Services' Division of Accounting and Auditing maintains FACTS. FACTS is a searchable consumer-friendly online system developed to make the government contracting process in Florida more transparent through the creation of a statewide contract reporting system. FACTS contains images, financial information and audit findings of all grant and contract documents, including purchase orders.⁷

⁵ Section 215.985(14)(a), F.S.

⁶ Section 215.985(14)(d), F.S.

⁷ Department of Financial Services, Division of Accounting and Auditing, *FACTS Project*, <https://www.myfloridacfo.com/division/aa/factsreporting/> (last visited Apr. 7, 2021)

Joint Legislative Auditing Committee

The Joint Legislative Auditing Committee (committee), established by the Joint Rules of the Florida Legislature, was created in law in 1967.⁸ The committee's membership is comprised of five to seven members appointed from each legislative house and its responsibilities are designed to provide continuous oversight of government operations, in part, through the auditing and review activities of the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA).⁹

The committee may direct either the Auditor General or the OPPAGA to conduct an audit, review, or examination of any entity or record as specified in s. 11.45(3), F.S. This includes state agencies, counties, municipalities, special districts, district school boards, charter schools, numerous other government organizations, as well as nongovernmental agencies, corporations, and persons that have received any appropriation made by the Legislature.¹⁰

The committee is authorized to investigate any matter within the scope of an audit, review, or examination, and is granted subpoena power in connection with such investigations, and may conduct hearings as necessary. Under s. 11.42(2), F.S., the committee is responsible for appointing the Auditor General when there is a vacancy. Such appointment is subject to confirmation by both houses of the Legislature.¹¹

Florida Auditor General

The Auditor General is the independent auditor for the State of Florida and is appointed by and serves at the pleasure of the Legislature. The Auditor General provides unbiased, timely and relevant information that the Legislature, citizens of Florida, public entities and other stakeholders can use to promote government accountability and stewardship and improve government operations. Article III, Section 2 of the Florida Constitution reads, in part, “[T]he legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.” Section 11.42, F.S., designates the constitutional auditor as the Auditor General, and s. 11.42 through s. 11.47, F.S., sets forth the general authority and duties of the Auditor General. Independently and in accordance with applicable professional standards, the Auditor General:

- Conducts financial audits of the accounts and records of State government, State universities, State colleges, and school districts.
- Conducts operational and performance audits of public programs, activities, and functions and information technology systems.
- Adopts rules, in consultation with the Florida Board of Accountancy, for audits performed by independent certified public accountants of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.

⁸ During 2011, the Legislature passed a reform package that included revisions to laws and joint rules related to Joint Legislative Auditing Committee. Chapter 2011-34, Laws of Florida, repealed the statutory creation of JLAC.

⁹ Online Sunshine, *Historical Committees, Joint Legislative Auditing Committee*, http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=about.cfm&Directory=committees/joint/Jcla/&Tab=committees (last visited Apr. 14, 2021).

¹⁰ *Id.*

¹¹ *Id.*

- Conducts reviews of audit reports of local governmental entities, charter schools and technical career centers, school districts, and certain nonprofit and for-profit organizations.
- Conducts examinations of school districts' and other entities' records to evaluate compliance with State requirements governing the Florida Education Finance Program student enrollment and student transportation funding allocations.
- Conducts quality assessment reviews of the internal audits performed by state agency offices of inspectors general.¹²

Pursuant to s. 11.45(8), F.S., the Auditor General, in consultation with the Board of Accountancy, adopts rules for the form and conduct of all financial audits performed by independent certified public accountants pursuant to ss. 215.981, 218.39, 1001.453, 1002.395, 1004.28, and 1004.70, F.S. The rules for audits of local governmental entities, charter schools, charter technical career centers, and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act as stated in s. 218.501, F.S.¹³

Operational Audit Requirements under Section 11.45, F.S.

Section 11.45(1)(i), F.S., defines operational audit to mean an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.¹⁴

Each year, the Florida Auditor General issues over 200 reports related to operational, financial, and federal award audits and attestation examination engagements of state and local governmental entities.¹⁵ Audit findings and recommendations are used to help correct errors, strengthen controls and reduce risk.¹⁶

Entity Audit Filing Requirements¹⁷

Under ss. 215.97(2)(a) and 215.97(8)(a), F.S., referred to as the Florida Single Audit Act, each nonprofit and for-profit non-state entity that expends a total amount of state financial assistance

¹² Florida Auditor General, *About the Florida Auditor General*, <https://flauditor.gov/pages/aboutus.html> (last visited Apr. 7, 2021).

¹³ Florida Auditor General, *Rules of the Auditor General*, <https://flauditor.gov/pages/rules.html>, (last visited Apr. 7, 2021).

¹⁴ Section 11.45(1)(i), F.S.

¹⁵ Florida Auditor General, *Our Annual Report*, <https://flauditor.gov/pages/aboutus.html> (last visited Apr. 7, 2021).

¹⁶ Florida Auditor General, *Guide to Audits*, https://flauditor.gov/pages/pdf_files/audit%20guide%20pamphlet.pdf (last visited Apr. 7, 2021).

¹⁷ Florida Auditor General, *Filing Requirements*, https://flauditor.gov/pages/filing_requirements_npfp.html (last visited Apr. 7, 2021).

equal to or in excess of \$500,000 in any fiscal year prior to July 1, 2016, and \$750,000 in any fiscal year on or subsequent to July 1, 2016, is required to have an audit for that fiscal year.

Pursuant to Section 10.657(2), Rules of the Auditor General, each entity required to submit an audit report under s. 215.97, F.S., must provide both a paper and an electronic copy (elements of which are described in Section 10.656, Rules of the Auditor General) along with the required submittal checklist.

Under Florida law, certain other nonprofit organizations are required to have an audit each year.¹⁸ Section 10.740, Rules of the Auditor General, requires each of these entities to provide both a paper and an electronic copy (elements that are described in Section 10.730, Rules of the Auditor General) of the audit along with the required submittal checklist.

Annual financial audits of state agency direct-support organizations (DSO) and citizen support organizations (CSO) are required for each entity with annual expenditures of \$100,000.¹⁹ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and shall be submitted within nine months after the end of the fiscal year to the Auditor General and the state agency responsible for creation, administration, or approval of the DSO or the CSO.²⁰

III. Effect of Proposed Changes:

Section 1 creates s. 20.059, F.S., to outline the definitions, requirements, and responsibilities of quasi-public entities.

This section provides the following definitions: the term “governmental entity” is defined to mean:

A state, regional, county, municipal or special district entity, or any other political subdivision, whether executive, judicial, or legislative, including, but not limited to, a department, a division, a bureau, a commission, an authority, a district, or an agency thereof or a public school, a Florida College System institution a state university, or an associated board.

The term “operational audit” has the same meaning as in s. 11.45(1), F.S., which means:

An audit whose purpose is to evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules,

¹⁸ See ss. 215.981(1), 288.906(1)(h), 288.955(14)(g), 288.1226(7), 1001.453(4), 1002.395(6)(m), 1004.28(5) and 1004.70(6), Florida Statutes.

¹⁹ Section 215.981(1), F.S.

²⁰ Section 215.981(1), F.S., applies to state agency direct-support and citizen-support organizations created, approved or administered by a state agency, other than a university, community college or district school board. See Florida Auditor General, *Rules of the Auditor General, Chapter 10.700, Audits of Certain Nonprofit Organizations (Effective June 30, 2020)* https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited Apr. 7, 2021).

contracts, grant agreements, and other guidelines. Operational audits must be conducted in accordance with government auditing standards. Such audits examine internal controls that are designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of financial records and reports, and safeguarding of assets, and identify weaknesses in those internal controls.

The term "quasi-public entity" is defined to mean:

An entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under ss. 627.311 or 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S.

The term "direct control" is defined to mean:

For purposes of this paragraph, the term "direct control" means the ability to plan, direct, coordinate, and execute the powers, duties, functions, and responsibilities of a quasi-public entity, including the ability to control, supervise, and manage the quasi-public entity's daily operations. The term does not include the appointment of public officials or private persons to the governing body, regardless of appointment method, and does not include the approval of a plan of operation by a governmental entity.

This section provides that for a quasi-public entity created in law before July 1, 2021, the Governor must specify a department with which the quasi-public entity will be affiliated, unless a department is already specified in law, no later than December 31, 2021. For quasi-public entities created in law on or after July 1, 2021, the law creating the quasi-public entity must specify a department with which the quasi-public entity will be affiliated. The affiliated departments, whether specified by the Governor or in law, shall serve in an advisory capacity to the governing body of the affiliated quasi-public entity. The head of the affiliated department must review the activities of the affiliated quasi-public entity at least annually and recommend appropriate statutory changes to the Legislature, as necessary, to ensure the most efficient and cost-effective operation.

This section provides that by September 15 of each year, each quasi-public entity is required to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and its affiliated department. The report is required to have the following:

- The name, mailing address, physical address, telephone number, and website address of the quasi-public entity;
- The statutory authority creating the quasi-public entity;
- A description of the quasi-public entity's mission;

- A description of the quasi-public entity's plans for the next three fiscal years;
- A copy of the quasi-public entity's code of ethics; and
- If the quasi-public entity is a corporation not for profit, a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

If the quasi-public entity is organized as a corporation, the bill requires the following be provided:

- The corporate governance framework and structure;
- The policies and practices of the corporation's significant committees;
- The policies and practices for directing senior management; and
- Processes by which the board, its committees, and senior management ensure an appropriate amount of oversight over its activities.

If the quasi-public entity has created an entity of any type with which it is affiliated, the following information must be included for each such affiliated entity: the name, mailing address, physical address, telephone number, and website address; the statutory authority creating or authorizing the creation of the affiliated entity; and a description of the affiliated entity's mission. If the affiliated entity is a corporation, it must provide all the required information for a corporation as set forth above. If the affiliated entity is a corporation not for profit, it must provide a copy of the entity's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax Form (Form 990).

This section requires each quasi-public entity to maintain a publicly accessible website. The website must include:

- The annual report;
- The most recently approved operating budget, maintained on the website for two years;
- The position title and annual salary or rate of pay for each regularly established position;
- A link to any state audit or report of the entity's operations;
- A link to any program or activity descriptions for which funds are expended;
- All meeting notices for meetings of the governing body, which must be on the website for two years; and
- The official minutes of each meeting of the governing body, which must be posted no later than seven days after the meeting.

This section provides that a quasi-public entity may not use public funds to retain a lobbyist to represent the quasi-public entity before the legislative or executive branch. A full-time employee of the quasi-public entity may register as a lobbyist and represent the entity before the legislative or executive branch. Except as a full-time employee, a person may not accept public funds from a quasi-public entity for lobbying.

This section provides a quasi-public entity may not create an entity separate from itself, including a citizen support or a direct-support organization.

Any meeting of the quasi-public entity's governing body must be video recorded. The executive director of a quasi-public entity, or an officer with similar responsibilities, may not recommend

or be involved in the selection, appointment, or retention of any member of the entity's governing body.

This section requires the Auditor General to compile a list of quasi-public entities and provide the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee. The Auditor General must make the list available on its website for public review.

The Legislative Auditing Committee is required to establish procedures for an annual selection of random sampling of five of the quasi-public entities, identified on the Auditor General's published list, to undergo an operational audit by the Auditor General. A quasi-public entity that had an operational audit completed within the preceding four years or that is otherwise subject to a statutorily required operational audit is excluded from the random sample.

Section 2 re-designates and revises s. 215.985, F.S., to require the Department of Management Services to include quasi-public entities on its Florida Has a Right to Know website. The information must include, at a minimum, the following for each employee or officer:

- Name and salary or hourly rate of pay;
- Position number, class code, and class title; and
- Employing agency or quasi-public entity and budget entity.

Further, the information contained on the Florida Has a Right to Know website is required to be searchable by the term "quasi-public entity" and downloadable in a format that allows offline analysis.

This section amends s. 215.985, F.S., to make each quasi-public entity subject to the DFS reporting requirements for the contract tracking system.

This section redefines the definition of the term "procurement document" in s. 215.985(14), F.S., to include a quasi-public entity.

This section defines the term "quasi-public entity" to mean:

An entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under s. 627.311 or s. 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S.

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

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

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The Auditor General is required to select an annual random sample of five quasi-public entities to undergo an operational audit. If selected, a quasi-public entity may incur additional workload. If not already maintained, quasi-public entities may incur additional costs related to maintaining a publicly accessible website as required by the bill.

Quasi-public entities will also experience additional workload in completing the required annual report and meeting the posting requirements on the contract tracking system.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact to state revenues and funds. The Executive Office of the Governor may incur additional workload by designating affiliate departments to the quasi-public entities (QPE). The affiliated departments may incur additional workload serving in an advisory role to the QPEs. The QPEs are required to enter certain information into the Department of Financial Services' (DFS) contract tracking system. The impact to the DFS's Division of Accounting and Auditing, Florida Accountability Contract Tracking System (FACTS) is estimated at \$69,721 for

development and programming costs to add the quasi-entities to FACTS,²¹ which can be absorbed within existing resources.²²

The Department of Management Services (DMS) manages the Florida Has a Right to Know website. The DMS is required to add QPEs under the website's search parameters. The DMS may experience minimal impact for development and programming costs to include QPEs in the Florida Has a Right to Know website, which can be absorbed within existing resources.

VI. Technical Deficiencies:

In Section 2 of the bill, which amends s. 215.985, F.S., quasi-public entities are defined, for the purposes of that section, as having the same meaning as provided in the newly created s. 20.059, F.S. However, later provisions of the section define the term differently for the purposes of subsection (14). If the intent is to define quasi-public entities consistently, the definitions should be revised.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.985 of the Florida Statutes.

This bill creates section 20.059 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 Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that a quasi-public entity (QPE) is defined as an entity with statewide application, other than a governmental entity, established by law, regardless of form, for a public purpose or to effectuate a government program, and is not under the direct control of a governmental entity. The term does not include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or entity created under ss. 627.311 or 627.351, F.S.; a research institute of the state university system; or an entity licensed as a health care facility under ch. 395, F.S. Defines “direct control” for purposes of the definition.

²¹ Email from Meredith Stansfield, Director of Legislative and Cabinet Affairs, Department of Financial Services to Michelle Sanders, Legislative Analyst, Senate Appropriations Subcommittee on Agriculture, Environment, and General Government (Apr. 8, 2021) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government)

²² Conversation with Chase Mitchell, Office of Legislative and Cabinet Affairs, Department of Financial Services (Apr. 8, 2021)

- Removes language requiring QPEs to have operational audits conducted by the Auditor General every three years.
- Directs the Auditor General to compile a list of QPEs subject to the bill and submit the list to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee by October 1, 2021, and requires the Auditor General to make the list available on its website for public review.
- Directs the Legislative Auditing Committee to establish procedures for an annual selection of random samples of five of the identified QPEs for purposes of an operational audit by the Auditor General. Clarifies QPEs who had operational audits completed within the preceding four years or are subject to statutorily-required operational audit are not included in the random sample.
- Requires the Department of Management Services (DMS) to include QPEs on its Florida Has a Right to Know website. Further, the information included on the DMS website is required to be searchable by the term “quasi-public entity” and downloadable in a format that allows offline analysis.

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

The CS:

- Requires the Governor to specify a department with which a quasi-public entity created in law before July 1, 2021, will be affiliated, unless a department is specified in law. For a quasi-public entity created in law on or after July 1, 2021, the law creating the quasi-public entity shall specify a department with which the quasi-public entity will be affiliated.
- Requires each quasi-public entity to have an operational audit completed by the Auditor General at least once every three years.
- Removes a provision providing a repeal date for quasi-public entities unless they are reviewed and saved by the Legislature.
- Removes a provision requiring each quasi-public entity having to contract with an independent entity to conduct a cost-benefit analysis.
- Removes a provision providing salary and compensation limits for employees of quasi-public entities.

B. Amendments:

None.



229772

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 165
and insert:

(a) "Governmental entity" means a state, regional, county, municipal, or special district entity, or any other political subdivision, whether executive, judicial, or legislative, including, but not limited to, a department, a division, a bureau, a commission, an authority, a district, or an agency thereof or a public school, a Florida College System



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11 institution, a state university, or an associated board.

12 (b) "Operational audit" has the same meaning as in s.
13 11.45(1).

14 (c) "Quasi-public entity" means an entity, other than a
15 governmental entity, established by general law, regardless of
16 form, for a public purpose or to effectuate a government
17 program, and that is not under the direct control of a
18 governmental entity. The term does not include a citizen support
19 organization or a direct-support organization. For purposes of
20 this paragraph, the term "direct control" means the ability to
21 plan, direct, coordinate, and execute the powers, duties,
22 functions, and responsibilities of a quasi-public entity,
23 including the ability to control, supervise, and manage the
24 quasi-public entity's daily operations. The term does not
25 include the appointment of public officials or private persons
26 to the governing body, regardless of appointment method, and
27 does not include the approval of a plan of operations by a
28 governmental entity.

29 (2) (a) For a quasi-public entity created in law before July
30 1, 2021, the Governor must specify a department with which the
31 quasi-public entity will be affiliated, unless a department is
32 already specified in law, no later than December 31, 2021. The
33 affiliated department, whether specified by the Governor or in
34 law, shall serve in an advisory capacity to the governing body
35 of the affiliated quasi-public entity. The head of the
36 affiliated department shall review the activities of the
37 affiliated quasi-public entity at least annually and shall
38 recommend appropriate statutory changes to the Legislature, as
39 necessary, to ensure the most efficient and cost-effective



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40 operation.

41 (b) For a quasi-public entity created in law on or after
42 July 1, 2021, the law creating the quasi-public entity shall
43 specify a department with which the quasi-public entity will be
44 affiliated. The affiliated department shall serve in an advisory
45 capacity to the governing body of the affiliated quasi-public
46 entity. The head of the affiliated department shall review the
47 activities of the affiliated quasi-public entity at least
48 annually and shall recommend appropriate statutory changes to
49 the Legislature, as necessary, to ensure the most efficient and
50 cost-effective operation.

51 (3) By September 15 of each year, each quasi-public entity
52 shall submit a report to the Governor, the President of the
53 Senate, the Speaker of the House of Representatives, and its
54 affiliated department which includes all of the following
55 information:

56 (a) The name, mailing address, physical address, telephone
57 number, and website address of the quasi-public entity.

58 (b) The statutory authority creating the quasi-public
59 entity.

60 (c) A description of the quasi-public entity's mission.

61 (d) A description of the quasi-public entity's plans for
62 the next 3 fiscal years.

63 (e) A copy of the quasi-public entity's code of ethics.

64 (f) If the quasi-public entity is a corporation not for
65 profit, a copy of the entity's most recent federal Internal
66 Revenue Service Return of Organization Exempt from Income Tax
67 Form (Form 990).

68 (g) If the quasi-public entity is organized as a



69 corporation, a copy of all of the following:

70 1. Corporate governance framework and structure.

71 2. Policies and practices of the corporation's significant
72 committees, including any compensation committee.

73 3. Policies and practices for directing senior management.

74 4. Processes by which the board, its committees, and senior
75 management ensure an appropriate amount of oversight over the
76 corporation's activities.

77 (h) If the quasi-public entity has created an entity of any
78 type with which it is affiliated, the following information must
79 be included for each such affiliated entity:

80 1. The name, mailing address, physical address, telephone
81 number, and website address of the affiliated entity.

82 2. The statutory authority creating or authorizing the
83 creation of the affiliated entity, if any.

84 3. A description of the affiliated entity's mission.

85 4. If the affiliated entity is a corporation, a copy of all
86 of the information described in paragraph (g).

87 5. If the affiliated entity is a corporation not for
88 profit, a copy of the entity's most recent federal Internal
89 Revenue Service Return of Organization Exempt from Income Tax
90 Form (Form 990).

91 (4) Each quasi-public entity shall maintain a publicly
92 accessible website. The website must include the following:

93 (a) The report required pursuant to subsection (4).

94 (b) The most recently approved operating budget, which must
95 be maintained on the website for 2 years.

96 (c) The position title and annual salary or rate of pay for
97 each regularly established position.



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98 (d) A link to any state audit or report of the entity's
99 operations.

100 (e) A link to any program or activity descriptions for
101 which funds may be expended.

102 (f) All meeting notices for meetings of the entity's
103 governing body, which must be maintained on the website for 2
104 years.

105 (g) The official minutes of each meeting of the entity's
106 governing body, which must be posted no later than 7 days after
107 the date of the meeting in which the minutes are approved.

108 (5) A quasi-public entity may not use public funds to
109 retain a lobbyist to represent the entity before the legislative
110 or executive branch. However, a full-time employee of the quasi-
111 public entity may register as a lobbyist and represent the
112 entity before the legislative or executive branch. Except as a
113 full-time employee, a person may not accept public funds from a
114 quasi-public entity for lobbying.

115 (6) Unless specifically authorized by law, a quasi-public
116 entity may not create an entity separate from itself, including
117 a citizen support organization or a direct-support organization.

118 (7) Any meeting of a quasi-public entity's governing body
119 must be video recorded.

120 (8) The executive director of a quasi-public entity, or an
121 officer with responsibilities similar to that of an executive
122 director, may not recommend or otherwise be involved in the
123 selection, appointment, or retention of any member of the
124 entity's governing body.

125 (9) (a) By October 1, 2021, the Auditor General shall
126 compile a list of the quasi-public entities subject to this



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127 section and provide such list to the Governor, the President of
128 the Senate, the Speaker of the House of Representatives, and the
129 Legislative Auditing Committee. The list must be available on
130 the Auditor General's website for review by the public.

131 (b) The Legislative Auditing Committee shall establish
132 procedures for the annual selection of a random sample of 5
133 percent of the quasi-public entities identified in paragraph (a)
134 to undergo an operational audit by the Auditor General. A quasi-
135 public entity that has had an operational audit completed within
136 the preceding 4 years or that is otherwise subject to a
137 statutorily-required operational audit shall not be included in
138 the random sample.

139 Section 2. Paragraph (d) of subsection (2) of section
140 215.985, Florida Statutes, is redesignated as paragraph (e), a
141 new paragraph (d) is added to that subsection, and subsections
142 (6) and (14) of that section are amended to read:

143 215.985 Transparency in government spending.—

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

145 (d) "Quasi-public entity" has the same meaning as provided
146 in s. 20.059.

147 (6) The Department of Management Services shall establish
148 and maintain a website that provides current information
149 relating to each employee or officer of a state agency, a state
150 university, a Florida College System institution, a quasi-public
151 entity, or the State Board of Administration, regardless of the
152 appropriation category from which the person is paid.

153 (a) For each employee or officer, the information must
154 include, at a minimum, his or her:

155 1. Name and salary or hourly rate of pay.



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- 156 2. Position number, class code, and class title.
- 157 3. Employing agency or quasi-public entity and budget
- 158 entity.

159 (b) The information must be searchable by state agency,
160 state university, Florida College System institution, quasi-
161 public entity, and the State Board of Administration, and by
162 employee name, salary range, or class code and must be
163 downloadable in a format that allows offline analysis.

164
165
166 ===== T I T L E A M E N D M E N T =====

167 And the title is amended as follows:

168 Delete lines 8 - 24

169 and insert:

170 requiring a quasi-public entity to submit an annual
171 report that includes certain information to the
172 Governor, the Legislature, and its affiliated
173 department by a certain date; requiring a quasi-public
174 entity to maintain a website that includes certain
175 information; prohibiting a quasi-public entity from
176 using public funds to retain a lobbyist; authorizing
177 certain employees of a quasi-public entity to register
178 as a lobbyist and represent the quasi-public entity;
179 prohibiting a quasi-public entity from creating an
180 entity separate from itself; requiring that meetings
181 of the quasi-public entity's governing body be video
182 recorded; prohibiting an executive director or similar
183 officer of a quasi-public entity from certain
184 involvement with the entity's governing body;



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185 requiring the Auditor General to identify quasi-public
186 entities; requiring the Legislative Auditing Committee
187 to establish a process for random selection of quasi-
188 public entities to undergo operational audits;
189 providing exceptions to the audit process for certain
190 entities; amending s. 215.985, F.S.; defining the term
191 "quasi-public entity"; requiring the Department of
192 Management Services to provide certain information
193 relating to quasi-public entity employees or officers
194 on a website; requiring such information to be
195 searchable in a certain manner;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Rodriguez) recommended the following:

1 **Senate Substitute for Amendment (229772) (with title**
2 **amendment)**

3
4 Delete lines 50 - 165
5 and insert:

6 (a) "Governmental entity" means a state, regional, county,
7 municipal, or special district entity, or any other political
8 subdivision, whether executive, judicial, or legislative,
9 including, but not limited to, a department, a division, a
10 bureau, a commission, an authority, a district, or an agency



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11 thereof or a public school, a Florida College System
12 institution, a state university, or an associated board.

13 (b) "Operational audit" has the same meaning as in s.
14 11.45(1).

15 (c) "Quasi-public entity" means an entity with statewide
16 application, other than a governmental entity, established by
17 general law, regardless of form, for a public purpose or to
18 effectuate a government program, and that is not under the
19 direct control of a governmental entity. The term does not
20 include a citizen support organization, a direct-support
21 organization, a joint underwriting association authorized
22 pursuant to s. 627.351, a research institute of the state
23 university system, or an entity licensed as a health care
24 facility under chapter 395. For purposes of this paragraph, the
25 term "direct control" means the ability to plan, direct,
26 coordinate, and execute the powers, duties, functions, and
27 responsibilities of a quasi-public entity, including the ability
28 to control, supervise, and manage the quasi-public entity's
29 daily operations. The term does not include the appointment of
30 public officials or private persons to the governing body,
31 regardless of appointment method, and does not include the
32 approval of a plan of operations by a governmental entity.

33 (2) (a) For a quasi-public entity created in law before July
34 1, 2021, the Governor must specify a department with which the
35 quasi-public entity will be affiliated, unless a department is
36 already specified in law, no later than December 31, 2021. The
37 affiliated department, whether specified by the Governor or in
38 law, shall serve in an advisory capacity to the governing body
39 of the affiliated quasi-public entity. The head of the



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40 affiliated department shall review the activities of the
41 affiliated quasi-public entity at least annually and shall
42 recommend appropriate statutory changes to the Legislature, as
43 necessary, to ensure the most efficient and cost-effective
44 operation.

45 (b) For a quasi-public entity created in law on or after
46 July 1, 2021, the law creating the quasi-public entity shall
47 specify a department with which the quasi-public entity will be
48 affiliated. The affiliated department shall serve in an advisory
49 capacity to the governing body of the affiliated quasi-public
50 entity. The head of the affiliated department shall review the
51 activities of the affiliated quasi-public entity at least
52 annually and shall recommend appropriate statutory changes to
53 the Legislature, as necessary, to ensure the most efficient and
54 cost-effective operation.

55 (3) By September 15 of each year, each quasi-public entity
56 shall submit a report to the Governor, the President of the
57 Senate, the Speaker of the House of Representatives, and its
58 affiliated department which includes all of the following
59 information:

60 (a) The name, mailing address, physical address, telephone
61 number, and website address of the quasi-public entity.

62 (b) The statutory authority creating the quasi-public
63 entity.

64 (c) A description of the quasi-public entity's mission.

65 (d) A description of the quasi-public entity's plans for
66 the next 3 fiscal years.

67 (e) A copy of the quasi-public entity's code of ethics.

68 (f) If the quasi-public entity is a corporation not for



69 profit, a copy of the entity's most recent federal Internal
70 Revenue Service Return of Organization Exempt from Income Tax
71 Form (Form 990).

72 (g) If the quasi-public entity is organized as a
73 corporation, a copy of all of the following:

74 1. Corporate governance framework and structure.

75 2. Policies and practices of the corporation's significant
76 committees, including any compensation committee.

77 3. Policies and practices for directing senior management.

78 4. Processes by which the board, its committees, and senior
79 management ensure an appropriate amount of oversight over the
80 corporation's activities.

81 (h) If the quasi-public entity has created an entity of any
82 type with which it is affiliated, the following information must
83 be included for each such affiliated entity:

84 1. The name, mailing address, physical address, telephone
85 number, and website address of the affiliated entity.

86 2. The statutory authority creating or authorizing the
87 creation of the affiliated entity, if any.

88 3. A description of the affiliated entity's mission.

89 4. If the affiliated entity is a corporation, a copy of all
90 of the information described in paragraph (g).

91 5. If the affiliated entity is a corporation not for
92 profit, a copy of the entity's most recent federal Internal
93 Revenue Service Return of Organization Exempt from Income Tax
94 Form (Form 990).

95 (4) Each quasi-public entity shall maintain a publicly
96 accessible website. The website must include the following:

97 (a) The report required pursuant to subsection (4).



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98 (b) The most recently approved operating budget, which must
99 be maintained on the website for 2 years.

100 (c) The position title and annual salary or rate of pay for
101 each regularly established position.

102 (d) A link to any state audit or report of the entity's
103 operations.

104 (e) A link to any program or activity descriptions for
105 which funds may be expended.

106 (f) All meeting notices for meetings of the entity's
107 governing body, which must be maintained on the website for 2
108 years.

109 (g) The official minutes of each meeting of the entity's
110 governing body, which must be posted no later than 7 days after
111 the date of the meeting in which the minutes are approved.

112 (5) A quasi-public entity may not use public funds to
113 retain a lobbyist to represent the entity before the legislative
114 or executive branch. However, a full-time employee of the quasi-
115 public entity may register as a lobbyist and represent the
116 entity before the legislative or executive branch. Except as a
117 full-time employee, a person may not accept public funds from a
118 quasi-public entity for lobbying.

119 (6) Unless specifically authorized by law, a quasi-public
120 entity may not create an entity separate from itself, including
121 a citizen support organization or a direct-support organization.

122 (7) Any meeting of a quasi-public entity's governing body
123 must be video recorded.

124 (8) The executive director of a quasi-public entity, or an
125 officer with responsibilities similar to that of an executive
126 director, may not recommend or otherwise be involved in the



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127 selection, appointment, or retention of any member of the
128 entity's governing body.

129 (9) (a) By October 1, 2021, the Auditor General shall
130 compile a list of the quasi-public entities subject to this
131 section and provide such list to the Governor, the President of
132 the Senate, the Speaker of the House of Representatives, and the
133 Legislative Auditing Committee. The list must be available on
134 the Auditor General's website for review by the public.

135 (b) The Legislative Auditing Committee shall establish
136 procedures for the annual selection of a random sample of 5 of
137 the quasi-public entities identified in paragraph (a) to undergo
138 an operational audit by the Auditor General. A quasi-public
139 entity that has had an operational audit completed by the
140 Auditor General within the preceding 4 years or that is
141 otherwise subject to a statutorily-required operational audit by
142 the Auditor General shall not be included in the random sample.

143 Section 2. Paragraph (d) of subsection (2) of section
144 215.985, Florida Statutes, is redesignated as paragraph (e), a
145 new paragraph (d) is added to that subsection, and subsections
146 (6) and (14) of that section are amended to read:

147 215.985 Transparency in government spending.—

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

149 (d) "Quasi-public entity" has the same meaning as provided
150 in s. 20.059.

151 (6) The Department of Management Services shall establish
152 and maintain a website that provides current information
153 relating to each employee or officer of a state agency, a state
154 university, a Florida College System institution, a quasi-public
155 entity, or the State Board of Administration, regardless of the



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156 appropriation category from which the person is paid.

157 (a) For each employee or officer, the information must
158 include, at a minimum, his or her:

159 1. Name and salary or hourly rate of pay.

160 2. Position number, class code, and class title.

161 3. Employing agency or quasi-public entity and budget
162 entity.

163 (b) The information must be searchable by state agency,
164 state university, Florida College System institution, quasi-
165 public entity, and the State Board of Administration, and by
166 employee name, salary range, or class code and must be
167 downloadable in a format that allows offline analysis.

168
169

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

171 And the title is amended as follows:

172 Delete lines 8 - 24

173 and insert:

174 requiring a quasi-public entity to submit an annual
175 report that includes certain information to the
176 Governor, the Legislature, and its affiliated
177 department by a certain date; requiring a quasi-public
178 entity to maintain a website that includes certain
179 information; prohibiting a quasi-public entity from
180 using public funds to retain a lobbyist; authorizing
181 certain employees of a quasi-public entity to register
182 as a lobbyist and represent the quasi-public entity;
183 prohibiting a quasi-public entity from creating an
184 entity separate from itself; requiring that meetings



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185 of the quasi-public entity's governing body be video
186 recorded; prohibiting an executive director or similar
187 officer of a quasi-public entity from certain
188 involvement with the entity's governing body;
189 requiring the Auditor General to identify quasi-public
190 entities; requiring the Legislative Auditing Committee
191 to establish a process for random selection of quasi-
192 public entities to undergo operational audits;
193 providing exceptions to the audit process for certain
194 entities; amending s. 215.985, F.S.; defining the term
195 "quasi-public entity"; requiring the Department of
196 Management Services to provide certain information
197 relating to quasi-public entity employees or officers
198 on a website; requiring such information to be
199 searchable in a certain manner;



891770

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Broxson) recommended the following:

Senate Amendment to Substitute Amendment (874262)

Delete lines 20 - 23
and insert:
include a citizen support organization; a direct-support organization; a joint underwriting association, a risk apportionment plan, or other entity created under ss. 627.311 or 627.351; a research institute of the state university system; or an entity licensed as a health care

By the Committee on Governmental Oversight and Accountability;
and Senator Rodriguez

585-03334-21

20211570c1

1 A bill to be entitled
2 An act relating to quasi-public entities; creating s.
3 20.059, F.S.; providing definitions; requiring the
4 Governor to specify affiliated departments for certain
5 quasi-public entities by a certain date; providing
6 requirements for the affiliated departments; providing
7 requirements for a law creating a quasi-public entity;
8 requiring the completion of an operational audit at
9 certain intervals; requiring a quasi-public entity to
10 submit an annual report that includes certain
11 information to the Governor, the Legislature, and its
12 affiliated department by a certain date; requiring a
13 quasi-public entity to maintain a website that
14 includes certain information; prohibiting a quasi-
15 public entity from using public funds to retain a
16 lobbyist; authorizing certain employees of a quasi-
17 public entity to register as a lobbyist and represent
18 the quasi-public entity; prohibiting a quasi-public
19 entity from creating an entity separate from itself;
20 requiring that meetings of the quasi-public entity's
21 governing body be video recorded; prohibiting an
22 executive director or similar officer of a quasi-
23 public entity from certain involvement with the
24 entity's governing body; amending s. 215.985, F.S.;
25 requiring a quasi-public entity to post and update
26 certain information on the secure contract tracking
27 system established and maintained by the Chief
28 Financial Officer; requiring a quasi-public entity to
29 redact certain information; providing that the Chief

Page 1 of 11

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

585-03334-21

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30 Financial Officer, the Department of Financial
31 Services, and officers, employees, and contractors
32 thereof are not responsible for redacting, and are not
33 liable for the failure to redact, certain information
34 posted on the secure contract tracking system by a
35 quasi-public entity; providing that the posting of
36 certain information does not supersede the duty of a
37 quasi-public entity to respond to certain requests or
38 subpoenas; providing that certain actions by the Chief
39 Financial Officer do not supersede the duty of a
40 quasi-public entity to provide certain records upon
41 request; revising and providing definitions; providing
42 an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:45
46 Section 1. Section 20.059, Florida Statutes, is created to
47 read:48 20.059 Quasi-public entities.—49 (1) As used in this section, the term:50 (a) "Governmental entity" means a state, regional, county,
51 municipal, special district, or any other political subdivision,
52 whether executive, judicial, or legislative, including, but not
53 limited to, a department, a division, a bureau, a commission, an
54 authority, a district, or an agency thereof or a public school,
55 a Florida College System institution, a state university, or an
56 associated board.57 (b) "Operational audit" has the same meaning as in s.58 11.45(1).

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59 (c) "Quasi-public entity" means an entity established by
 60 general law, regardless of form, for a public purpose or to
 61 effectuate a government program and which is not directly
 62 controlled by a governmental entity. The term does not include a
 63 citizen support organization or a direct-support organization.

64 (2)(a) For a quasi-public entity created in law before July
 65 1, 2021, the Governor must specify a department with which the
 66 quasi-public entity will be affiliated, unless a department is
 67 already specified in law, no later than December 31, 2021. The
 68 affiliated department, whether specified by the Governor or in
 69 law, shall serve in an advisory capacity to the governing body
 70 of the affiliated quasi-public entity. The head of the
 71 affiliated department shall review the activities of the
 72 affiliated quasi-public entity at least annually and shall
 73 recommend appropriate statutory changes to the Legislature, as
 74 necessary, to ensure the most efficient and cost-effective
 75 operation.

76 (b) For a quasi-public entity created in law on or after
 77 July 1, 2021, the law creating the quasi-public entity shall
 78 specify a department with which the quasi-public entity will be
 79 affiliated. The affiliated department shall serve in an advisory
 80 capacity to the governing body of the affiliated quasi-public
 81 entity. The head of the affiliated department shall review the
 82 activities of the affiliated quasi-public entity at least
 83 annually and shall recommend appropriate statutory changes to
 84 the Legislature, as necessary, to ensure the most efficient and
 85 cost-effective operation.

86 (3) Each quasi-public entity shall have an operational
 87 audit completed by the Auditor General at least once every 3

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88 years.

89 (4) By September 15 of each year, each quasi-public entity
 90 shall submit a report to the Governor, the President of the
 91 Senate, the Speaker of the House of Representatives, and its
 92 affiliated department which includes all of the following
 93 information:

94 (a) The name, mailing address, physical address, telephone
 95 number, and website address of the quasi-public entity.

96 (b) The statutory authority creating the quasi-public
 97 entity.

98 (c) A description of the quasi-public entity's mission.

99 (d) A description of the quasi-public entity's plans for
 100 the next 3 fiscal years.

101 (e) A copy of the quasi-public entity's code of ethics.

102 (f) If the quasi-public entity is a corporation not for
 103 profit, a copy of the entity's most recent federal Internal
 104 Revenue Service Return of Organization Exempt from Income Tax
 105 Form (Form 990).

106 (g) If the quasi-public entity is organized as a
 107 corporation, a copy of all of the following:

108 1. Corporate governance framework and structure.

109 2. Policies and practices of the corporation's significant
 110 committees, including any compensation committee.

111 3. Policies and practices for directing senior management.

112 4. Processes by which the board, its committees, and senior
 113 management ensure an appropriate amount of oversight over the
 114 corporation's activities.

115 (h) If the quasi-public entity has created an entity of any
 116 type with which it is affiliated, the following information must

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117 be included for each such affiliated entity:
 118 1. The name, mailing address, physical address, telephone
 119 number, and website address of the affiliated entity.
 120 2. The statutory authority creating or authorizing the
 121 creation of the affiliated entity, if any.
 122 3. A description of the affiliated entity's mission.
 123 4. If the affiliated entity is a corporation, a copy of all
 124 of the information described in paragraph (g).
 125 5. If the affiliated entity is a corporation not for
 126 profit, a copy of the entity's most recent federal Internal
 127 Revenue Service Return of Organization Exempt from Income Tax
 128 Form (Form 990).
 129 (5) Each quasi-public entity shall maintain a publicly
 130 accessible website. The website must include the following:
 131 (a) The report required pursuant to subsection (4).
 132 (b) The most recently approved operating budget, which must
 133 be maintained on the website for 2 years.
 134 (c) The position title and annual salary or rate of pay for
 135 each regularly established position.
 136 (d) A link to any state audit or report of the entity's
 137 operations.
 138 (e) A link to any program or activity descriptions for
 139 which funds may be expended.
 140 (f) All meeting notices for meetings of the entity's
 141 governing body, which must be maintained on the website for 2
 142 years.
 143 (g) The official minutes of each meeting of the entity's
 144 governing body, which must be posted no later than 7 days after
 145 the date of the meeting in which the minutes are approved.

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146 (6) A quasi-public entity may not use public funds to
 147 retain a lobbyist to represent the entity before the legislative
 148 or executive branch. However, a full-time employee of the quasi-
 149 public entity may register as a lobbyist and represent the
 150 entity before the legislative or executive branch. Except as a
 151 full-time employee, a person may not accept public funds from a
 152 quasi-public entity for lobbying.
 153 (7) Unless specifically authorized by law, a quasi-public
 154 entity may not create an entity separate from itself, including
 155 a citizen support organization or a direct-support organization.
 156 (8) Any meeting of a quasi-public entity's governing body
 157 must be video recorded.
 158 (9) The executive director of a quasi-public entity, or an
 159 officer with responsibilities similar to that of an executive
 160 director, may not recommend or otherwise be involved in the
 161 selection, appointment, or retention of any member of the
 162 entity's governing body.
 163 Section 2. Subsection (14) of section 215.985, Florida
 164 Statutes, is amended to read:
 165 215.985 Transparency in government spending.—
 166 (14) The Chief Financial Officer shall establish and
 167 maintain a secure contract tracking system available for viewing
 168 and downloading by the public through a secure website. The
 169 Chief Financial Officer shall use appropriate Internet security
 170 measures to ensure that no person has the ability to alter or
 171 modify records available on the website.
 172 (a) Within 30 calendar days after executing a contract,
 173 each state and quasi-public entity shall post the following
 174 information relating to the contract on the contract tracking

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175 system:

176 1. The names of the contracting entities.

177 2. The procurement method.

178 3. The contract beginning and ending dates.

179 4. The nature or type of the commodities or services

180 purchased.

181 5. Applicable contract unit prices and deliverables.

182 6. Total compensation to be paid or received under the

183 contract.

184 7. All payments made to the contractor to date.

185 8. Applicable contract performance measures.

186 9. If a competitive solicitation was not used to procure

187 the goods or services, the justification of such action,

188 including citation to a statutory exemption or exception from

189 competitive solicitation, if any.

190 10. Electronic copies of the contract and procurement

191 documents that have been redacted to exclude confidential or

192 exempt information.

193 (b) Within 30 calendar days after an amendment to an

194 existing contract, the state entity or quasi-public entity that

195 is a party to the contract must update the information described

196 in paragraph (a) in the contract tracking system. An amendment

197 to a contract includes, but is not limited to, a renewal,

198 termination, or extension of the contract or a modification of

199 the terms of the contract.

200 (c) By January 1, 2014, each state and quasi-public entity

201 shall post to the contract tracking system the information

202 required in paragraph (a) for each existing contract that was

203 executed before July 1, 2013, with payment from state funds made

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204 after June 30, 2013.

205 (d)1. Records made available on the contract tracking

206 system may not reveal information made confidential or exempt by

207 law.

208 2. Each state and quasi-public entity that is a party to a

209 contract must redact confidential or exempt information from the

210 contract and procurement documents before posting an electronic

211 copy on the contract tracking system. If a state entity or

212 quasi-public entity that is a party to the contract becomes

213 aware that an electronic copy of a contract or a procurement

214 document has been posted but has not been properly redacted, the

215 state entity or quasi-public entity must immediately notify the

216 Chief Financial Officer and must immediately remove the contract

217 or procurement document from the contract tracking system.

218 Within 7 business days, the state entity or quasi-public entity

219 must post a properly redacted copy of the contract or

220 procurement document on the contract tracking system.

221 3.a. If a party to a contract, or an authorized

222 representative of a party to a contract, discovers that an

223 electronic copy of a contract or procurement document has been

224 posted to the contract tracking system but has not been properly

225 redacted, the party or representative may request the state

226 entity or quasi-public entity that is a party to the contract to

227 redact the confidential or exempt information. Upon receipt of

228 the request, the state entity or quasi-public entity shall

229 redact the confidential or exempt information.

230 b. A request to redact confidential or exempt information

231 must be made in writing and delivered by mail, facsimile,

232 electronic transmission, or in person to the state entity or

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233 quasi-public entity that is a party to the contract. The request
 234 must identify the specific document, the page numbers that
 235 include the confidential or exempt information, the information
 236 that is confidential or exempt, and the applicable statutory
 237 exemption. A fee may not be charged for a redaction made
 238 pursuant to the request.

239 c. A party to a contract may petition the circuit court for
 240 an order directing compliance with this paragraph.

241 4. The contract tracking system shall display a notice of
 242 the right of an affected party to request redaction of
 243 confidential or exempt information contained on the system.

244 5.a. The Chief Financial Officer, the Department of
 245 Financial Services, or an officer, employee, or contractor
 246 thereof, is not responsible for redacting confidential or exempt
 247 information from an electronic copy of a contract or procurement
 248 document posted by another state entity or quasi-public entity
 249 on the system.

250 b. The Chief Financial Officer, the Department of Financial
 251 Services, or an officer, employee, or contractor thereof, is not
 252 liable for the failure of a state entity or quasi-public entity
 253 to redact the confidential or exempt information.

254 (e)1. The posting of information on the contract tracking
 255 system or the provision of contract information on a website for
 256 public viewing and downloading does not supersede the duty of a
 257 state entity or quasi-public entity to respond to a public
 258 records request or subpoena for the information.

259 2. A request for a copy of a contract or procurement
 260 document or certified copy of a contract or procurement document
 261 shall be made to the state entity or quasi-public entity that is

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262 party to the contract. The request may not be made to the Chief
 263 Financial Officer, the Department of Financial Services, or an
 264 officer, employee, or contractor thereof, unless the Chief
 265 Financial Officer or the department is a party to the contract.

266 3. A subpoena for a copy of a contract or procurement
 267 document or certified copy of a contract or procurement document
 268 must be served on the state entity or quasi-public entity that
 269 is a party to the contract and that maintains the original
 270 documents. The Chief Financial Officer, the Department of
 271 Financial Services, or an officer, employee, or contractor
 272 thereof, may not be served a subpoena for those records unless
 273 the Chief Financial Officer or the department is a party to the
 274 contract.

275 (f) The Chief Financial Officer may regulate and prohibit
 276 the posting of records that could facilitate identity theft or
 277 fraud, such as signatures; compromise or reveal an agency
 278 investigation; reveal the identity of undercover personnel;
 279 reveal proprietary business information or trade secrets; reveal
 280 an individual's medical information; or reveal another record or
 281 information that the Chief Financial Officer believes may
 282 jeopardize the health, safety, or welfare of the public.
 283 However, such action by the Chief Financial Officer does not
 284 supersede the duty of a state entity or quasi-public entity to
 285 provide a copy of a public record upon request.

286 (g) The Chief Financial Officer may adopt rules to
 287 administer this subsection.

288 (h) For purposes of this subsection, the term:

289 1. "Procurement document" means any document or material
 290 provided to the public or any vendor as part of a formal

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291 competitive solicitation of goods or services undertaken by a
292 state entity or quasi-public entity, and a document or material
293 submitted in response to a formal competitive solicitation by
294 any vendor who is awarded the resulting contract.

295 2. "Quasi-public entity" means an entity established by
296 law, regardless of form, for a public purpose or to effectuate a
297 government program and which is not directly controlled by a
298 governmental entity. This term does not include a citizen
299 support organization or a direct-support organization.

300 ~~3.2.~~ "State entity" means an official, officer, commission,
301 board, authority, council, committee, or department of the
302 executive branch of state government; a state attorney, public
303 defender, criminal conflict and civil regional counsel, capital
304 collateral regional counsel, and the Justice Administrative
305 Commission; the Public Service Commission; and any part of the
306 judicial branch of state government.

307 (i) In lieu of posting in the contract tracking system
308 administered by the Chief Financial Officer, the Department of
309 Legal Affairs and the Department of Agriculture and Consumer
310 Services may post the information described in paragraphs (a)
311 through (c) to its own agency-managed website. The data posted
312 on the agency-managed website must be downloadable in a format
313 that allows offline analysis.

314 (j) The requirement under paragraphs (a) through (c) that
315 each agency post information and documentation relating to
316 contracts on the tracking system does not apply to any record
317 that could reveal attorney work product or strategy.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill #1570**, relating to Quasi-public Entities, be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

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 Appropriations

BILL: PCS/CS/SB 1598

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Gruters

SUBJECT: Consumer Protection

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson/Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders/Johnson</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1598 modifies provisions in several areas related to insurance that are regulated by the Department of Financial Services (DFS). The bill:

- Requires insurers to include information regarding the DFS's free financial literacy programs in its notice that a consumer's credit report or score is being requested.
- Requires an entity that is licensed or issued a certificate of authority by the DFS to respond to document requests from the DFS Division of Consumer Services.
- Eliminates the \$60 fee for a new or renewal adjusting firm license.
- Specifies that entities must comply with section 626.8696, Florida Statutes, with respect to possessing an adjusting firm license, but provides that an adjusting firm's branch place of business does not require licensure if it meets specified requirements.
- Revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license. A person who does so commits a third-degree felony.
- Authorizes the DFS to suspend, revoke, or refuse to issue the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent that makes a consumer's personal financial or medical information available to the public, or initiates in-person or telephone solicitation with a prospective customer after 9 p.m. or before 8 a.m., unless the customer requests otherwise.

- Prohibits the sale of industrial life insurance policies, effective July 1, 2021.
- Increases to 10 days, the cooling-off period during which a consumer may cancel his or her contract with a public adjuster.
- Requires that the public adjuster's written estimate of loss must include an itemized, per-unit estimate of the repairs. The public adjuster must provide the estimate to the claimant or insured within 60 days after the execution of the public adjuster contract.
- Prohibits a licensed contractor or subcontractor from advertising, soliciting, offering to handle, handling, or performing public adjuster services unless licensed and compliant as a public adjuster.
- Prohibits persons other than a licensed public adjuster or attorney from offering to initiate or negotiate on behalf of an insured or advertising services which require a public adjuster license.
- Requires disclosure that surplus lines insurance is not covered by the Florida Insurance Guaranty Association (FIGA) prior to placing coverage with a surplus lines insurer.
- Expands the definition of sliding, a practice that violates the Unfair Insurance Trade Practices, to include:
 - Initiating, effectuating, binding, or otherwise issuing an insurance policy without the prior informed consent of the person who owns the property that will be insured.
 - Submitting an invoice for premium payment to a mortgagee or escrow agent in order to institute an insurance policy without the prior informed consent of the owner of the property; does not apply to renewals or collateral protection insurance.
- Applies the property insurance claim investigation and communication requirements of section 627.70131, Florida Statutes, to surplus lines insurers.
- Requires a residential property insurer begin its claim investigation within 14 days of receiving a proof of loss statement; current law provides 10 business days.
- Requires insurers to provide to policyholders the adjuster's name and state adjuster license number when a claim investigation involves a physical inspection of the property and maintain a record of each adjuster who communicates with the policyholder.
- Requires the insurer to provide notices that explain when the insurer is providing a preliminary or partial estimate or making a claim payment that is not the full and final payment for the claim.
- Prohibits the inclusion of a foreign venue clause within any personal residential property insurance policy sold in Florida that insures only property located in this state. This prohibition also applies to surplus lines insurers and authorized surplus lines insurance.
- Requires insurers to provide the Homeowner Claims Bill of Rights pursuant to any personal lines residential property insurance claim and adds notice regarding the right to receive interest and the utility of taking video of damages and repairs.
- Encourages insureds, under the Homeowner Claims Bill of Rights, to file all claims directly with their insurance company and to be aware of contractors or repair vendors offering incentives free inspections or no out-of-pocket expenses.
- Removes the insured's obligation to pay a \$100 deductible to the FIGA in order to receive payment on their claim through the FIGA.
- Revises the definition of a "covered claim" for purposes of the Florida Workers' Compensation Insurance Guaranty Association, to exclude the return of premium resulting from a policy that was not in force on the date of the final order of liquidation.

Further, the bill prohibits a credit reporting agency from charging any fee to reissue a personal identifier or provide a new unique personal identifier to a consumer.

The bill has an insignificant indeterminate impact on state funds and expenditures. *See* V. Fiscal Impact Statement.

Except as otherwise provided, the bill is effective upon becoming a law.

II. Present Situation:

Department of Financial Services

The Department of Financial Services (DFS) has broad duties, including licensure and regulation of insurance agents, agencies, and adjusters; insurance consumer assistance and protection; and holding and attempting to return unclaimed property to its rightful owner.¹ The DFS has a number of regulatory responsibilities over the Florida insurance market. The DFS regulates insurance adjusters, which includes public adjusters, independent adjusters, and company employee adjusters under Part VI, ch. 626, F.S. The DFS conducts insurance-related consumer outreach through its Division of Consumer Services. The Division of Workers' Compensation within the DFS administers ch. 440, F.S., through enforcement of coverage requirements,² administration of workers' compensation health care delivery system,³ data collection,⁴ and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.⁵ The DFS also administers insurer rehabilitation and liquidation in Florida under part I of ch. 631, F.S.

DFS Division of Consumer Services

The Division of Consumer Services (division) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the Financial Services Commission.⁶ The divisions' duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.⁷

Section 624.307(10)(b), F.S., permits the division to impose an administrative penalty on a person who holds a license or certificate of authority from the DFS if that person fails to respond

¹ *See, e.g.*, Department of Financial Services (DFS), *What DFS Can Do For You*, <https://www.myfloridacfo.com/division/CFO/DFS.htm> (last visited March 18, 2021).

² Section 440.107(3), F.S.

³ Section 440.13, F.S.

⁴ Sections 440.185 and 440.593, F.S.

⁵ Section 440.191, F.S.

⁶ DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2020-21 through 2024-25*, 15 (Sept. 30, 2019), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19566&DocType=PDF> (last visited March 18, 2021). *See also*, DFS, *Consumer Guides*, <https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/Default.htm> (last visited March 18, 2021).

⁷ Section 624.307(10)(a), F.S.

to the division's request for information within 20 days. This has been limited by the Fifth Amendment privilege against self-incrimination. A licensed individual must produce those records⁸ that are required to be kept by law, but is not required to produce those not within the purview of statutes.⁹ Conversely, a corporation has no privilege against self-incrimination, nor does a custodian of corporate records, even if the contents tend to incriminate him or her.¹⁰

Discretion of the DFS to Act against Licensees

Section 626.621, F.S., grants the DFS discretion, under certain circumstances, to deny applications for, revoke, or refuse to renew, the licenses or appointments of agents, adjusters, customer representatives, service representatives, and managing general agents. Examples of circumstances that can lead to such agency action include violation of the Florida Insurance Code, violation of lawful orders or rules of the DFS, engaging in unfair and deceptive trade practices.¹¹

DFS Licensure of Adjusting Firms

Current law authorizes, but does not require, licensure of adjusting firms.¹² The DFS does not currently license any adjusting firms.¹³ An adjusting firm license must be renewed every three years and requires a \$60 application fee.¹⁴ An adjusting firm license application must include:¹⁵

- The name and address of each of the firm's majority owners, partners, officers, and directors;
- The firm's name and principal business address; and
- Any branch office locations and the names under which they will operate.

Each adjusting firm location must have a designated primary adjuster who acts as a supervising manager and is accountable for misconduct that occurs at the firm location.¹⁶

Chapter 626, F.S., provides grounds for mandatory and discretionary denial, suspension, or revocation of an adjusting firm license.¹⁷

DFS Authority Regarding Misleading Insurance Agency Names

The DFS may withhold permission to operate under an agency name if the name is too similar to another already in use by a different agency; the name may mislead the public; or the name states

⁸ Pursuant to s. 624.23, F.S., any personal financial and health information held by the DFS or the Office of Insurance Regulation relating to a consumer complaint or inquiry is confidential and exempt from public records.

⁹ *Saviak v. Gunter*, 379 So. 2d 450 (Fla. Dist. Ct. App. 3d Dist. 1980).

¹⁰ *Eller Media Co. v. Serrano*, 761 So. 2d 464 (Fla. Dist. Ct. App. 3d Dist. 2000); *State v. Wellington Precious Metals, Inc.*, 487 So. 2d 326 (Fla. Dist. Ct. App. 3d Dist. 1986).

¹¹ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S., constitute the "Florida Insurance Code."

¹² Section 626.8696, F.S.

¹³ Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, DFS, to Michelle Sanders, Legislative Analyst Senate Appropriations Subcommittee on Agriculture, Environment and General Government (March 18, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment and General Government)

¹⁴ Section 624.501(20), F.S.

¹⁵ Section 626.8696, F.S.

¹⁶ Section 626.8695, F.S.

¹⁷ Section 626.8697, F.S.

or implies that the agency is an entity other than an insurance agency, such as an insurer, state or federal agency, or charitable organization.¹⁸

The Social Security Act prohibits any person from using the terms “Medicare” or “Medicaid” in an advertisement or other communication in a manner which the person knows, or should know, would convey the false impression that the communication is approved by the Centers for Medicare & Medicaid Services.¹⁹

Industrial Life Insurance

Industrial life insurance is a form of life insurance in which the premiums are payable on a monthly or weekly basis. These policies usually have a face amount of less than \$5,000.²⁰ Only 38 of the 398 active life insurers maintain existing industrial life insurance policies, and no new industrial life insurance policies have been written in the last year.²¹

Public Adjuster Contracts and Estimates of Damages

Current law and administrative rules provide numerous restrictions and parameters on activities of public adjusters, especially relating to solicitation of contracts and inducement to contract.²² As an additional consumer protection, Florida law grants a policyholder a short timeframe during which he or she may cancel a contract with an adjuster without cause, penalty, or obligation. This cooling-off period permits the policyholder to cancel the contract within three business days of execution of the contract with an adjuster, or when the insured or claimant notifies the insurer of the claim, whichever is later. However, the cooling-off period is extended to five business days from the date the contract was executed, if it was entered into during a state of emergency or during the one-year period after the date of loss.

The adjuster must disclose, in all of his or her contracts, the consumer’s right to cancel the contract, and the methods by which the consumer may send a cancellation.

Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of the insurance claim. The public adjuster must retain the estimate for at least five years and make it available to the claimant, insured, an insurer, or the DFS upon request.

¹⁸ Section 626.602(1)-(3), F.S.

¹⁹ 42 U.S. Code s.1320b-10(a)(1). Upheld by *United Seniors Ass’n Inc. v. SSA*, 423 F. 3d 397, 399 (4th Cir. 2005).

²⁰ Section 627.502, F.S. *See also*, DFS, *Life Insurance Overview: Types of Policies*, <https://www.myfloridacfo.com/Division/Consumers/UnderstandingCoverage/LifeInsuranceOverview.htm> (last visited March 18, 2021).

²¹ DFS, *HB 717 Agency Analysis*, (Feb. 24, 2021) (on file with the Senate Committee on Banking and Insurance).

²² Section 626.854, F.S. Laws enacted in 2008 (ch. 2008-220, Laws of Fla.), in 2009 (ch. 2009-87, Laws of Fla.), 2011 (ch. 2011-39, Laws of Fla.), and 2017 (ch. 2017-147, Laws of Fla.), provided significant changes relating to public adjusters. Rule 69B-220.201(4) and (5), F.A.C.

Surplus Lines Export Eligibility

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.²³ There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks (which are risks where an insured needs higher coverage limits than those that are available in the admitted market).

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,²⁴ which means they do not obtain a certificate of authority from the Office of Insurance Regulation (OIR) to transact insurance in Florida.²⁵ Rather, surplus lines insurers are “unauthorized” insurers,²⁶ but may transact surplus lines insurance if they are made eligible by the OIR.

An insurance agent²⁷ may “export,” or place a policy with an unauthorized insurer under the Surplus Lines Law²⁸, with the consent of the insurance applicant. Before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.²⁹ A “diligent effort” requires a search for coverage that is ultimately denied by at least three authorized insurers in the admitted market. Additionally, the insurance agent must document the following before exporting the policy to the surplus lines market:³⁰

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;
- The policy exported cannot provide coverage or rates that are more favorable than those are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks,³¹ the policyholder must be advised in writing coverage may be available and less expensive from Citizens Property Insurance Corporation.

²³ The admitted market is comprised of insurance companies authorized to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. Section 626.921, F.S. *See also*, Florida Surplus Lines Service Office, *What is Surplus Lines Insurance?*, <https://www.fslso.com/AboutGroup/about/surplus-lines-insurance> (last visited March 17, 2021).

²⁴ Section 626.914(2), F.S.

²⁵ Section 624.09(1), F.S.

²⁶ Section 624.09(2), F.S.

²⁷ Typically, the applicant’s usual insurance agent works with the surplus lines agent to arrange the placement, rather than the applicant working directly with the surplus lines agent. A surplus lines agent requires separate licensure than a traditional insurance agent, and is permitted to secure insurance coverages with unauthorized insurers whereas traditional insurance agents are not. *See s. 626.914(1), F.S.*

²⁸ Sections 626.913-626.937, F.S., constitute the “Surplus Lines Law,” pursuant to s. 626.913(1), F.S.

²⁹ Section 626.916(1)(a), F.S.

³⁰ Section 626.916(1), F.S.

³¹ Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

Certain types of insurance, deemed “commercial risks,” including medical malpractice, travel, general liability, errors and omissions, and excess or umbrella insurance coverage, are exempt from the above diligent effort requirement. An insured for these commercial risks must sign a disclosure that provides, in substantially the following form:

You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.³²

Unfair Insurance Trade Practices

The Unfair Insurance Trade Practices Act³³ prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance,³⁴ including:

- Misrepresenting the benefits, advantages, or terms of any insurance policy;
- Inducing the lapse or exchange of any insurance policy, generally so the agent can earn a commission on a replacement policy; and
- Providing more insurance coverage than a consumer requests or consents to, while also failing to inform the consumer that the additional coverage was optional (“sliding”).³⁵

A person who commits an act prohibited by the Unfair Insurance Trade Practices Act is generally subject to a fine of up to \$20,000 for nonwillful violations, and up to \$200,000 total for willful violations.³⁶ However, specific violations are subject to greater administrative penalties and are also punishable as criminal misdemeanors.³⁷

Additionally, a person who willfully submits fraudulent signatures on an application or policy-related document commits a third-degree felony, which is also punishable by the assessment of administrative fines of no more than \$75,000 per violation.³⁸

Property Insurance Claim Communications and Investigations

Section 627.71031, F.S., provides base requirements for communications between an insurer and consumer that has notified the insurer of a possible claim. Generally, the residential property insurer must respond to the consumer within 14 days to acknowledge the claim and provide necessary claim forms, instructions, and telephone contact information. The insurer is then required to commence an investigation within 10 days after it received proof of loss statements

³² Section 626.916(3)(b), F.S.

³³ Chapter 626, F.S., part IX, ss. 626.951-626.99, F.S.

³⁴ Section 626.9541, F.S.

³⁵ Section 626.9541(1)(z), F.S. *See also, Beckett v. Department of Financial Services*, 982 So. 2d 94 (Fla. 1st DCA).

³⁶ Each count of a nonwillful violation is limited to a fine of no more than \$5,000, and each count of a willful violation is limited to a fine of no more than \$20,000. Section 626.9521(2), F.S.

³⁷ *See, e.g.,* Section 626.9521(3)(a), F.S., which makes the offenses of twisting and churning, which must involve fraudulent conduct, punishable as a first degree misdemeanor.

³⁸ Section 626.9521(3)(b), F.S.

from the consumer. Lastly, the insurer is required to pay or deny a claim within 90 days after notice of the claim was made; if the insurer fails to make such a payment until after 90 days have passed, the payment bears interest due to the consumer. These duties generally constitute the consumer rights outlined in the Homeowner Claims Bill of Rights.³⁹

The Homeowner Claims Bill of Rights

The Homeowner Claims Bill of Rights outlines consumers' rights and responsibilities as a homeowner's insurance policyholder during the insurance claims process.⁴⁰ An insurance company must provide a consumer with a copy of the Homeowner Claims Bill of Rights within 14 days of receiving any communication about a claim.⁴¹ Florida law provides form language that the insurer must include in the Homeowner Claims Bill of Rights, which gives notice of the consumer's right to:⁴²

- Receive written confirmation of a claim's coverage, denial, or continued investigation within 30 days of specific communication;
- Obtain full settlement payment, or partial payment on the undisputed portion of a claim, within 90 days;
- Enter mediation of a disputed claim or neutral evaluation of a claim relating to sinkhole damage; and
- Contact the DFS for assistance.

The Homeowner Claims Bill of Rights also includes consumer advice for best practices after a loss has been incurred.

Forum Venue Clauses

A forum selection clause is a contractual provision in which the parties agree upon the venue for possible future litigation between them.⁴³ Generally, ch. 47, F.S., provides civil actions must be brought in the Florida county where the defendant resides, where the cause accrued, or where the property in question is located.⁴⁴ If the defendant is an out-of-state (foreign) corporation, venue resides where the corporation has a representative, the action accrued, or where the property is located.⁴⁵ However, "a mandatory forum selection clause must be enforced unless it is shown to be unreasonable or unjust."⁴⁶ In 2014, the Legislature codified case law on the matter, holding that a court could refuse to enforce a forum selection clause if it contravenes public policy, or is unjust and unreasonable.⁴⁷

³⁹ See further discussion of the Homeowner Claims Bill of Rights, *infra*.

⁴⁰ DFS, *Know Your Rights- Homeowner Claims Bill of Rights* (Dec. 2020), available at <https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/documents/HOABillRights.pdf> (last visited March 17, 2021).

⁴¹ Section 627.70131, F.S.

⁴² Section 627.7142, F.S. These consumer rights are partially based on the insurer's duties as outlined in s. 627.70131, F.S.

⁴³ Black's Law Dictionary (11th ed. 2019).

⁴⁴ Section 47.011, F.S.

⁴⁵ Section 47.051, F.S.

⁴⁶ *Illinois Union Ins. Co. v. Co-Free, Inc.*, 128 So.3d 820, 821 (Fla. 1st DCA 2014) (citing *Land O'Sun Mgmt. Corp. v. Commerce and Indus. Ins. Co.*, 961 So. 2d 1078, 1080 (Fla 1st DCA 2007)). Internal citations omitted.

⁴⁷ Section 61.0401, F.S. See also, *Manrique v. Fabbri*, 493 So. 2d 437 (Fla. 1986) and *Atl. Marine Const. Co. v. U.S. Dist. Court for W. Dist. Of Texas*, 571 U.S. 49, 134 S. Ct. 568 (2013).

Several states, including Florida, have attempted to limit forum selection clauses in specific instances. Florida voids, as contrary to public policy, any contract that requires litigation against Florida contractors and related professions to be filed in non-Florida jurisdictions.⁴⁸

Federal and State Requirements Regarding Disclosure of Personal Medical Information

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)⁴⁹ requires health care providers, health plans, and health care clearinghouses⁵⁰ (covered entities) to protect the privacy of personal health information. The HIPAA Privacy rules cover protected health information that is created or received by a covered entity and requires covered entities to implement safeguards to protect health information from unauthorized access, use, or disclosure.⁵¹ The term, “protected health information,” (PHI) is broadly defined as individually identifiable information in any form or format—oral, paper-based, electronic—that “[r]elates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.”⁵²

The HIPAA Privacy rules prohibit a covered entity from using or disclosing PHI except as expressly permitted or required by the rule.⁵³ For all uses or disclosures of PHI that are not otherwise permitted or required by the rule, covered entities must obtain a patient’s written authorization.⁵⁴ Generally, third parties (business associates⁵⁵) of covered entities provide services and will need access to at least some patient information in order to perform those functions. Covered entities are required to obtain written agreements with their business associates that they will use PHI only for the purposes permitted or required by the contract; and implement appropriate safeguards to prevent misuse of PHI.⁵⁶

The Insurance Code requires health insurers to maintain strict confidentiality against unauthorized disclosure of confidential information regarding claims and records relating to the payment of psychiatric and psychotherapeutic services.⁵⁷ Additionally, s. 456.057, F.S., provides patient records, when held by a healthcare professional, must not be disclosed without the consent of the patient or his or her legal representative.

⁴⁸ Section 47.025, F.S.

⁴⁹ P.L. 104-191, 110 Stat. 1936, August 21, 1996.

⁵⁰ 42 U.S.C. s. 1320d-1(a). A health plan is an individual or group plan that provides, or pays the cost of, medical care and includes private and government plans. A health care clearinghouse is an entity (e.g., billing service) that (1) receives nonstandard health information and processes, or facilitates the processing of, the information into a standard format required for electronic transaction; or (2) receives a standard transaction and processes, or facilitates the processing of, the information into nonstandard format for the recipient. A health care provider is a person (e.g., physician, nurse) or entity (e.g., hospital, clinic) who “furnishes, bills, or is paid for health care in the normal course of business and conducts one or more HIPAA-specified standard electronic transactions. 45 C.F.R. s. 160.103.

⁵¹ 45 CFR Part 164 Subparts A and E.

⁵² 45 CFR 160.103. The Privacy Rule implementing HIPAA creates standards for the protection of person health information.

⁵³ 45 CFR 164.502(a).

⁵⁴ 45 C.F.R. §164.508(a).

⁵⁵ 45 CFR 160.103.

⁵⁶ 45 C.F.R. 164.502(e), 164.504(e).

⁵⁷ Sections 627.4195, F.S., and 627.688, F.S.

Credit Reports

A credit report is a record of a consumer's credit history and other information about the consumer, including his or her name, address, social security number, employment information, date of birth, and court judgments.⁵⁸ Three major credit bureaus—Equifax, Experian, and TransUnion—compile and sell consumer credit reports. Lenders, insurers, utility and cell phone companies, employers, and others may obtain a consumer's credit report for their use in determining (i.e., whether to extend credit), set insurance rates, or employ the consumer.⁵⁹ A consumer may also review his or her credit report at no charge once every 12 months, from each of the credit bureaus.

Generally, the federal Fair Credit Reporting Act (FCRA)⁶⁰ regulates the activities of Credit Reporting Agencies (CRAs), the users of consumer reports, and those who furnish information to CRAs. In 2003, the FCRA was amended by the Fair and Accurate Credit Transactions Act (FACTA) to address identity theft, improve the accuracy of consumer records, and to increase consumer access to credit information.⁶¹ The FCRA includes several provisions preempting state laws. For example, the FCRA provides no requirement or prohibition may be imposed under the laws of any state with respect to any subject matter regulated under subsections (i) and (j) of Section 605A, which relates to a national security freeze and national protection for files and credit records of protected consumers, respectively.⁶²

In May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act.⁶³ The law creates a national, free credit freeze and a national credit freeze for protected persons (for persons under 16 years of age and incapacitated adults). The law also establishes further requirements to protect minors. The “adult” freeze and the protected consumer freeze went into effect September 2018.⁶⁴

Security Freezes and the Keeping I.D. Safe (KIDS) Act

In Florida, The Keeping I.D. Safe (KIDS) Act⁶⁵ allows a third party, such as a parent or guardian, to place a security freeze on a minor child's credit report, or credit score to prevent the information from being released without express authorization to a third party, such as an insurer. After its receipt of a security freeze request, a credit reporting agency must provide a unique personal identification number (PIN) to the minor child's representative; this PIN is required to remove the security freeze. While credit reporting agencies are prohibited from

⁵⁸ 15 U.S. Code s. 1681 defines a “credit report” as any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, ... general reputation, [or] personal characteristics... which is used...for the purpose of...establishing the consumer's eligibility for credit or employment purposes.... The Florida KIDS Act adopts this definition of a “credit report” in s. 501.0051(1)(a), F.S.

⁵⁹ Board of Governors of the Federal Reserve System, *Credit Reports and Credit Scores: Consumer's Guide*, available at https://www.federalreserve.gov/creditreports/pdf/credit_reports_scores_2.pdf (last visited March 17, 2021).

⁶⁰ Fair Credit Reporting Act, Pub. L. No. 91-508, codified as amended at 15 U.S.C. s. 1681-1681x.

⁶¹ Fair and Accurate Credit Transactions Act, Pub. L. No. 108-159 (2003).

⁶² 15 U.S.C. s. 1681t(b)(1)(J).

⁶³ Pub. L. No. 115-174, Title III.

⁶⁴ These changes created subsections (i) and (j) of Section 605A of the FCRA. 15 U.S.C. ss. 1681c-1(i) and 1681c-1(j).

⁶⁵ Section 501.0051, F.S.

charging any fee to place or remove a security freeze, they may charge up to \$10 to reissue a PIN.⁶⁶

Florida Telemarketer Act

The Florida Telemarketer Act, ss. 501.601-501.626, F.S., prohibits commercial telephone solicitations before 8 a.m. or after 9 p.m. However, insurers and their subsidiaries and affiliates are exempt from this law.⁶⁷ Similarly, the Federal Trade Commission's Telemarketing Sales Rule prohibits telemarketing calls before 8 a.m., or after 9 p.m.⁶⁸

Currently, Florida law prohibits public adjusters from soliciting an insured before 8 a.m. and after 8 p.m. on Monday through Saturday, and completely prohibits any solicitations on Sunday.⁶⁹

Florida Insurance Guaranty Association

The Florida Insurance Guaranty Association (FIGA) is a not-for-profit corporation created by statute that steps into the shoes of insolvent insurers to timely pay certain property and casualty claims⁷⁰ that would otherwise be left unpaid.⁷¹ FIGA does not offer a replacement policy, and coverage offered by FIGA is generally limited to a \$300,000 payment. A consumer may receive additional FIGA coverage of up to \$200,000 for damages to their home's structure or the contents thereof.⁷² Condominium and homeowner's association claims have a coverage cap of \$100,000 multiplied by the number of units in the association.⁷³ All claims filed with FIGA are subject to a \$100 deductible in addition to any deductible identified in the consumer's policy.⁷⁴

III. Effect of Proposed Changes:

Consumer Protections Related to Credit Reports

Section 1 amends s. 501.0051, F.S., to prohibit a credit reporting agency from charging any fee to reissue a personal identification number (PIN) or provide a new unique PIN to a consumer.

Section 13 amends s. 626.9741(3), F.S., to require an insurer to include the following language in its notice that a consumer's credit report or score is being requested:

The Department of Financial Services offers free financial literacy

⁶⁶ Section 501.0051(9), F.S.

⁶⁷ Section 501.604(7), F.S.

⁶⁸ Federal Trade Commission, *The Telemarketing Sales Rule*, <https://www.consumer.ftc.gov/articles/0198-telemarketing-sales-rule> (last visited March 17, 2021).

⁶⁹ Section 626.854(5), F.S.

⁷⁰ A "covered claim" is an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy." Section 631.54, F.S.

⁷¹ See generally, Part II, ch. 631, F.S., "Florida Insurance Guaranty Association Act." See also, Florida Insurance Guaranty Association, *Home*, <https://figafacts.com/> (last visited March 17, 2021).

⁷² Section 631.57(2), F.S.

⁷³ Section 631.57(3), F.S.

⁷⁴ Section 631.57(2), F.S., see also, Florida Insurance Guaranty Association, *Frequently Asked Questions: Are There Limits on the Amount that FIGA Will Pay?*, <https://figafacts.com/frequently-asked-questions/> (last visited March 17, 2021).

programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, visit www.MyFloridaCFO.com.

Insurer Responses to Requests from the Division of Consumer Services

Section 2 amends s. 624.307(10)(b), F.S., to create a duty for an entity that is licensed or issued a certificate of authority by the Department of Financial Services (DFS) to respond to the DFS' requests for documents. The response must include any requested documents not subject to attorney-client or work product privilege.

Claims Adjusting

Section 3 amends s. 624.501, F.S., to eliminate the \$60 fee for a new, or the renewal of an existing, adjusting firm license.

This section necessitates **Section 14**, which conforms a cross reference in s. 626.9953, F.S.

Section 4 amends s. 626.112, F.S., to specify entities that must comply with s. 626.8696, F.S., with respect to possessing an adjusting firm license for each place of business at which it performs activity for which it is necessary to be licensed as a claims adjuster.

The section provides that an adjusting firm's branch place of business is classified as a branch firm, and does not require licensure, if the branch:

- Transacts business under the same name and federal tax identification number as the licensed adjusting firm;
- Designates with the DFS a primary adjuster operating the location as required by s. 626.8965, F.S.; and
- Submits the address and telephone number of the branch location to the DFS within 30 days after insurance transactions begin at the branch location.

The section requires the DFS to impose an administrative fine of up to \$10,000 if an adjusting firm is required to be licensed pursuant to this section but fails to apply for such licensure.

The bill revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license. A person who does so commits a third-degree felony.

Presently, s. 777.011, F.S., includes as a "principal in the first degree" a person who aids, abets, counsels, hires, or otherwise procures a criminal offense to be committed. Thus, such person may be charged, convicted, and punished, with the underlying criminal offense even if they were actually or constructively present at the commission of such offense. Accordingly, given current statutory provisions regarding aiding and abetting, the bill merely clarifies or restates existing law.

This section necessitates **Section 15**, which conforms a cross reference in s. 626.9957, F.S.

Prohibiting Misleading Insurance Agency Names

Section 5 amends s. 626.602, F.S., to authorize the DFS to disapprove an insurance agency's proposed use of a name which includes the words "Medicare" or "Medicaid." Insurance agencies that operate under such a name as of July 1, 2021, may continue to use the names, but if the license expires or is suspended or revoked, the agency may not be relicensed under that name.⁷⁵

Taking Administrative Action against Applicants for Licensure and Licensees for Engaging in Prohibited Actions

Section 6 amends s. 626.621, F.S., to add two bases under which the DFS may suspend or revoke the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent, or refuse to issue a license to an applicant:

- Taking an action that allows a consumer's or customer's personal financial or medical information to be made available or accessible to the public; and
- Initiating in-person or telephone solicitation with a prospective customer after 9 p.m. or before 8 a.m., unless the customer requests otherwise.

Prohibiting the Sale of Industrial Life Insurance

Sections 7, 8, and 17 respectively amend ss. 626.782, 626.783, and 627.502, F.S., and **Section 9** repeals s. 626.796, F.S., to prohibit the sale of industrial life insurance policies, after July 1, 2021. Insurers may continue to service and collect premiums on industrial life policies written before that date. According to the DFS, industrial life insurance is not currently being sold in this state, and less than 10 percent of active life insurers maintain existing policies.

Expanding the Cancellation Period for Public Adjuster Contracts; Prohibiting Contractors from Soliciting an Insured to File a Claim

Section 10 amends s. 626.854, F.S., to increase the duration of the cooling-off period during which a consumer may cancel his or her contract with a public adjuster to 10 calendar days. Currently, the contract may generally be canceled within three business days after the contract is executed or the insurer is informed of the claim, whichever is later. Current law provides a cancellation period of five business days during, and for one year thereafter, a state of emergency declared by the Governor.

The bill also specifies the public adjuster's written estimate of loss must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies created in accordance with accepted industry standards. The public adjuster must provide the detailed written estimate to the claimant or insured within 60 days after the date of the contract.

The bill prohibits a licensed contractor or subcontractor from soliciting, advertising, offering to handle, handling, or performing public-adjuster services unless licensed and compliant as a

⁷⁵ Insurance agency licenses are indefinite. Section 626.382, F.S.

public adjuster. The prohibition does not preclude a contractor from suggesting or recommending the insured contact their insurer to determine if proposed repairs are covered under the insured's insurance policy.

The bill prohibits persons other than a licensed public adjuster or attorney from offering to initiate or negotiate a claim or advertise services which require a public adjuster license on behalf of a public adjuster, an insured, or a third-party claimant. The bill retains current law which prevents persons other than a public adjuster or attorney from soliciting, investigating, or adjusting a claim on behalf of a public adjuster, insured, or third-party claimant.

The bill authorizes the DFS to take administrative actions and impose fines against persons performing without the necessary licensure claims adjusting or any of the public adjusting services detailed in s. 626.854, F.S.

Notice to Insureds that Surplus Lines Insurers Are Not Protected by the Florida Insurance Guaranty Association

Section 11 amends s. 626.916, F.S., to provide that insurance coverage is not eligible for export to a surplus lines insurer, unless the insured signs or provides documented acknowledgement of the following disclosure:

“You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.”

The bill deletes a disclosure that was required to export certain types of commercial lines insurance⁷⁶ to a surplus lines carrier without meeting the generally applicable requirements⁷⁷ to export a commercial policy. The deleted disclosure is similar to the one created by the bill, except the deleted disclosure states, “superior coverage may be available in the admitted market and at a lesser cost.”

This section is effective January 1, 2022.

Unfair Insurance Trade Practices

Section 12 amends s. 626.9541, F.S., to expand the definition of sliding, a practice that violates the Unfair Insurance Trade Practices, to include:

- Initiating, effectuating, binding, or otherwise issuing an insurance policy without the prior informed consent of the person who owns the property that will be insured; and
- Mailing, transmitting, or otherwise submitting an invoice for premium payment to a mortgagee or escrow agent in order to effectuate an insurance policy without the prior informed consent of the owner of the property that will be insured. However, it does not

⁷⁶ Those identified in s. 627.062(3)(d)1.

⁷⁷ Section 626.916(1)(a)-(d), F.S.

include cases where the mortgagee or escrow agent is renewing insurance or issuing collateral protection insurance pursuant to the mortgage or other pertinent loan documents or communications regarding the property.

These new violations will be punishable as administrative violations under the general provisions of the Unfair Insurance Trade Practices Act. However, the underlying acts that give rise to those administrative violations may also give rise to charges under s. 626.9541(1)(ee), F.S., which prohibits the willful submission of fraudulent signatures on an application or policy-related document, and is punishable as a third-degree felony pursuant to s. 626.9521, F.S.

Residential Property Insurance Claim Investigations; Application to Surplus Lines

Section 18 amends s. 627.70131, F.S., to impose new requirements on residential property insurers during their claim investigations, and to apply the section's requirements to surplus lines insurers and policies providing personal residential property insurance coverage.

The bill clarifies the communication standards of the statute by referring to "representatives" of an insurer, rather than "an agent" of the insured. The term "representative" is defined in the same way the term "agent" is currently defined by this statute: "any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer." The current use of "agent" could confuse readers of the statute regarding whether the requirements of the section only apply to licensed agents.

The bill requires a residential property insurer begin its claim investigation within 14 days of receiving a proof of loss statement; current law provides 10 business days. As under current law, the statutory time frame for beginning an investigation does not apply if any law or the insurance policy provides otherwise, if a claim investigation is not reasonably necessary, or if circumstances beyond the insurer's control reasonably prevent the investigation from commencing.

If the claim investigation involves a physical inspection of the property, the bill requires that the insurer's licensed adjuster must provide the policyholder a printed or electronic document containing the adjuster's name and state adjuster license number. All subsequent communications by an adjuster must include the adjuster's name and license number. The insurer must maintain a record of each adjuster who engages in the foregoing communications, and provide that list to the insured, the OIR, or the DFS upon request.

The bill requires the insurer to provide notices that explain when the insurer is providing a preliminary or partial estimate, or making a claim payment that is not the full and final payment for the claim. The insurer must include with any preliminary or partial estimate of damages, the following notice in 12-point bold, uppercase type:

**THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF
THE COVERED DAMAGES TO YOUR INSURED PROEPRTY AND
MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR
CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR**

ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE
ENCOURAGE TO CONTACT US.

The insurer must include with any claim payment which is not the full and final payment for the claim, the following notice in 12-point bold, uppercase type:

WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING
YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR
ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE
ENCOURAGE YOU TO CONTACT US.

The bill creates a new subsection (8) that applies the section to surplus lines insurers and authorized surplus lines insurance providing personal residential property insurance coverage.

This section is effective January 1, 2022.

Section 16 amends s. 627.062, F.S., to correct a cross reference to s. 627.70131(7), F.S., relating to insurer's rate standards. The insurer may not include any interest paid pursuant to s. 627.7013(7), F.S., in their rate base and may not be used to justify a rate or rate change.

Prohibition on Foreign Venue Clauses

Section 19 creates s. 627.7031, F.S., which prohibits the inclusion within any personal residential property insurance policy any clause that would require an insured to pursue litigation, arbitration, or mediation outside of Florida, if such policy was sold after July 1, 2021, in Florida, and insures only property located in this state.

This prohibition also applies to surplus lines insurers and authorized surplus lines insurance.

Homeowner Claims Bill of Rights

Section 20 amends s. 627.7142, F.S., which contains the Homeowner Claims Bill of Rights which the insurer must provide the homeowner after receiving the initial communication regarding a personal lines residential property insurance claim. Currently, the Homeowner Claims Bill of Rights must be provided within 14 days after an insurer receives an initial communication on any personal lines residential property insurance claim. Additionally, the Homeowner Claims Bill of Rights currently include notice the consumer has the right to receive interest payments; these payments begin accruing when a consumer files a claim if the insurer does not deny the claim or pay the full settlement of the claim, or the undisputed portion of the claim, within 90 calendar days after a claim is filed.⁷⁸ Any payable interest must be paid when the claim, or undisputed portion of the claim, is paid.

The Homeowner Claims Bill of Rights is also amended to encourage insureds to take video of damage before and after any repairs, and specify the purpose of such videos or photographs is so

⁷⁸ See s. 627.70131(5)(a), F.S.

they can be provided to the insurer. In addition, insureds are encouraged to file claims directly with their insurance company and to be aware of contractors or repair vendors who offer incentives for free inspections or promise to coordinate with insured's insurance company to repair the insured's home with no out-of-pocket expense paid by the insured.

This section is effective January 1, 2022.

Elimination of the \$100 Florida Insurance Guaranty Fund Deductible

Section 21 amends s. 631.57, F.S., to remove the insured's obligation to pay a \$100 deductible to FIGA in order to receive payment on their claim through FIGA. The insured remains obligated to pay their original insurer's deductible.

Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) Covered Claims

Section 22 amends s. 631.904(2), F.S., to revise the definition of a "covered claim" for purposes of the FWCIGA, to exclude from the definition the return of premium resulting from a policy that was not in force on the date of the final order of liquidation.

Effective Date

Section 23 provides the bill, except as otherwise provided, is effective 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:

Credit Bureaus will no longer be permitted to charge a fee to re-issue a personal identification number to consumers. *See Section VII, Related Issues.*

Consumers who seek to have their claims covered by Florida Insurance Guaranty Association (FIGA) will no longer be required to pay the \$100 deductible to FIGA.

Certain property adjusting businesses will be required to become licensed by the Department of Financial Services (DFS) and pay related application fees; those who fail to submit an application for licensure will be subject to administrative penalties.

Consumers may benefit from the extended cooling-off period, which allows them to void a contract for public adjusting services without penalty.

Certain licensees may be subject to administrative or criminal penalties as a result of the additional penalties created by this bill.

Insurers will be prohibited from selling industrial life insurance policies, although this should have a de minimis impact, as few currently offer this type of policy.

Insurers and certain agents may be required to update forms or mailers to reflect the new surplus lines export disclosure, the hurricane disclosure, the updated homeowner claims bill of rights, and the prohibition of forum selection clauses.

C. Government Sector Impact:

The bill has an insignificant indeterminate impact to state funds and expenditures.

The elimination of the \$60 fee for a new or renewal adjusting firm license may have an insignificant impact on future state revenues. In addition, eliminating the \$100 FIGA deductible may have an insignificant financial impact on FIGA.

Sections 4, 10 and 12 increase the DFS's authority to take administrative action and impose administrative fines, which may result in an insignificant indeterminate increase in administrative fines collected.

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. Section 5 of the bill revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly and abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in Florida without a license. A person who does so

commits a third degree felony. **Section 12** of the bill amends the Unfair Insurance Trade Practices Act (Act). The new violations under **Section 12** are punishable as administrative violations under the general provisions of the Act. However, the underlying acts which give rise to the administrative violations may give rise to charges under s. 626.9541(1)(ee), F.S., which is punishable as a third degree felony.

VI. Technical Deficiencies:

Section 6 of the bill amends s. 626.621, F.S., to authorize the Department of Financial Services (DFS) to suspend or revoke the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent, or refuse to issue a license to an applicant for taking an action that allows a consumer's or customer's personal financial or medical information to be made available or accessible to the public; however, it is unclear what information would be considered financial or medical information. These terms are undefined. For purposes of HIPAA, protected health information is defined. Further, s. 624.23, F.S., defines the term, "personal financial and health information," as it relates to consumer complaints and inquiries received by the DFS.

Section 10 of the bill amending s. 626.854(19), F.S., appears intended to prohibit a person that is not an attorney or licensed public adjuster from, on behalf of a public adjuster, advertising, providing advice regarding a claim, or assisting in the adjustment of a claim. This bill section also creates a new subsection (20) to s. 626.854, F.S., to authorize the DFS to take administrative actions and impose fines for unlicensed public adjusting or claims adjusting activity; however, DFS will have difficulty enforcing such a fine or taking administrative action when the violator is not a licensee of the DFS.

VII. Related Issues:

Section 1 of the bill may be federally preempted pursuant to 15 U.S.C. s. 1681t. This federal law prohibits states from imposing laws with respect to any subject matter regulated under subsections (i) and (j) of section 605A relating to security freezes.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 501.0051, 624.307, 624.501, 626.015, 626.112, 626.602, 626.621, 626.7315, 626.782, 626.783, 626.7845, 626.8305, 626.854, 626.916, 626.9541, 626.9741, 626.9953, 626.9957, 627.062, 627.502, 627.70131, 627.7142, 631.57, and 631.904.

This bill creates section 627.7031 of the Florida Statutes.

This bill repeals section 626.796 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.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on March 24, 2021:

The committee substitute:

- Clarifies contractors may recommend that policyholders contact their insurance company, but may not initiate, manage, or handle the claim for the policyholder; but does not prohibit or preclude a contractor from recommending the policyholder contact the insurer to determine if proposed repair is covered under the insured's insurance policy;
- Clarifies the surplus lines 90-day provision would apply only to personal residential properties;
- Clarifies no person other than an attorney at law or a licensed public adjuster, may offer to initiate or negotiate a claim or advertise services which require a public adjuster license on behalf of a public adjuster, an insured, or a third-party claimant
- Includes a provision in the Homeowner Claims Bill of Rights encouraging a consumer to file claims directly with their insurer and to be aware of incentives offered by contractors or repair vendors for free inspections or promises to coordinate repairs; and
- Removes the definition of claims adjusting and the respective cross-references.

CS by Banking and Insurance on March 16, 2021:

The committee substitute:

- Prohibits persons other than a public adjuster or attorney from advertising, providing advice, or assisting the adjustment of a claim on behalf of a public adjuster, insured, or third-party claimant.
- Authorizes the Department of Financial Services to take administrative actions and impose fines against persons performing without the necessary licensure claims adjusting or any of the public adjusting services detailed in s. 626.854, F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 303 - 691

and insert:

impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(21) A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter into a contract with an insured or a third-party claimant



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11 pursuant to paragraph (10) (a) may not charge an insured or a
12 third-party claimant or receive payment by any other source for
13 any type of service related to the insured or third-party
14 claimant's claim.

15 Section 11. Effective January 1, 2022, subsection (3) of
16 section 626.916, Florida Statutes, is amended, and paragraph (f)
17 is added to subsection (1) of that section, to read:

18 626.916 Eligibility for export.—

19 (1) No insurance coverage shall be eligible for export
20 unless it meets all of the following conditions:

21 (f) The insured has signed or otherwise provided documented
22 acknowledgment of a disclosure in substantially the following
23 form: "You are agreeing to place coverage in the surplus lines
24 market. Coverage may be available in the admitted market.
25 Persons insured by surplus lines carriers are not protected
26 under the Florida Insurance Guaranty Act with respect to any
27 right of recovery for the obligation of an insolvent unlicensed
28 insurer."

29 (3) (a) Subsection (1) does not apply to wet marine and
30 transportation or aviation risks that ~~which~~ are subject to s.
31 626.917.

32 (b) Paragraphs (1) (a)-(d) do not apply to classes of
33 insurance which are subject to s. 627.062(3) (d)1. These classes
34 may be exportable under the following conditions:

35 1. The insurance must be placed only by or through a
36 surplus lines agent licensed in this state;

37 2. The insurer must be made eligible under s. 626.918; and

38 3. The insured has complied with paragraph (1) (f) ~~must sign~~
39 ~~a disclosure that substantially provides the following: "You are~~



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40 ~~agreeing to place coverage in the surplus lines market. Superior~~
41 ~~coverage may be available in the admitted market and at a lesser~~
42 ~~cost. Persons insured by surplus lines carriers are not~~
43 ~~protected under the Florida Insurance Guaranty Act with respect~~
44 ~~to any right of recovery for the obligation of an insolvent~~
45 ~~unlicensed insurer.” If the disclosure notice is signed by the~~
46 insured, the insured is presumed to have been informed and to
47 know that other coverage may be available, and, with respect to
48 the diligent-effort requirement under subsection (1), there is
49 no liability on the part of, and no cause of action arises
50 against, the retail agent presenting the form.

51 Section 12. Paragraph (z) of subsection (1) of section
52 626.9541, Florida Statutes, is amended to read:

53 626.9541 Unfair methods of competition and unfair or
54 deceptive acts or practices defined.—

55 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
56 ACTS.—The following are defined as unfair methods of competition
57 and unfair or deceptive acts or practices:

58 (z) *Sliding*.—Sliding is the act or practice of any of the
59 following:

60 1. Representing to the applicant that a specific ancillary
61 coverage or product is required by law in conjunction with the
62 purchase of insurance when such coverage or product is not
63 required.†

64 2. Representing to the applicant that a specific ancillary
65 coverage or product is included in the policy applied for
66 without an additional charge when such charge is required.† ~~or~~

67 3. Charging an applicant for a specific ancillary coverage
68 or product, in addition to the cost of the insurance coverage



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69 applied for, without the informed consent of the applicant.

70 4. Initiating, effectuating, binding, or otherwise issuing
71 a policy of insurance without the prior informed consent of the
72 owner of the property to be insured.

73 5. Mailing, transmitting, or otherwise submitting by any
74 means an invoice for premium payment to a mortgagee or escrow
75 agent, for the purpose of effectuating an insurance policy,
76 without the prior informed consent of the owner of the property
77 to be insured. However, this subparagraph does not apply in
78 cases in which the mortgagee or escrow agent is renewing
79 insurance or issuing collateral protection insurance, as defined
80 in s. 624.6085, pursuant to the mortgage or other pertinent loan
81 documents or communications regarding the property.

82 Section 13. Effective January 1, 2022, subsection (3) of
83 section 626.9741, Florida Statutes, is amended to read:

84 626.9741 Use of credit reports and credit scores by
85 insurers.-

86 (3) An insurer must inform an applicant or insured, in the
87 same medium as the application is taken, that a credit report or
88 score is being requested for underwriting or rating purposes.
89 The notification to the consumer must include the following
90 language: "The Department of Financial Services offers free
91 financial literacy programs to assist you with insurance-related
92 questions, including how credit works and how credit scores are
93 calculated. To learn more, visit www.MyFloridaCFO.com." An
94 insurer that makes an adverse decision based, in whole or in
95 part, upon a credit report must provide at no charge, a copy of
96 the credit report to the applicant or insured or provide the
97 applicant or insured with the name, address, and telephone



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98 number of the consumer reporting agency from which the insured
99 or applicant may obtain the credit report. The insurer must
100 provide notification to the consumer explaining the reasons for
101 the adverse decision. The reasons must be provided in
102 sufficiently clear and specific language so that a person can
103 identify the basis for the insurer's adverse decision. Such
104 notification shall include a description of the four primary
105 reasons, or such fewer number as existed, which were the primary
106 influences of the adverse decision. The use of generalized terms
107 such as "poor credit history," "poor credit rating," or "poor
108 insurance score" does not meet the explanation requirements of
109 this subsection. A credit score may not be used in underwriting
110 or rating insurance unless the scoring process produces
111 information in sufficient detail to permit compliance with the
112 requirements of this subsection. It shall not be deemed an
113 adverse decision if, due to the insured's credit report or
114 credit score, the insured continues to receive a less favorable
115 rate or placement in a less favorable tier or company at the
116 time of renewal except for renewals or reunderwriting required
117 by this section.

118 Section 14. Subsection (5) of section 626.9953, Florida
119 Statutes, is amended to read:

120 626.9953 Qualifications for registration; application
121 required.—

122 (5) An applicant must submit a set of his or her
123 fingerprints to the department and pay the processing fee
124 established under s. 624.501(23) ~~s. 624.501(24)~~. The department
125 shall submit the applicant's fingerprints to the Department of
126 Law Enforcement for processing state criminal history records



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127 checks and local criminal records checks through local law
128 enforcement agencies and for forwarding to the Federal Bureau of
129 Investigation for national criminal history records checks. The
130 fingerprints shall be taken by a law enforcement agency, a
131 designated examination center, or another department-approved
132 entity. The department may not approve an application for
133 registration as a navigator if fingerprints have not been
134 submitted.

135 Section 15. Subsection (1) of section 626.9957, Florida
136 Statutes, is amended to read:

137 626.9957 Conduct prohibited; denial, revocation, or
138 suspension of registration.—

139 (1) As provided in s. 626.112, only a person licensed as an
140 insurance agent or customer representative may engage in the
141 solicitation of insurance. A person who engages in the
142 solicitation of insurance as described in s. 626.112(1) without
143 such license is subject to the penalties provided under s.
144 626.112(10) ~~s. 626.112(9)~~.

145 Section 16. Subsection (10) of section 627.062, Florida
146 Statutes, is amended to read:

147 627.062 Rate standards.—

148 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
149 ~~627.70131(5)~~ may not be included in the insurer's rate base and
150 may not be used to justify a rate or rate change.

151 Section 17. Section 627.502, Florida Statutes, is amended
152 to read:

153 627.502 "Industrial life insurance" defined; reporting;
154 prohibition on new policies after a certain date.—

155 (1) For the purposes of this code, "industrial life



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156 insurance" is that form of life insurance written under policies
157 under which premiums are payable monthly or more often, bearing
158 the words "industrial policy" or "weekly premium policy" or
159 words of similar import imprinted upon the policies as part of
160 the descriptive matter, and issued by an insurer that ~~which~~, as
161 to such industrial life insurance, is operating under a system
162 of collecting a debit by its agent.

163 (2) Every life insurer servicing existing ~~transacting~~
164 industrial life insurance shall report to the office all annual
165 statement data regarding the exhibit of life insurance,
166 including relevant information for industrial life insurance.

167 (3) Beginning July 1, 2021, a life insurer may not write a
168 new policy of industrial life insurance.

169 Section 18. Effective January 1, 2022, section 627.70131,
170 Florida Statutes, is amended to read:

171 627.70131 Insurer's duty to acknowledge communications
172 regarding claims; investigation.-

173 (1) (a) Upon an insurer's receiving a communication with
174 respect to a claim, the insurer shall, within 14 calendar days,
175 review and acknowledge receipt of such communication unless
176 payment is made within that period of time or unless the failure
177 to acknowledge is caused by factors beyond the control of the
178 insurer which reasonably prevent such acknowledgment. If the
179 acknowledgment is not in writing, a notification indicating
180 acknowledgment shall be made in the insurer's claim file and
181 dated. A communication made to or by a representative ~~an agent~~
182 of an insurer with respect to a claim shall constitute
183 communication to or by the insurer.

184 (b) As used in this subsection, the term "representative"



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185 ~~"agent"~~ means any person to whom an insurer has granted
186 authority or responsibility to receive or make such
187 communications with respect to claims on behalf of the insurer.

188 (c) This subsection does ~~shall~~ not apply to claimants
189 represented by counsel beyond those communications necessary to
190 provide forms and instructions.

191 (2) Such acknowledgment must ~~shall~~ be responsive to the
192 communication. If the communication constitutes a notification
193 of a claim, unless the acknowledgment reasonably advises the
194 claimant that the claim appears not to be covered by the
195 insurer, the acknowledgment must ~~shall~~ provide necessary claim
196 forms, and instructions, including an appropriate telephone
197 number.

198 (3) (a) Unless otherwise provided by the policy of insurance
199 or by law, within 14 ~~10 working~~ days after an insurer receives
200 proof of loss statements, the insurer shall begin such
201 investigation as is reasonably necessary unless the failure to
202 begin such investigation is caused by factors beyond the control
203 of the insurer which reasonably prevent the commencement of such
204 investigation.

205 (b) If such investigation involves a physical inspection of
206 the property, the licensed adjuster assigned by the insurer must
207 provide the policyholder with a printed or electronic document
208 containing his or her name and state adjuster license number.

209 (c) Any subsequent communication with the policyholder
210 regarding the claim must also include the name and license
211 number of the adjuster communicating about the claim.

212 Communication of the adjuster's name and license number may be
213 included with other information provided to the policyholder.



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214 (4) An insurer shall maintain a record or log of each
215 adjuster who communicates with the policyholder as provided in
216 paragraphs (3) (b) and (c) and provide a list of such adjusters
217 to the insured, office, or department upon request.

218 (5) For purposes of this section, the term "insurer" means
219 any residential property insurer.

220 (6) (a) When providing a preliminary or partial estimate of
221 damage regarding a claim, an insurer shall include with the
222 estimate the following statement printed in at least 12-point
223 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
224 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
225 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
226 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
227 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

228 (b) When providing a payment on a claim which is not the
229 full and final payment for the claim, an insurer shall include
230 with the payment the following statement printed in at least 12-
231 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
232 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
233 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
234 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
235 US.

236 (7) (a) ~~(5) (a)~~ Within 90 days after an insurer receives
237 notice of an initial, reopened, or supplemental property
238 insurance claim from a policyholder, the insurer shall pay or
239 deny such claim or a portion of the claim unless the failure to
240 pay is caused by factors beyond the control of the insurer which
241 reasonably prevent such payment. Any payment of an initial or
242 supplemental claim or portion of such claim made 90 days after



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243 the insurer receives notice of the claim, or made more than 15
244 days after there are no longer factors beyond the control of the
245 insurer which reasonably prevented such payment, whichever is
246 later, bears interest at the rate set forth in s. 55.03.
247 Interest begins to accrue from the date the insurer receives
248 notice of the claim. The provisions of this subsection may not
249 be waived, voided, or nullified by the terms of the insurance
250 policy. If there is a right to prejudgment interest, the insured
251 shall select whether to receive prejudgment interest or interest
252 under this subsection. Interest is payable when the claim or
253 portion of the claim is paid. Failure to comply with this
254 subsection constitutes a violation of this code. However,
255 failure to comply with this subsection does not form the sole
256 basis for a private cause of action.

257 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
258 this subsection, the term "claim" means any of the following:

259 1. A claim under an insurance policy providing residential
260 coverage as defined in s. 627.4025(1);

261 2. A claim for structural or contents coverage under a
262 commercial property insurance policy if the insured structure is
263 10,000 square feet or less; or

264 3. A claim for contents coverage under a commercial tenant
265 policy if the insured premises is 10,000 square feet or less.

266 (c) This subsection does ~~shall~~ not apply to claims under an
267 insurance policy covering nonresidential commercial structures
268 or contents in more than one state.

269 (8) This section also applies to surplus lines insurers and
270 surplus lines insurance authorized under ss. 626.913-626.937
271 providing residential coverage.



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272 Section 19. Effective January 1, 2022, section 627.7142,
273 Florida Statutes, is amended to read:

274 627.7142 Homeowner Claims Bill of Rights.—An insurer
275 issuing a personal lines residential property insurance policy
276 in this state must provide a Homeowner Claims Bill of Rights to
277 a policyholder within 14 days after receiving an initial
278 communication with respect to a claim, ~~unless the claim follows~~
279 ~~an event that is the subject of a declaration of a state of~~
280 ~~emergency by the Governor.~~ The purpose of the bill of rights is
281 to summarize, in simple, nontechnical terms, existing Florida
282 law regarding the rights of a personal lines residential
283 property insurance policyholder who files a claim of loss. The
284 Homeowner Claims Bill of Rights is specific to the claims
285 process and does not represent all of a policyholder's rights
286 under Florida law regarding the insurance policy. The Homeowner
287 Claims Bill of Rights does not create a civil cause of action by
288 any individual policyholder or class of policyholders against an
289 insurer or insurers. The failure of an insurer to properly
290 deliver the Homeowner Claims Bill of Rights is subject to
291 administrative enforcement by the office but is not admissible
292 as evidence in a civil action against an insurer. The Homeowner
293 Claims Bill of Rights does not enlarge, modify, or contravene
294 statutory requirements, including, but not limited to, ss.
295 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
296 not prohibit an insurer from exercising its right to repair
297 damaged property in compliance with the terms of an applicable
298 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
299 Claims Bill of Rights must state:

300



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HOMEOWNER CLAIMS

BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

3. Within 90 days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your



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claim.

4. Receive payment of interest, as provided in s. 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 days after your claim is filed. The interest, if applicable, must be paid when your claim or the undisputed portion of your claim is paid.

5. Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

~~6.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~7.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at...(website address)....

YOU ARE ADVISED TO:



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- 359 1. File all claims directly with your insurance
360 company.
- 361 2. Contact your insurance company before entering
362 into any contract for repairs to confirm any managed
363 repair policy provisions or optional preferred
364 vendors.
- 365 ~~3.2.~~ Make and document emergency repairs that are
366 necessary to prevent further damage. Keep the damaged
367 property, if feasible, keep all receipts, and take
368 photographs or video of damage before and after any
369 repairs to provide to your insurer.
- 370 ~~4.3.~~ Carefully read any contract that requires
371 you to pay out-of-pocket expenses or a fee that is
372 based on a percentage of the insurance proceeds that
373 you will receive for repairing or replacing your
374 property.
- 375 ~~5.4.~~ Confirm that the contractor you choose is
376 licensed to do business in Florida. You can verify a
377 contractor's license and check to see if there are any
378 complaints against him or her by calling the Florida
379 Department of Business and Professional Regulation.
380 You should also ask the contractor for references from
381 previous work.
- 382 ~~6.5.~~ Require all contractors to provide proof of
383 insurance before beginning repairs.
- 384 ~~7.6.~~ Take precautions if the damage requires you
385 to leave your home, including securing your property
386 and turning off your gas, water, and electricity, and
387 contacting your insurance company and provide a phone



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388 number where you can be reached.

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

391 And the directory clause is amended as follows:

392 Delete lines 231 - 232

393 and insert:

394 section 626.854, Florida Statutes, are amended, and subsections
395 (20) and (21) are added to that section, to read:

396

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

398 And the title is amended as follows:

399 Delete lines 50 - 79

400 and insert:

401 licensure; prohibiting specified persons from charging
402 insureds or third-party claimants or receiving
403 payments under certain circumstances; amending s.
404 626.916, F.S.; revising disclosure requirements for
405 certain classes of insurance before being eligible for
406 export under the Surplus Lines Law; amending s.
407 626.9541, F.S.; adding certain acts or practices to
408 the definition of sliding; amending s. 626.9741, F.S.;
409 requiring an insurer to include certain additional
410 information when providing an applicant or insured
411 with certain credit report or score information;
412 amending ss. 626.9953, 626.9957, and 627.062, F.S.;
413 conforming cross-references; amending s. 627.502,
414 F.S.; prohibiting life insurers from writing new
415 policies of industrial life insurance beginning on a
416 certain date; making technical changes; amending s.



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417 627.70131, F.S.; providing that a communication made
418 to or by an insurer's representative, rather than to
419 or by an insurer's agent, constitutes communication to
420 or by the insurer; defining the term "representative",
421 rather than "agent"; revising the timeframe for
422 insurers to begin certain investigations; requiring an
423 insurer-assigned licensed adjuster to provide the
424 policyholder with certain information in certain
425 investigations; requiring insurers to maintain certain
426 records and provide certain lists upon request;
427 requiring insurers to include specified notices when
428 providing preliminary or partial damage estimates or
429 claim payments; providing applicability; conforming
430 provisions to changes made by the act;



146092

576-03360-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to consumer protection; amending
501.0051, F.S.; deleting authorization for consumer
reporting agencies to charge a fee for reissuing or
providing a new unique personal identifier to a
consumer; amending s. 624.307, F.S.; revising a
requirement for persons licensed or authorized by the
Department of Financial Services or the Office of
Insurance Regulation to respond to the department's
Division of Consumer Services regarding consumer
complaints; amending s. 624.501, F.S.; deleting a fee
for adjusting firm licenses; amending s. 626.112,
F.S.; deleting an obsolete provision; prohibiting
unlicensed activity by an adjusting firm; providing an
exemption; providing an exemption from licensure for
branch firms that meet certain criteria; providing an
administrative penalty for failing to apply for
certain licensure; providing a criminal penalty for
aiding or abetting unlicensed activity; amending s.
626.602, F.S.; authorizing the department to
disapprove the use of insurance agency names
containing the word "Medicare" or "Medicaid";
providing an exception for certain insurance agencies
for a certain period; providing for expiration of
certain licenses on a certain date; amending s.
626.621, F.S.; adding grounds on which the department

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576-03360-21

may take certain actions against a license,
appointment, or application of certain insurance
representatives; amending ss. 626.782 and 626.783,
F.S.; revising the definitions of the terms
"industrial class insurer" and "ordinary-combination
class insurer," respectively, to conform to changes
made by the act; repealing s. 626.796, F.S., relating
to the representation of multiple insurers in the same
industrial debit territory; amending s. 626.854, F.S.;
revising the timeframes in which an insured or a
claimant may cancel a public adjuster's contract to
adjust a claim without penalty or obligation;
requiring that a public adjuster's contract include a
specified disclosure; specifying requirements for
written estimates of loss provided by public adjusters
to claimants or insureds; revising a prohibition
against certain contractors or subcontractors
providing insureds with specified services; providing
an exception; revising services a person is prohibited
from performing unless the person meets specified
requirements; authorizing the department to take
administrative actions and impose fines against
persons performing specified activities without
licensure; amending s. 626.916, F.S.; revising
disclosure requirements for certain classes of
insurance before being eligible for export under the
Surplus Lines Law; amending s. 626.9541, F.S.; adding
certain acts or practices to the definition of
sliding; amending s. 626.9741, F.S.; requiring an

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56 insurer to include certain additional information when
57 providing an applicant or insured with certain credit
58 report or score information; amending s. 626.9953,
59 F.S.; correcting a cross-reference; amending ss.
60 626.9957 and 627.062, F.S.; conforming cross-
61 references; amending s. 627.502, F.S.; prohibiting
62 life insurers from writing new policies of industrial
63 life insurance beginning on a certain date; making
64 technical changes; amending s. 627.70131, F.S.;
65 providing that a communication made to or by an
66 insurer's representative, rather than to or by an
67 insurer's agent, constitutes communication to or by
68 the insurer; revising the timeframe for insurers to
69 begin certain investigations; requiring an insurer-
70 assigned licensed adjuster to provide the policyholder
71 with certain information in certain investigations;
72 requiring insurers to maintain certain records and
73 provide certain lists upon request; requiring insurers
74 to include specified notices when providing
75 preliminary or partial damage estimates or claim
76 payments; providing applicability; conforming
77 provisions to changes made by the act; creating s.
78 627.7031, F.S.; prohibiting foreign venue clauses in
79 property insurance policies; providing applicability;
80 amending s. 627.7142, F.S.; revising information
81 contained in the Homeowner Claims Bill of Rights;
82 conforming provisions to changes made by the act;
83 amending s. 631.57, F.S.; deleting a deductible on the
84 obligation of the Florida Insurance Guaranty



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85 Association, Incorporated, as to certain covered
86 claims; amending s. 631.904, F.S.; revising the
87 definition of the term "covered claim"; deleting a
88 requirement that a policy be in force on the date of
89 the final order of liquidation; providing effective
90 dates.

91
92 Be It Enacted by the Legislature of the State of Florida:

93
94 Section 1. Subsection (9) of section 501.0051, Florida
95 Statutes, is amended to read:

96 501.0051 Protected consumer report security freeze.-
97 (9)(a) A consumer reporting agency may not charge any fee
98 to place or remove a security freeze.

99 ~~(b) A consumer reporting agency may charge a reasonable~~
100 ~~fee, not to exceed \$10, if the representative fails to retain~~
101 ~~the original unique personal identifier provided by the consumer~~
102 ~~reporting agency and the agency must reissue the unique personal~~
103 ~~identifier or provide a new unique personal identifier to the~~
104 ~~representative.~~

105 Section 2. Paragraph (b) of subsection (10) of section
106 624.307, Florida Statutes, is amended to read:

107 624.307 General powers; duties.-

108 (10)

109 (b) Any person licensed or issued a certificate of
110 authority by the department or the office shall respond, in
111 writing, to the division within 20 days after receipt of a
112 written request for documents and information from the division
113 concerning a consumer complaint. The response must address the



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114 issues and allegations raised in the complaint and include any
115 requested documents concerning the consumer complaint not
116 subject to attorney-client or work-product privilege. The
117 division may impose an administrative penalty for failure to
118 comply with this paragraph of up to \$2,500 per violation upon
119 any entity licensed by the department or the office and \$250 for
120 the first violation, \$500 for the second violation, and up to
121 \$1,000 for the third or subsequent violation upon any individual
122 licensed by the department or the office.

123 Section 3. Subsection (20) of section 624.501, Florida
124 Statutes, is amended to read:

125 624.501 Filing, license, appointment, and miscellaneous
126 fees.-The department, commission, or office, as appropriate,
127 shall collect in advance, and persons so served shall pay to it
128 in advance, fees, licenses, and miscellaneous charges as
129 follows:

130 ~~(20) Adjusting firm, original or renewal 3-year~~
131 ~~license.....\$60.00~~

132 Section 4. Present subsection (9) of section 626.112,
133 Florida Statutes, is redesignated as subsection (10) and
134 amended, a new subsection (9) is added to that section, and
135 paragraph (d) of subsection (7) of that section is amended, to
136 read:

137 626.112 License and appointment required; agents, customer
138 representatives, adjusters, insurance agencies, service
139 representatives, managing general agents, insurance adjusting
140 firms.-

141 (7)

142 ~~(d) Effective October 1, 2015, the department must~~



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143 ~~automatically convert the registration of an approved registered~~
144 ~~insurance agency to an insurance agency license.~~

145 (9) (a) An individual, a firm, a partnership, a corporation,
146 an association, or any other entity may not act in its own name
147 or under a trade name, directly or indirectly, as an adjusting
148 firm unless it complies with s. 626.8696 with respect to
149 possessing an adjusting firm license for each place of business
150 at which it engages in an activity that may be performed only by
151 a licensed insurance adjuster. However, an adjusting firm that
152 is owned and operated by a single licensed adjuster conducting
153 business in his or her individual name and not employing or
154 otherwise using the services of or appointing other licensees is
155 exempt from the adjusting firm licensing requirements of this
156 subsection.

157 (b) A branch place of business that is established by a
158 licensed adjusting firm is considered a branch firm and is not
159 required to be licensed if:

160 1. It transacts business under the same name and federal
161 tax identification number as the licensed adjusting firm;

162 2. It has designated with the department a primary adjuster
163 operating the location as required by s. 626.8695; and

164 3. The address and telephone number of the branch location
165 have been submitted to the department for inclusion in the
166 licensing record of the licensed adjusting firm within 30 days
167 after insurance transactions begin at the branch location.

168 (c) If an adjusting firm is required to be licensed but
169 fails to apply for licensure in accordance with this subsection,
170 the department must impose an administrative penalty of up to
171 \$10,000 on the firm.



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172 ~~(10)(9)~~ Any person who knowingly transacts insurance or
173 otherwise engages in insurance activities in this state without
174 a license in violation of this section or who knowingly aids or
175 abets an unlicensed person in transacting insurance or otherwise
176 engaging in insurance activities in this state without a license
177 commits a felony of the third degree, punishable as provided in
178 s. 775.082, s. 775.083, or s. 775.084.

179 Section 5. Subsection (4) is added to section 626.602,
180 Florida Statutes, to read:

181 626.602 Insurance agency names; disapproval.—The department
182 may disapprove the use of any true or fictitious name, other
183 than the bona fide natural name of an individual, by any
184 insurance agency on any of the following grounds:

185 (4) The name contains the word "Medicare" or "Medicaid." An
186 insurance agency whose name contains the word "Medicare" or
187 "Medicaid" but which is licensed as of July 1, 2021, may
188 continue to use that name until June 30, 2023, provided that the
189 agency's license remains valid. If the agency's license expires
190 or is suspended or revoked, the agency may not be relicensed
191 using that name. Licenses for agencies with names containing
192 either of these words automatically expire on July 1, 2023,
193 unless these words are removed from the name.

194 Section 6. Subsections (16) and (17) are added to section
195 626.621, Florida Statutes, to read:

196 626.621 Grounds for discretionary refusal, suspension, or
197 revocation of agent's, adjuster's, customer representative's,
198 service representative's, or managing general agent's license or
199 appointment.—The department may, in its discretion, deny an
200 application for, suspend, revoke, or refuse to renew or continue



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201 the license or appointment of any applicant, agent, adjuster,
202 customer representative, service representative, or managing
203 general agent, and it may suspend or revoke the eligibility to
204 hold a license or appointment of any such person, if it finds
205 that as to the applicant, licensee, or appointee any one or more
206 of the following applicable grounds exist under circumstances
207 for which such denial, suspension, revocation, or refusal is not
208 mandatory under s. 626.611:

209 (16) Taking an action that allows the personal financial or
210 medical information of a consumer or customer to be made
211 available or accessible to the general public, regardless of the
212 format in which the record is stored.

213 (17) Initiating in-person or telephone solicitation after 9
214 p.m. or before 8 a.m. local time of the prospective customer
215 unless requested by the prospective customer.

216 Section 7. Section 626.782, Florida Statutes, is amended to
217 read:

218 626.782 "Industrial class insurer" defined.—An "industrial
219 class insurer" is an insurer collecting premiums on policies of
220 writing industrial life insurance, as defined in s. 627.502,
221 written before July 1, 2021, and as to such insurance, operates
222 under a system of collecting a debit by its agent.

223 Section 8. Section 626.783, Florida Statutes, is amended to
224 read:

225 626.783 "Ordinary-combination class insurer" defined.—An
226 "ordinary-combination class insurer" is an insurer writing ~~both~~
227 ordinary class insurance and collecting premiums on existing
228 industrial life class insurance ~~as defined by s. 627.502.~~

229 Section 9. Section 626.796, Florida Statutes, is repealed.



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230 Section 10. Subsections (6), (11), (15), and (19) of
231 section 626.854, Florida Statutes, are amended, and subsection
232 (20) is added to that section, to read:

233 626.854 "Public adjuster" defined; prohibitions.—The
234 Legislature finds that it is necessary for the protection of the
235 public to regulate public insurance adjusters and to prevent the
236 unauthorized practice of law.

237 (6) An insured or claimant may cancel a public adjuster's
238 contract to adjust a claim without penalty or obligation within
239 10 3 business days after the date on which the contract is
240 ~~executed or within 3 business days after the date on which the~~
241 ~~insured or claimant has notified the insurer of the claim,~~
242 ~~whichever is later.~~ The public adjuster's contract must contain
243 the following language in minimum 18-point bold type: "You, the
244 insured, may cancel this contract for any reason without penalty
245 or obligation to you within 10 days after the date of this
246 contract by providing notice to ...(name of public adjuster)...,
247 submitted in writing and sent by certified mail, return receipt
248 requested, or other form of mailing that provides proof thereof,
249 at the address specified in the contract disclose to the insured
250 ~~or claimant his or her right to cancel the contract and advise~~
251 ~~the insured or claimant that notice of cancellation must be~~
252 ~~submitted in writing and sent by certified mail, return receipt~~
253 ~~requested, or other form of mailing that provides proof thereof,~~
254 ~~to the public adjuster at the address specified in the contract,~~
255 ~~provided, during any state of emergency as declared by the~~
256 ~~Governor and for 1 year after the date of loss, the insured or~~
257 ~~elaimant has 5 business days after the date on which the~~
258 ~~contract is executed to cancel a public adjuster's contract.~~



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259 (11) Each public adjuster must provide to the claimant or
260 insured a written estimate of the loss to assist in the
261 submission of a proof of loss or any other claim for payment of
262 insurance proceeds within 60 days after the date of the
263 contract. The written estimate must include an itemized, per-
264 unit estimate of the repairs, including itemized information on
265 equipment, materials, labor, and supplies, in accordance with
266 accepted industry standards. The public adjuster shall retain
267 such written estimate for at least 5 years and shall make the
268 estimate available to the claimant or insured, the insurer, and
269 the department upon request.

270 (15) A licensed contractor under part I of chapter 489, or
271 a subcontractor of such licensee, may not advertise, solicit,
272 offer to handle, handle, or perform public adjuster services as
273 provided in s. 626.854(1) adjust a claim on behalf of an insured
274 unless licensed and compliant as a public adjuster under this
275 chapter. The prohibition against solicitation does not preclude
276 a contractor from suggesting or otherwise recommending to a
277 consumer that the consumer consider contacting his or her
278 insurer to determine if the proposed repair is covered under the
279 consumer's insurance policy. In addition However, the contractor
280 may discuss or explain a bid for construction or repair of
281 covered property with the residential property owner who has
282 suffered loss or damage covered by a property insurance policy,
283 or the insurer of such property, if the contractor is doing so
284 for the usual and customary fees applicable to the work to be
285 performed as stated in the contract between the contractor and
286 the insured.

287 (19) Except as otherwise provided in this chapter, no



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288 person, except an attorney at law or a licensed public adjuster,
289 may for money, commission, or any other thing of value, directly
290 or indirectly:

291 (a) Prepare, complete, or file an insurance claim for an
292 insured or a third-party claimant;

293 (b) Act on behalf of or aid an insured or a third-party
294 claimant in negotiating for or effecting the settlement of a
295 claim for loss or damage covered by an insurance contract;

296 (c) Offer to initiate or negotiate a claim on behalf of an
297 insured;

298 (d) Advertise services that require a license for
299 employment as a public adjuster; or

300 (e) ~~(d)~~ Solicit, investigate, or adjust a claim on behalf of
301 a public adjuster, an insured, or a third-party claimant.

302 (20) The department may take administrative actions and
303 impose fines against any persons performing claims adjusting as
304 defined in s. 626.015(6) or any other services as described in
305 this section without the licensure required under this section
306 and s. 626.112.

307 Section 11. Effective January 1, 2022, subsection (3) of
308 section 626.916, Florida Statutes, is amended, and paragraph (f)
309 is added to subsection (1) of that section, to read:

310 626.916 Eligibility for export.—

311 (1) No insurance coverage shall be eligible for export
312 unless it meets all of the following conditions:

313 (f) The insured has signed or otherwise provided documented
314 acknowledgment of a disclosure in substantially the following
315 form: "You are agreeing to place coverage in the surplus lines
316 market. Coverage may be available in the admitted market.



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317 Persons insured by surplus lines carriers are not protected
318 under the Florida Insurance Guaranty Act with respect to any
319 right of recovery for the obligation of an insolvent unlicensed
320 insurer."

321 (3) (a) Subsection (1) does not apply to wet marine and
322 transportation or aviation risks that which are subject to s.
323 626.917.

324 (b) Paragraphs (1) (a)-(d) do not apply to classes of
325 insurance which are subject to s. 627.062(3) (d)1. These classes
326 may be exportable under the following conditions:

327 1. The insurance must be placed only by or through a
328 surplus lines agent licensed in this state;

329 2. The insurer must be made eligible under s. 626.918; and

330 3. The insured has complied with paragraph (1) (f) must sign
331 a disclosure that substantially provides the following: "You are
332 agreeing to place coverage in the surplus lines market. Superior
333 coverage may be available in the admitted market and at a lesser
334 cost. Persons insured by surplus lines carriers are not
335 protected under the Florida Insurance Guaranty Act with respect
336 to any right of recovery for the obligation of an insolvent
337 unlicensed insurer." If the disclosure notice is signed by the
338 insured, the insured is presumed to have been informed and to
339 know that other coverage may be available, and, with respect to
340 the diligent-effort requirement under subsection (1), there is
341 no liability on the part of, and no cause of action arises
342 against, the retail agent presenting the form.

343 Section 12. Paragraph (z) of subsection (1) of section
344 626.9541, Florida Statutes, is amended to read:

345 626.9541 Unfair methods of competition and unfair or



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346 deceptive acts or practices defined.-

347 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
348 ACTS.-The following are defined as unfair methods of competition
349 and unfair or deceptive acts or practices:

350 (z) Sliding.-Sliding is the act or practice of any of the
351 following:

352 1. Representing to the applicant that a specific ancillary
353 coverage or product is required by law in conjunction with the
354 purchase of insurance when such coverage or product is not
355 required.†

356 2. Representing to the applicant that a specific ancillary
357 coverage or product is included in the policy applied for
358 without an additional charge when such charge is required.†~~or~~

359 3. Charging an applicant for a specific ancillary coverage
360 or product, in addition to the cost of the insurance coverage
361 applied for, without the informed consent of the applicant.

362 4. Initiating, effectuating, binding, or otherwise issuing
363 a policy of insurance without the prior informed consent of the
364 owner of the property to be insured.

365 5. Mailing, transmitting, or otherwise submitting by any
366 means an invoice for premium payment to a mortgagee or escrow
367 agent, for the purpose of effectuating an insurance policy,
368 without the prior informed consent of the owner of the property
369 to be insured. However, this subparagraph does not apply in
370 cases in which the mortgagee or escrow agent is renewing
371 insurance or issuing collateral protection insurance, as defined
372 in s. 624.6085, pursuant to the mortgage or other pertinent loan
373 documents or communications regarding the property.

374 Section 13. Effective January 1, 2022, subsection (3) of



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375 section 626.9741, Florida Statutes, is amended to read:

376 626.9741 Use of credit reports and credit scores by
377 insurers.-

378 (3) An insurer must inform an applicant or insured, in the
379 same medium as the application is taken, that a credit report or
380 score is being requested for underwriting or rating purposes.
381 The notification to the consumer must include the following
382 language: "The Department of Financial Services offers free
383 financial literacy programs to assist you with insurance-related
384 questions, including how credit works and how credit scores are
385 calculated. To learn more, visit www.MyFloridaCFO.com." An
386 insurer that makes an adverse decision based, in whole or in
387 part, upon a credit report must provide at no charge† a copy of
388 the credit report to the applicant or insured or provide the
389 applicant or insured with the name, address, and telephone
390 number of the consumer reporting agency from which the insured
391 or applicant may obtain the credit report. The insurer must
392 provide notification to the consumer explaining the reasons for
393 the adverse decision. The reasons must be provided in
394 sufficiently clear and specific language so that a person can
395 identify the basis for the insurer's adverse decision. Such
396 notification shall include a description of the four primary
397 reasons, or such fewer number as existed, which were the primary
398 influences of the adverse decision. The use of generalized terms
399 such as "poor credit history," "poor credit rating," or "poor
400 insurance score" does not meet the explanation requirements of
401 this subsection. A credit score may not be used in underwriting
402 or rating insurance unless the scoring process produces
403 information in sufficient detail to permit compliance with the



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404 requirements of this subsection. It shall not be deemed an
405 adverse decision if, due to the insured's credit report or
406 credit score, the insured continues to receive a less favorable
407 rate or placement in a less favorable tier or company at the
408 time of renewal except for renewals or reunderwriting required
409 by this section.

410 Section 14. Subsection (5) of section 626.9953, Florida
411 Statutes, is amended to read:

412 626.9953 Qualifications for registration; application
413 required.-

414 (5) An applicant must submit a set of his or her
415 fingerprints to the department and pay the processing fee
416 established under s. 624.501(23) ~~s. 624.501(24)~~. The department
417 shall submit the applicant's fingerprints to the Department of
418 Law Enforcement for processing state criminal history records
419 checks and local criminal records checks through local law
420 enforcement agencies and for forwarding to the Federal Bureau of
421 Investigation for national criminal history records checks. The
422 fingerprints shall be taken by a law enforcement agency, a
423 designated examination center, or another department-approved
424 entity. The department may not approve an application for
425 registration as a navigator if fingerprints have not been
426 submitted.

427 Section 15. Subsection (1) of section 626.9957, Florida
428 Statutes, is amended to read:

429 626.9957 Conduct prohibited; denial, revocation, or
430 suspension of registration.-

431 (1) As provided in s. 626.112, only a person licensed as an
432 insurance agent or customer representative may engage in the



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433 solicitation of insurance. A person who engages in the
434 solicitation of insurance as described in s. 626.112(1) without
435 such license is subject to the penalties provided under s.
436 626.112(10) ~~s. 626.112(9)~~.

437 Section 16. Subsection (10) of section 627.062, Florida
438 Statutes, is amended to read:

439 627.062 Rate standards.-

440 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
441 ~~627.70131(5)~~ may not be included in the insurer's rate base and
442 may not be used to justify a rate or rate change.

443 Section 17. Section 627.502, Florida Statutes, is amended
444 to read:

445 627.502 "Industrial life insurance" defined; reporting;
446 prohibition on new policies after a certain date.-

447 (1) For the purposes of this code, "industrial life
448 insurance" is that form of life insurance written under policies
449 under which premiums are payable monthly or more often, bearing
450 the words "industrial policy" or "weekly premium policy" or
451 words of similar import imprinted upon the policies as part of
452 the descriptive matter, and issued by an insurer ~~that which~~, as
453 to such industrial life insurance, is operating under a system
454 of collecting a debit by its agent.

455 (2) Every life insurer servicing existing ~~transacting~~
456 industrial life insurance shall report to the office all annual
457 statement data regarding the exhibit of life insurance,
458 including relevant information for industrial life insurance.

459 (3) Beginning July 1, 2021, a life insurer may not write a
460 new policy of industrial life insurance.

461 Section 18. Effective January 1, 2022, section 627.70131,



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462 Florida Statutes, is amended to read:

463 627.70131 Insurer's duty to acknowledge communications
464 regarding claims; investigation.-

465 (1) (a) Upon an insurer's receiving a communication with
466 respect to a claim, the insurer shall, within 14 calendar days,
467 review and acknowledge receipt of such communication unless
468 payment is made within that period of time or unless the failure
469 to acknowledge is caused by factors beyond the control of the
470 insurer which reasonably prevent such acknowledgment. If the
471 acknowledgment is not in writing, a notification indicating
472 acknowledgment shall be made in the insurer's claim file and
473 dated. A communication made to or by a representative ~~an agent~~
474 of an insurer with respect to a claim shall constitute
475 communication to or by the insurer.

476 (b) As used in this subsection, the term "representative"
477 ~~"agent"~~ means any person to whom an insurer has granted
478 authority or responsibility to receive or make such
479 communications with respect to claims on behalf of the insurer.

480 (c) This subsection ~~does shall~~ not apply to claimants
481 represented by counsel beyond those communications necessary to
482 provide forms and instructions.

483 (2) Such acknowledgment ~~must shall~~ be responsive to the
484 communication. If the communication constitutes a notification
485 of a claim, unless the acknowledgment reasonably advises the
486 claimant that the claim appears not to be covered by the
487 insurer, the acknowledgment ~~must shall~~ provide necessary claim
488 forms, and instructions, including an appropriate telephone
489 number.

490 (3) (a) Unless otherwise provided by the policy of insurance



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491 or by law, within ~~14 10 working~~ days after an insurer receives
492 proof of loss statements, the insurer shall begin such
493 investigation as is reasonably necessary unless the failure to
494 begin such investigation is caused by factors beyond the control
495 of the insurer which reasonably prevent the commencement of such
496 investigation.

497 (b) If such investigation involves a physical inspection of
498 the property, the licensed adjuster assigned by the insurer must
499 provide the policyholder with a printed or electronic document
500 containing his or her name and state adjuster license number.

501 (c) Any subsequent communication with the policyholder
502 regarding the claim must also include the name and license
503 number of the adjuster communicating about the claim.
504 Communication of the adjuster's name and license number may be
505 included with other information provided to the policyholder.

506 (4) An insurer shall maintain a record or log of each
507 adjuster who communicates with the policyholder as provided in
508 paragraphs (3) (b) and (c) and provide a list of such adjusters
509 to the insured, office, or department upon request.

510 (5) For purposes of this section, the term "insurer" means
511 any residential property insurer.

512 (6) (a) When providing a preliminary or partial estimate of
513 damage regarding a claim, an insurer shall include with the
514 estimate the following statement printed in at least 12-point
515 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
516 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
517 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
518 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
519 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.



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520 (b) When providing a payment on a claim which is not the
521 full and final payment for the claim, an insurer shall include
522 with the payment the following statement printed in at least 12-
523 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
524 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
525 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
526 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
527 US.

528 (7) (a) ~~(5) (a)~~ Within 90 days after an insurer receives
529 notice of an initial, reopened, or supplemental property
530 insurance claim from a policyholder, the insurer shall pay or
531 deny such claim or a portion of the claim unless the failure to
532 pay is caused by factors beyond the control of the insurer which
533 reasonably prevent such payment. Any payment of an initial or
534 supplemental claim or portion of such claim made 90 days after
535 the insurer receives notice of the claim, or made more than 15
536 days after there are no longer factors beyond the control of the
537 insurer which reasonably prevented such payment, whichever is
538 later, bears interest at the rate set forth in s. 55.03.
539 Interest begins to accrue from the date the insurer receives
540 notice of the claim. The provisions of this subsection may not
541 be waived, voided, or nullified by the terms of the insurance
542 policy. If there is a right to prejudgment interest, the insured
543 shall select whether to receive prejudgment interest or interest
544 under this subsection. Interest is payable when the claim or
545 portion of the claim is paid. Failure to comply with this
546 subsection constitutes a violation of this code. However,
547 failure to comply with this subsection does not form the sole
548 basis for a private cause of action.



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549 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
550 this subsection, the term "claim" means any of the following:
551 1. A claim under an insurance policy providing residential
552 coverage as defined in s. 627.4025(1);
553 2. A claim for structural or contents coverage under a
554 commercial property insurance policy if the insured structure is
555 10,000 square feet or less; or
556 3. A claim for contents coverage under a commercial tenant
557 policy if the insured premises is 10,000 square feet or less.
558 (c) This subsection does shall not apply to claims under an
559 insurance policy covering nonresidential commercial structures
560 or contents in more than one state.
561 (8) This section also applies to surplus lines insurers and
562 surplus lines insurance authorized under ss. 626.913-626.937
563 providing personal residential coverage.
564 Section 19. Section 627.7031, Florida Statutes, is created
565 to read:
566 627.7031 Foreign venue clauses prohibited.—After July 1,
567 2021, a personal residential property insurance policy sold in
568 this state, insuring only real property located in this state,
569 may not require an insured to pursue dispute resolution through
570 litigation, arbitration, or mediation outside this state. This
571 section also applies to surplus lines insurers and surplus lines
572 insurance authorized under ss. 626.913-626.937.
573 Section 20. Effective January 1, 2022, section 627.7142,
574 Florida Statutes, is amended to read:
575 627.7142 Homeowner Claims Bill of Rights.—An insurer
576 issuing a personal lines residential property insurance policy
577 in this state must provide a Homeowner Claims Bill of Rights to



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578 a policyholder within 14 days after receiving an initial
579 communication with respect to a claim, ~~unless the claim follows~~
580 ~~an event that is the subject of a declaration of a state of~~
581 ~~emergency by the Governor.~~ The purpose of the bill of rights is
582 to summarize, in simple, nontechnical terms, existing Florida
583 law regarding the rights of a personal lines residential
584 property insurance policyholder who files a claim of loss. The
585 Homeowner Claims Bill of Rights is specific to the claims
586 process and does not represent all of a policyholder's rights
587 under Florida law regarding the insurance policy. The Homeowner
588 Claims Bill of Rights does not create a civil cause of action by
589 any individual policyholder or class of policyholders against an
590 insurer or insurers. The failure of an insurer to properly
591 deliver the Homeowner Claims Bill of Rights is subject to
592 administrative enforcement by the office but is not admissible
593 as evidence in a civil action against an insurer. The Homeowner
594 Claims Bill of Rights does not enlarge, modify, or contravene
595 statutory requirements, including, but not limited to, ss.
596 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
597 not prohibit an insurer from exercising its right to repair
598 damaged property in compliance with the terms of an applicable
599 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
600 Claims Bill of Rights must state:

601
602 HOMEOWNER CLAIMS

603 BILL OF RIGHTS

604 This Bill of Rights is specific to the claims process
605 and does not represent all of your rights under
606 Florida law regarding your policy. There are also



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607 exceptions to the stated timelines when conditions are
608 beyond your insurance company's control. This document
609 does not create a civil cause of action by an
610 individual policyholder, or a class of policyholders,
611 against an insurer or insurers and does not prohibit
612 an insurer from exercising its right to repair damaged
613 property in compliance with the terms of an applicable
614 policy.

615 YOU HAVE THE RIGHT TO:

- 616
617 1. Receive from your insurance company an
618 acknowledgment of your reported claim within 14 days
619 after the time you communicated the claim.
620 2. Upon written request, receive from your
621 insurance company within 30 days after you have
622 submitted a complete proof-of-loss statement to your
623 insurance company, confirmation that your claim is
624 covered in full, partially covered, or denied, or
625 receive a written statement that your claim is being
626 investigated.
627 3. Within 90 days, subject to any dual interest
628 noted in the policy, receive full settlement payment
629 for your claim or payment of the undisputed portion of
630 your claim, or your insurance company's denial of your
631 claim.
632 4. Receive payment of interest, as provided in s.
633 627.70131, Florida Statutes, from your insurance
634 company, which begins accruing from the date your
635 claim is filed if your insurance company does not pay



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636 full settlement of your initial, reopened, or
637 supplemental claim or the undisputed portion of your
638 claim or does not deny your claim within 90 days after
639 your claim is filed. The interest, if applicable, must
640 be paid when your claim or the undisputed portion of
641 your claim is paid.

642 5. Free mediation of your disputed claim by the
643 Florida Department of Financial Services, Division of
644 Consumer Services, under most circumstances and
645 subject to certain restrictions.

646 ~~6.5.~~ Neutral evaluation of your disputed claim,
647 if your claim is for damage caused by a sinkhole and
648 is covered by your policy.

649 ~~7.6.~~ Contact the Florida Department of Financial
650 Services, Division of Consumer Services' toll-free
651 helpline for assistance with any insurance claim or
652 questions pertaining to the handling of your claim.
653 You can reach the Helpline by phone at...(toll-free
654 phone number)..., or you can seek assistance online at
655 the Florida Department of Financial Services, Division
656 of Consumer Services' website at...(website
657 address)....

658
659 YOU ARE ADVISED TO:

660 1. Contact your insurance company before entering
661 into any contract for repairs to confirm any managed
662 repair policy provisions or optional preferred
663 vendors.

664 2. Make and document emergency repairs that are



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665 necessary to prevent further damage. Keep the damaged
666 property, if feasible, keep all receipts, and take
667 photographs or video of damage before and after any
668 repairs to provide to your insurer.

669 3. Carefully read any contract that requires you
670 to pay out-of-pocket expenses or a fee that is based
671 on a percentage of the insurance proceeds that you
672 will receive for repairing or replacing your property.

673 4. Confirm that the contractor you choose is
674 licensed to do business in Florida. You can verify a
675 contractor's license and check to see if there are any
676 complaints against him or her by calling the Florida
677 Department of Business and Professional Regulation.
678 You should also ask the contractor for references from
679 previous work.

680 5. Require all contractors to provide proof of
681 insurance before beginning repairs.

682 6. Take precautions if the damage requires you to
683 leave your home, including securing your property and
684 turning off your gas, water, and electricity, and
685 contacting your insurance company and provide a phone
686 number where you can be reached.

687 7. File all claims directly with your insurance
688 company and be aware of contractors or repair vendors
689 that offer incentives for free inspections or promise
690 to coordinate with your insurance company to repair
691 your home with no out-of-pocket expenses to you.

692 Section 21. Paragraph (a) of subsection (1) and subsection
693 (6) of section 631.57, Florida Statutes, are amended to read:



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694 631.57 Powers and duties of the association.-

695 (1) The association shall:

696 (a)1. Be obligated to the extent of the covered claims
697 existing:

698 a. Prior to adjudication of insolvency and arising within
699 30 days after the determination of insolvency;

700 b. Before the policy expiration date if less than 30 days
701 after the determination; or

702 c. Before the insured replaces the policy or causes its
703 cancellation, if she or he does so within 30 days of the
704 determination.

705 2. The obligation under subparagraph 1. includes ~~only~~ the
706 amount of each covered claim which is ~~in excess of \$100 and is~~
707 less than \$300,000, except that policies providing coverage for
708 homeowner's insurance must shall provide for an additional
709 \$200,000 for the portion of a covered claim which relates only
710 to the damage to the structure and contents.

711 3.a. Notwithstanding subparagraph 2., the obligation under
712 subparagraph 1. for policies covering condominium associations
713 or homeowners' associations, which associations have a
714 responsibility to provide insurance coverage on residential
715 units within the association, includes shall include that amount
716 of each covered property insurance claim which is less than
717 \$200,000 multiplied by the number of condominium units or other
718 residential units; however, as to homeowners' associations, this
719 sub-subparagraph applies only to claims for damage or loss to
720 residential units and structures attached to residential units.

721 b. Notwithstanding sub-subparagraph a., the association has
722 no obligation to pay covered claims that are to be paid from the



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723 proceeds of bonds issued under s. 631.695. However, the
724 association shall assign and pledge the first available moneys
725 from all or part of the assessments to be made under paragraph
726 (3) (a) to or on behalf of the issuer of such bonds for the
727 benefit of the holders of such bonds. The association shall
728 administer any such covered claims and present valid covered
729 claims for payment in accordance with the provisions of the
730 assistance program in connection with which such bonds have been
731 issued.

732 4. ~~In no event shall~~ The association may not be obligated
733 to a policyholder or claimant in an amount in excess of the
734 obligation of the insolvent insurer under the policy from which
735 the claim arises.

736 (6) The association may extend the time limits specified in
737 paragraph (1) (a) by up to an additional 60 days ~~or waive the~~
738 ~~applicability of the \$100 deductible specified in paragraph~~
739 ~~(1) (a) if the board determines it is that either or both such~~
740 ~~actions are~~ necessary to facilitate the bulk assumption of
741 obligations.

742 Section 22. Subsection (2) of section 631.904, Florida
743 Statutes, is amended to read:

744 631.904 Definitions.-As used in this part, the term:

745 (2) "Covered claim" means an unpaid claim, including a
746 claim for return of unearned premiums, which arises out of, is
747 within the coverage of, and is not in excess of the applicable
748 limits of, an insurance policy to which this part applies, which
749 policy was issued by an insurer and which claim is made on
750 behalf of a claimant or insured who was a resident of this state
751 at the time of the injury. The term "covered claim" includes



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752 unpaid claims under any employer liability coverage of a
753 workers' compensation policy limited to the lesser of \$300,000
754 or the limits of the policy. The term "covered claim" does not
755 include any amount sought as a return of premium under any
756 retrospective rating plan; any amount due any reinsurer,
757 insurer, insurance pool, or underwriting association, as
758 subrogation recoveries or otherwise; or any claim that would
759 otherwise be a covered claim that has been rejected or denied by
760 any other state guaranty fund based upon that state's statutory
761 exclusions, including, but not limited to, those based on
762 coverage, policy type, or an insured's net worth, except this
763 exclusion from the definition of covered claim does not apply to
764 employers who, prior to April 30, 2004, entered into an
765 agreement with the corporation preserving the employer's right
766 to seek coverage of claims rejected by another state's guaranty
767 fund; ~~or any return of premium resulting from a policy that was~~
768 ~~not in force on the date of the final order of liquidation.~~
769 Member insurers have no right of subrogation against the insured
770 of any insolvent insurer. This provision applies retroactively
771 to cover claims of an insolvent self-insurance fund resulting
772 from accidents or losses incurred prior to January 1, 1994,
773 regardless of the date the petition in circuit court was filed
774 alleging insolvency and the date the court entered an order
775 appointing a receiver.

776 Section 23. Except as otherwise expressly provided in this
777 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 Appropriations

BILL: CS/CS/SB 1598

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); Banking and Insurance Committee; and Senator Gruters

SUBJECT: Consumer Protection

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson/Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders/Johnson</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sanders</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1598 modifies provisions in several areas related to insurance that are regulated by the Department of Financial Services (DFS). The bill:

- Requires insurers to include information regarding the DFS's free financial literacy programs in its notice that a consumer's credit report or score is being requested.
- Requires an entity that is licensed or issued a certificate of authority by the DFS to respond to document requests from the DFS Division of Consumer Services.
- Eliminates the \$60 fee for a new or renewal adjusting firm license.
- Specifies that entities must comply with section 626.8696, Florida Statutes, with respect to possessing an adjusting firm license, but provides that an adjusting firm's branch place of business does not require licensure if it meets specified requirements.
- Revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license. A person who does so commits a third-degree felony.
- Authorizes the DFS to suspend, revoke, or refuse to issue the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent that makes a consumer's personal financial or medical information available to the public, or initiates in-person or telephone solicitation with a prospective customer after 9 p.m. or before 8 a.m., unless the customer requests otherwise.

- Prohibits the sale of industrial life insurance policies, effective July 1, 2021.
- Increases to 10 days, the cooling-off period during which a consumer may cancel his or her contract with a public adjuster.
- Requires that the public adjuster's written estimate of loss must include an itemized, per-unit estimate of the repairs. The public adjuster must provide the estimate to the claimant or insured within 60 days after the execution of the public adjuster contract.
- Prohibits a licensed contractor or subcontractor from advertising, soliciting, offering to handle, handling, or performing public adjuster services unless licensed and compliant as a public adjuster.
- Prohibits persons other than a licensed public adjuster or attorney from offering to initiate or negotiate on behalf of an insured or advertising services which require a public adjuster license.
- Prohibits a public adjuster, public adjuster apprentice, or public adjusting firm, who solicits a claim and does not enter into a contract with an insured or third party claimant, from charging or receiving payment from an insured or a third-party claimant.
- Requires disclosure that surplus lines insurance is not covered by the Florida Insurance Guaranty Association (FIGA) prior to placing coverage with a surplus lines insurer.
- Expands the definition of sliding, a practice that violates the Unfair Insurance Trade Practices, to include:
 - Initiating, effectuating, binding, or otherwise issuing an insurance policy without the prior informed consent of the person who owns the property that will be insured.
 - Submitting an invoice for premium payment to a mortgagee or escrow agent in order to institute an insurance policy without the prior informed consent of the owner of the property; does not apply to renewals or collateral protection insurance.
- Applies the property insurance claim investigation and communication requirements of section 627.70131, Florida Statutes, to surplus lines insurers.
- Requires a residential property insurer begin its claim investigation within 14 days of receiving a proof of loss statement; current law provides 10 business days.
- Requires insurers to provide to policyholders the adjuster's name and state adjuster license number when a claim investigation involves a physical inspection of the property and maintain a record of each adjuster who communicates with the policyholder.
- Requires the insurer to provide notices that explain when the insurer is providing a preliminary or partial estimate or making a claim payment that is not the full and final payment for the claim.
- Requires insurers to provide the Homeowner Claims Bill of Rights pursuant to any personal lines residential property insurance claim and adds notice regarding the right to receive interest and the utility of taking video of damages and repairs.
- Encourages insureds, under the Homeowner Claims Bill of Rights, to file all claims directly with their insurance company.
- Removes the insured's obligation to pay a \$100 deductible to the FIGA in order to receive payment on their claim through the FIGA.
- Revises the definition of a "covered claim" for purposes of the Florida Workers' Compensation Insurance Guaranty Association, to exclude the return of premium resulting from a policy that was not in force on the date of the final order of liquidation.

Further, the bill prohibits a credit reporting agency from charging any fee to reissue a personal identifier or provide a new unique personal identifier to a consumer.

The bill has an insignificant indeterminate impact on state funds and expenditures. *See* V. Fiscal Impact Statement.

Except as otherwise provided, the bill is effective upon becoming a law.

II. Present Situation:

Department of Financial Services

The Department of Financial Services (DFS) has broad duties, including licensure and regulation of insurance agents, agencies, and adjusters; insurance consumer assistance and protection; and holding and attempting to return unclaimed property to its rightful owner.¹ The DFS has a number of regulatory responsibilities over the Florida insurance market. The DFS regulates insurance adjusters, which includes public adjusters, independent adjusters, and company employee adjusters under Part VI, ch. 626, F.S. The DFS conducts insurance-related consumer outreach through its Division of Consumer Services. The Division of Workers' Compensation within the DFS administers ch. 440, F.S., through enforcement of coverage requirements,² administration of workers' compensation health care delivery system,³ data collection,⁴ and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.⁵ The DFS also administers insurer rehabilitation and liquidation in Florida under part I of ch. 631, F.S.

DFS Division of Consumer Services

The Division of Consumer Services (division) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the Financial Services Commission.⁶ The divisions' duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.⁷

Section 624.307(10)(b), F.S., permits the division to impose an administrative penalty on a person who holds a license or certificate of authority from the DFS if that person fails to respond

¹ *See, e.g.*, Department of Financial Services (DFS), *What DFS Can Do For You*, <https://www.myfloridacfo.com/division/CFO/DFS.htm> (last visited March 18, 2021).

² Section 440.107(3), F.S.

³ Section 440.13, F.S.

⁴ Sections 440.185 and 440.593, F.S.

⁵ Section 440.191, F.S.

⁶ DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2020-21 through 2024-25*, 15 (Sept. 30, 2019), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19566&DocType=PDF> (last visited March 18, 2021). *See also*, DFS, *Consumer Guides*, <https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/Default.htm> (last visited March 18, 2021).

⁷ Section 624.307(10)(a), F.S.

to the division's request for information within 20 days. This has been limited by the Fifth Amendment privilege against self-incrimination. A licensed individual must produce those records⁸ that are required to be kept by law, but is not required to produce those not within the purview of statutes.⁹ Conversely, a corporation has no privilege against self-incrimination, nor does a custodian of corporate records, even if the contents tend to incriminate him or her.¹⁰

Discretion of the DFS to Act against Licensees

Section 626.621, F.S., grants the DFS discretion, under certain circumstances, to deny applications for, revoke, or refuse to renew, the licenses or appointments of agents, adjusters, customer representatives, service representatives, and managing general agents. Examples of circumstances that can lead to such agency action include violation of the Florida Insurance Code, violation of lawful orders or rules of the DFS, engaging in unfair and deceptive trade practices.¹¹

DFS Licensure of Adjusting Firms

Current law authorizes, but does not require, licensure of adjusting firms.¹² The DFS does not currently license any adjusting firms.¹³ An adjusting firm license must be renewed every three years and requires a \$60 application fee.¹⁴ An adjusting firm license application must include:¹⁵

- The name and address of each of the firm's majority owners, partners, officers, and directors;
- The firm's name and principal business address; and
- Any branch office locations and the names under which they will operate.

Each adjusting firm location must have a designated primary adjuster who acts as a supervising manager and is accountable for misconduct that occurs at the firm location.¹⁶

Chapter 626, F.S., provides grounds for mandatory and discretionary denial, suspension, or revocation of an adjusting firm license.¹⁷

DFS Authority Regarding Misleading Insurance Agency Names

The DFS may withhold permission to operate under an agency name if the name is too similar to another already in use by a different agency; the name may mislead the public; or the name states

⁸ Pursuant to s. 624.23, F.S., any personal financial and health information held by the DFS or the Office of Insurance Regulation relating to a consumer complaint or inquiry is confidential and exempt from public records.

⁹ *Saviak v. Gunter*, 379 So. 2d 450 (Fla. Dist. Ct. App. 3d Dist. 1980).

¹⁰ *Eller Media Co. v. Serrano*, 761 So. 2d 464 (Fla Dist. Ct. App. 3d Dist. 2000); *State v. Wellington Precious Metals, Inc.*, 487 So. 2d 326 (Fla. Dist. Ct. App. 3d Dist. 1986).

¹¹ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S., constitute the "Florida Insurance Code."

¹² Section 626.8696, F.S.

¹³ Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, DFS, to Michelle Sanders, Legislative Analyst Senate Appropriations Subcommittee on Agriculture, Environment and General Government (March 18, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment and General Government)

¹⁴ Section 624.501(20), F.S.

¹⁵ Section 626.8696, F.S.

¹⁶ Section 626.8695, F.S.

¹⁷ Section 626.8697, F.S.

or implies that the agency is an entity other than an insurance agency, such as an insurer, state or federal agency, or charitable organization.¹⁸

The Social Security Act prohibits any person from using the terms “Medicare” or “Medicaid” in an advertisement or other communication in a manner which the person knows, or should know, would convey the false impression that the communication is approved by the Centers for Medicare & Medicaid Services.¹⁹

Industrial Life Insurance

Industrial life insurance is a form of life insurance in which the premiums are payable on a monthly or weekly basis. These policies usually have a face amount of less than \$5,000.²⁰ Only 38 of the 398 active life insurers maintain existing industrial life insurance policies, and no new industrial life insurance policies have been written in the last year.²¹

Public Adjuster Contracts and Estimates of Damages

Current law and administrative rules provide numerous restrictions and parameters on activities of public adjusters, especially relating to solicitation of contracts and inducement to contract.²² As an additional consumer protection, Florida law grants a policyholder a short timeframe during which he or she may cancel a contract with an adjuster without cause, penalty, or obligation. This cooling-off period permits the policyholder to cancel the contract within three business days of execution of the contract with an adjuster, or when the insured or claimant notifies the insurer of the claim, whichever is later. However, the cooling-off period is extended to five business days from the date the contract was executed, if it was entered into during a state of emergency or during the one-year period after the date of loss.

The adjuster must disclose, in all of his or her contracts, the consumer’s right to cancel the contract, and the methods by which the consumer may send a cancellation.

Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of the insurance claim. The public adjuster must retain the estimate for at least five years and make it available to the claimant, insured, an insurer, or the DFS upon request.

¹⁸ Section 626.602(1)-(3), F.S.

¹⁹ 42 U.S. Code s.1320b-10(a)(1). Upheld by *United Seniors Ass’n Inc. v. SSA*, 423 F. 3d 397, 399 (4th Cir. 2005).

²⁰ Section 627.502, F.S. *See also*, DFS, *Life Insurance Overview: Types of Policies*, <https://www.myfloridacfo.com/Division/Consumers/UnderstandingCoverage/LifeInsuranceOverview.htm> (last visited March 18, 2021).

²¹ DFS, *HB 717 Agency Analysis*, (Feb. 24, 2021) (on file with the Senate Committee on Banking and Insurance).

²² Section 626.854, F.S. Laws enacted in 2008 (ch. 2008-220, Laws of Fla.), in 2009 (ch. 2009-87, Laws of Fla.), 2011 (ch. 2011-39, Laws of Fla.), and 2017 (ch. 2017-147, Laws of Fla.), provided significant changes relating to public adjusters. Rule 69B-220.201(4) and (5), F.A.C.

Surplus Lines Export Eligibility

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.²³ There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks (which are risks where an insured needs higher coverage limits than those that are available in the admitted market).

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,²⁴ which means they do not obtain a certificate of authority from the Office of Insurance Regulation (OIR) to transact insurance in Florida.²⁵ Rather, surplus lines insurers are “unauthorized” insurers,²⁶ but may transact surplus lines insurance if they are made eligible by the OIR.

An insurance agent²⁷ may “export,” or place a policy with an unauthorized insurer under the Surplus Lines Law²⁸, with the consent of the insurance applicant. Before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.²⁹ A “diligent effort” requires a search for coverage that is ultimately denied by at least three authorized insurers in the admitted market. Additionally, the insurance agent must document the following before exporting the policy to the surplus lines market:³⁰

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;
- The policy exported cannot provide coverage or rates that are more favorable than those are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks,³¹ the policyholder must be advised in writing coverage may be available and less expensive from Citizens Property Insurance Corporation.

²³ The admitted market is comprised of insurance companies authorized to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. Section 626.921, F.S. *See also*, Florida Surplus Lines Service Office, *What is Surplus Lines Insurance?*, <https://www.fslso.com/AboutGroup/about/surplus-lines-insurance> (last visited March 17, 2021).

²⁴ Section 626.914(2), F.S.

²⁵ Section 624.09(1), F.S.

²⁶ Section 624.09(2), F.S.

²⁷ Typically, the applicant’s usual insurance agent works with the surplus lines agent to arrange the placement, rather than the applicant working directly with the surplus lines agent. A surplus lines agent requires separate licensure than a traditional insurance agent, and is permitted to secure insurance coverages with unauthorized insurers whereas traditional insurance agents are not. *See s. 626.914(1), F.S.*

²⁸ Sections 626.913-626.937, F.S., constitute the “Surplus Lines Law,” pursuant to s. 626.913(1), F.S.

²⁹ Section 626.916(1)(a), F.S.

³⁰ Section 626.916(1), F.S.

³¹ Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

Certain types of insurance, deemed “commercial risks,” including medical malpractice, travel, general liability, errors and omissions, and excess or umbrella insurance coverage, are exempt from the above diligent effort requirement. An insured for these commercial risks must sign a disclosure that provides, in substantially the following form:

You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.³²

Unfair Insurance Trade Practices

The Unfair Insurance Trade Practices Act³³ prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance,³⁴ including:

- Misrepresenting the benefits, advantages, or terms of any insurance policy;
- Inducing the lapse or exchange of any insurance policy, generally so the agent can earn a commission on a replacement policy; and
- Providing more insurance coverage than a consumer requests or consents to, while also failing to inform the consumer that the additional coverage was optional (“sliding”).³⁵

A person who commits an act prohibited by the Unfair Insurance Trade Practices Act is generally subject to a fine of up to \$20,000 for nonwillful violations, and up to \$200,000 total for willful violations.³⁶ However, specific violations are subject to greater administrative penalties and are also punishable as criminal misdemeanors.³⁷

Additionally, a person who willfully submits fraudulent signatures on an application or policy-related document commits a third-degree felony, which is also punishable by the assessment of administrative fines of no more than \$75,000 per violation.³⁸

Property Insurance Claim Communications and Investigations

Section 627.71031, F.S., provides base requirements for communications between an insurer and consumer that has notified the insurer of a possible claim. Generally, the residential property insurer must respond to the consumer within 14 days to acknowledge the claim and provide necessary claim forms, instructions, and telephone contact information. The insurer is then required to commence an investigation within 10 days after it received proof of loss statements

³² Section 626.916(3)(b), F.S.

³³ Chapter 626, F.S., part IX, ss. 626.951-626.99, F.S.

³⁴ Section 626.9541, F.S.

³⁵ Section 626.9541(1)(z), F.S. *See also, Beckett v. Department of Financial Services*, 982 So. 2d 94 (Fla. 1st DCA).

³⁶ Each count of a nonwillful violation is limited to a fine of no more than \$5,000, and each count of a willful violation is limited to a fine of no more than \$20,000. Section 626.9521(2), F.S.

³⁷ *See, e.g.,* Section 626.9521(3)(a), F.S., which makes the offenses of twisting and churning, which must involve fraudulent conduct, punishable as a first degree misdemeanor.

³⁸ Section 626.9521(3)(b), F.S.

from the consumer. Lastly, the insurer is required to pay or deny a claim within 90 days after notice of the claim was made; if the insurer fails to make such a payment until after 90 days have passed, the payment bears interest due to the consumer. These duties generally constitute the consumer rights outlined in the Homeowner Claims Bill of Rights.³⁹

The Homeowner Claims Bill of Rights

The Homeowner Claims Bill of Rights outlines consumers' rights and responsibilities as a homeowner's insurance policyholder during the insurance claims process.⁴⁰ An insurance company must provide a consumer with a copy of the Homeowner Claims Bill of Rights within 14 days of receiving any communication about a claim.⁴¹ Florida law provides form language that the insurer must include in the Homeowner Claims Bill of Rights, which gives notice of the consumer's right to:⁴²

- Receive written confirmation of a claim's coverage, denial, or continued investigation within 30 days of specific communication;
- Obtain full settlement payment, or partial payment on the undisputed portion of a claim, within 90 days;
- Enter mediation of a disputed claim or neutral evaluation of a claim relating to sinkhole damage; and
- Contact the DFS for assistance.

The Homeowner Claims Bill of Rights also includes consumer advice for best practices after a loss has been incurred.

Federal and State Requirements Regarding Disclosure of Personal Medical Information

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)⁴³ requires health care providers, health plans, and health care clearinghouses⁴⁴ (covered entities) to protect the privacy of personal health information. The HIPAA Privacy rules cover protected health information that is created or received by a covered entity and requires covered entities to implement safeguards to protect health information from unauthorized access, use, or disclosure.⁴⁵ The term, "protected health information," (PHI) is broadly defined as individually identifiable information in any form or format—oral, paper-based, electronic—that "[r]elates to

³⁹ See further discussion of the Homeowner Claims Bill of Rights, *infra*.

⁴⁰ DFS, *Know Your Rights- Homeowner Claims Bill of Rights* (Dec. 2020), available at

<https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/documents/HOABillRights.pdf> (last visited March 17, 2021).

⁴¹ Section 627.70131, F.S.

⁴² Section 627.7142, F.S. These consumer rights are partially based on the insurer's duties as outlined in s. 627.70131, F.S.

⁴³ P.L. 104-191, 110 Stat. 1936, August 21, 1996.

⁴⁴ 42 U.S.C. s. 1320d-1(a). A health plan is an individual or group plan that provides, or pays the cost of, medical care and includes private and government plans. A health care clearinghouse is an entity (e.g., billing service) that (1) receives nonstandard health information and processes, or facilitates the processing of, the information into a standard format required for electronic transaction; or (2) receives a standard transaction and processes, or facilitates the processing of, the information into nonstandard format for the recipient. A health care provider is a person (e.g., physician, nurse) or entity (e.g., hospital, clinic) who "furnishes, bills, or is paid for health care in the normal course of business and conducts one or more HIPAA-specified standard electronic transactions. 45 C.F.R. s. 160.103.

⁴⁵ 45 CFR Part 164 Subparts A and E.

the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.⁴⁶

The HIPAA Privacy rules prohibit a covered entity from using or disclosing PHI except as expressly permitted or required by the rule.⁴⁷ For all uses or disclosures of PHI that are not otherwise permitted or required by the rule, covered entities must obtain a patient's written authorization.⁴⁸ Generally, third parties (business associates⁴⁹) of covered entities provide services and will need access to at least some patient information in order to perform those functions. Covered entities are required to obtain written agreements with their business associates that they will use PHI only for the purposes permitted or required by the contract; and implement appropriate safeguards to prevent misuse of PHI.⁵⁰

The Insurance Code requires health insurers to maintain strict confidentiality against unauthorized disclosure of confidential information regarding claims and records relating to the payment of psychiatric and psychotherapeutic services.⁵¹ Additionally, s. 456.057, F.S., provides patient records, when held by a healthcare professional, must not be disclosed without the consent of the patient or his or her legal representative.

Credit Reports

A credit report is a record of a consumer's credit history and other information about the consumer, including his or her name, address, social security number, employment information, date of birth, and court judgments.⁵² Three major credit bureaus—Equifax, Experian, and TransUnion—compile and sell consumer credit reports. Lenders, insurers, utility and cell phone companies, employers, and others may obtain a consumer's credit report for their use in determining (i.e., whether to extend credit), set insurance rates, or employ the consumer.⁵³ A consumer may also review his or her credit report at no charge once every 12 months, from each of the credit bureaus.

Generally, the federal Fair Credit Reporting Act (FCRA)⁵⁴ regulates the activities of Credit Reporting Agencies (CRAs), the users of consumer reports, and those who furnish information to CRAs. In 2003, the FCRA was amended by the Fair and Accurate Credit Transactions Act (FACTA) to address identity theft, improve the accuracy of consumer records, and to increase

⁴⁶ 45 CFR 160.103. The Privacy Rule implementing HIPAA creates standards for the protection of person health information.

⁴⁷ 45 CFR 164.502(a).

⁴⁸ 45 C.F.R. §164.508(a).

⁴⁹ 45 CFR 160.103.

⁵⁰ 45 C.F.R. 164.502(e), 164.504(e).

⁵¹ Sections 627.4195, F.S., and 627.688, F.S.

⁵² 15 U.S. Code s. 1681 defines a "credit report" as any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, ... general reputation, [or] personal characteristics... which is used...for the purpose of...establishing the consumer's eligibility for credit or employment purposes.... The Florida KIDS Act adopts this definition of a "credit report" in s. 501.0051(1)(a), F.S.

⁵³ Board of Governors of the Federal Reserve System, *Credit Reports and Credit Scores: Consumer's Guide*, available at https://www.federalreserve.gov/creditreports/pdf/credit_reports_scores_2.pdf (last visited March 17, 2021).

⁵⁴ Fair Credit Reporting Act, Pub. L. No. 91-508, codified as amended at 15 U.S.C. s. 1681-1681x.

consumer access to credit information.⁵⁵ The FCRA includes several provisions preempting state laws. For example, the FCRA provides no requirement or prohibition may be imposed under the laws of any state with respect to any subject matter regulated under subsections (i) and (j) of Section 605A, which relates to a national security freeze and national protection for files and credit records of protected consumers, respectively.⁵⁶

In May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act.⁵⁷ The law creates a national, free credit freeze and a national credit freeze for protected persons (for persons under 16 years of age and incapacitated adults). The law also establishes further requirements to protect minors. The “adult” freeze and the protected consumer freeze went into effect September 2018.⁵⁸

Security Freezes and the Keeping I.D. Safe (KIDS) Act

In Florida, The Keeping I.D. Safe (KIDS) Act⁵⁹ allows a third party, such as a parent or guardian, to place a security freeze on a minor child’s credit report, or credit score to prevent the information from being released without express authorization to a third party, such as an insurer. After its receipt of a security freeze request, a credit reporting agency must provide a unique personal identification number (PIN) to the minor child’s representative; this PIN is required to remove the security freeze. While credit reporting agencies are prohibited from charging any fee to place or remove a security freeze, they may charge up to \$10 to reissue a PIN.⁶⁰

Florida Telemarketer Act

The Florida Telemarketer Act, ss. 501.601-501.626, F.S., prohibits commercial telephone solicitations before 8 a.m. or after 9 p.m. However, insurers and their subsidiaries and affiliates are exempt from this law.⁶¹ Similarly, the Federal Trade Commission’s Telemarketing Sales Rule prohibits telemarketing calls before 8 a.m., or after 9 p.m.⁶²

Currently, Florida law prohibits public adjusters from soliciting an insured before 8 a.m. and after 8 p.m. on Monday through Saturday, and completely prohibits any solicitations on Sunday.⁶³

Florida Insurance Guaranty Association

The Florida Insurance Guaranty Association (FIGA) is a not-for-profit corporation created by statute that steps into the shoes of insolvent insurers to timely pay certain property and casualty

⁵⁵ Fair and Accurate Credit Transactions Act, Pub. L. No. 108-159 (2003).

⁵⁶ 15 U.S.C. s. 1681t(b)(1)(J).

⁵⁷ Pub. L. No. 115-174, Title III.

⁵⁸ These changes created subsections (i) and (j) of Section 605A of the FCRA. 15 U.S.C. ss. 1681c-1(i) and 1681c-1(j).

⁵⁹ Section 501.0051, F.S.

⁶⁰ Section 501.0051(9), F.S.

⁶¹ Section 501.604(7), F.S.

⁶² Federal Trade Commission, *The Telemarketing Sales Rule*, <https://www.consumer.ftc.gov/articles/0198-telemarketing-sales-rule> (last visited March 17, 2021).

⁶³ Section 626.854(5), F.S.

claims⁶⁴ that would otherwise be left unpaid.⁶⁵ FIGA does not offer a replacement policy, and coverage offered by FIGA is generally limited to a \$300,000 payment. A consumer may receive additional FIGA coverage of up to \$200,000 for damages to their home's structure or the contents thereof.⁶⁶ Condominium and homeowner's association claims have a coverage cap of \$100,000 multiplied by the number of units in the association.⁶⁷ All claims filed with FIGA are subject to a \$100 deductible in addition to any deductible identified in the consumer's policy.⁶⁸

III. Effect of Proposed Changes:

Consumer Protections Related to Credit Reports

Section 1 amends s. 501.0051, F.S., to prohibit a credit reporting agency from charging any fee to reissue a personal identification number (PIN) or provide a new unique PIN to a consumer.

Section 13 amends s. 626.9741(3), F.S., to require an insurer to include the following language in its notice that a consumer's credit report or score is being requested:

The Department of Financial Services offers free financial literacy programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, visit www.MyFloridaCFO.com.

Insurer Responses to Requests from the Division of Consumer Services

Section 2 amends s. 624.307(10)(b), F.S., to create a duty for an entity that is licensed or issued a certificate of authority by the Department of Financial Services (DFS) to respond to the DFS' requests for documents. The response must include any requested documents not subject to attorney-client or work product privilege.

Claims Adjusting

Section 3 amends s. 624.501, F.S., to eliminate the \$60 fee for a new, or the renewal of an existing, adjusting firm license.

This section necessitates **Section 14**, which conforms a cross reference in s. 626.9953, F.S.

Section 4 amends s. 626.112, F.S., to specify entities that must comply with s. 626.8696, F.S., with respect to possessing an adjusting firm license for each place of business at which it performs activity for which it is necessary to be licensed as a claims adjuster.

⁶⁴ A "covered claim" is an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy." Section 631.54, F.S.

⁶⁵ See generally, Part II, ch. 631, F.S., "Florida Insurance Guaranty Association Act." See also, Florida Insurance Guaranty Association, *Home*, <https://figafacts.com/> (last visited March 17, 2021).

⁶⁶ Section 631.57(2), F.S.

⁶⁷ Section 631.57(3), F.S.

⁶⁸ Section 631.57(2), F.S., see also, Florida Insurance Guaranty Association, *Frequently Asked Questions: Are There Limits on the Amount that FIGA Will Pay?*, <https://figafacts.com/frequently-asked-questions/> (last visited March 17, 2021).

The section provides that an adjusting firm's branch place of business is classified as a branch firm, and does not require licensure, if the branch:

- Transacts business under the same name and federal tax identification number as the licensed adjusting firm;
- Designates with the DFS a primary adjuster operating the location as required by s. 626.8965, F.S.; and
- Submits the address and telephone number of the branch location to the DFS within 30 days after insurance transactions begin at the branch location.

The section requires the DFS to impose an administrative fine of up to \$10,000 if an adjusting firm is required to be licensed pursuant to this section but fails to apply for such licensure.

The bill revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license. A person who does so commits a third-degree felony.

Presently, s. 777.011, F.S., includes as a "principal in the first degree" a person who aids, abets, counsels, hires, or otherwise procures a criminal offense to be committed. Thus, such person may be charged, convicted, and punished, with the underlying criminal offense even if they were actually or constructively present at the commission of such offense. Accordingly, given current statutory provisions regarding aiding and abetting, the bill merely clarifies or restates existing law.

This section necessitates **Section 15**, which conforms a cross reference in s. 626.9957, F.S.

Prohibiting Misleading Insurance Agency Names

Section 5 amends s. 626.602, F.S., to authorize the DFS to disapprove an insurance agency's proposed use of a name which includes the words "Medicare" or "Medicaid." Insurance agencies that operate under such a name as of July 1, 2021, may continue to use the names, but if the license expires or is suspended or revoked, the agency may not be relicensed under that name.⁶⁹

Taking Administrative Action against Applicants for Licensure and Licensees for Engaging in Prohibited Actions

Section 6 amends s. 626.621, F.S., to add two bases under which the DFS may suspend or revoke the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent, or refuse to issue a license to an applicant:

- Taking an action that allows a consumer's or customer's personal financial or medical information to be made available or accessible to the public; and
- Initiating in-person or telephone solicitation with a prospective customer after 9 p.m. or before 8 a.m., unless the customer requests otherwise.

⁶⁹ Insurance agency licenses are indefinite. Section 626.382, F.S.

Prohibiting the Sale of Industrial Life Insurance

Sections 7, 8, and 17 respectively amend ss. 626.782, 626.783, and 627.502, F.S., and **Section 9** repeals s. 626.796, F.S., to prohibit the sale of industrial life insurance policies, after July 1, 2021. Insurers may continue to service and collect premiums on industrial life policies written before that date. According to the DFS, industrial life insurance is not currently being sold in this state, and less than 10 percent of active life insurers maintain existing policies.

Expanding the Cancellation Period for Public Adjuster Contracts; Prohibiting Contractors from Soliciting an Insured to File a Claim

Section 10 amends s. 626.854, F.S., to increase the duration of the cooling-off period during which a consumer may cancel his or her contract with a public adjuster to 10 calendar days. Currently, the contract may generally be canceled within three business days after the contract is executed or the insurer is informed of the claim, whichever is later. Current law provides a cancellation period of five business days during, and for one year thereafter, a state of emergency declared by the Governor.

The bill also specifies the public adjuster's written estimate of loss must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies created in accordance with accepted industry standards. The public adjuster must provide the detailed written estimate to the claimant or insured within 60 days after the date of the contract.

The bill prohibits a licensed contractor or subcontractor from soliciting, advertising, offering to handle, handling, or performing public-adjuster services unless licensed and compliant as a public adjuster. The prohibition does not preclude a contractor from suggesting or recommending the insured contact their insurer to determine if proposed repairs are covered under the insured's insurance policy.

The bill prohibits persons other than a licensed public adjuster or attorney from offering to initiate or negotiate a claim or advertise services which require a public adjuster license on behalf of a public adjuster, an insured, or a third-party claimant. The bill retains current law which prevents persons other than a public adjuster or attorney from soliciting, investigating, or adjusting a claim on behalf of a public adjuster, insured, or third-party claimant.

The bill authorizes the DFS to take administrative actions and impose fines against persons performing without the necessary licensure claims adjusting or any of the public adjusting services detailed in s. 626.854, F.S.

The bill prohibits a public adjustor, public adjustor apprentice, or public adjusting firm, who solicits a claim and does not enter into a contract with an insured or third party claimant, from charging or receiving payment from an insured or a third-party claimant.

Notice to Insureds that Surplus Lines Insurers Are Not Protected by the Florida Insurance Guaranty Association

Section 11 amends s. 626.916, F.S., to provide that insurance coverage is not eligible for export to a surplus lines insurer, unless the insured signs or provides documented acknowledgement of the following disclosure:

“You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.”

The bill deletes a disclosure that was required to export certain types of commercial lines insurance⁷⁰ to a surplus lines carrier without meeting the generally applicable requirements⁷¹ to export a commercial policy. The deleted disclosure is similar to the one created by the bill, except the deleted disclosure states, “superior coverage may be available in the admitted market and at a lesser cost.”

This section is effective January 1, 2022.

Unfair Insurance Trade Practices

Section 12 amends s. 626.9541, F.S., to expand the definition of sliding, a practice that violates the Unfair Insurance Trade Practices, to include:

- Initiating, effectuating, binding, or otherwise issuing an insurance policy without the prior informed consent of the person who owns the property that will be insured; and
- Mailing, transmitting, or otherwise submitting an invoice for premium payment to a mortgagee or escrow agent in order to effectuate an insurance policy without the prior informed consent of the owner of the property that will be insured. However, it does not include cases where the mortgagee or escrow agent is renewing insurance or issuing collateral protection insurance pursuant to the mortgage or other pertinent loan documents or communications regarding the property.

These new violations will be punishable as administrative violations under the general provisions of the Unfair Insurance Trade Practices Act. However, the underlying acts that give rise to those administrative violations may also give rise to charges under s. 626.9541(1)(ee), F.S., which prohibits the willful submission of fraudulent signatures on an application or policy-related document, and is punishable as a third-degree felony pursuant to s. 626.9521, F.S.

⁷⁰ Those identified in s. 627.062(3)(d)1.

⁷¹ Section 626.916(1)(a)-(d), F.S.

Residential Property Insurance Claim Investigations; Application to Surplus Lines

Section 18 amends s. 627.70131, F.S., to impose new requirements on residential property insurers during their claim investigations, and to apply the section's requirements to surplus lines insurers and policies providing personal residential property insurance coverage.

The bill clarifies the communication standards of the statute by referring to "representatives" of an insurer, rather than "an agent" of the insured. The term "representative" is defined in the same way the term "agent" is currently defined by this statute: "any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer." The current use of "agent" could confuse readers of the statute regarding whether the requirements of the section only apply to licensed agents.

The bill requires a residential property insurer begin its claim investigation within 14 days of receiving a proof of loss statement; current law provides 10 business days. As under current law, the statutory time frame for beginning an investigation does not apply if any law or the insurance policy provides otherwise, if a claim investigation is not reasonably necessary, or if circumstances beyond the insurer's control reasonably prevent the investigation from commencing.

If the claim investigation involves a physical inspection of the property, the bill requires that the insurer's licensed adjuster must provide the policyholder a printed or electronic document containing the adjuster's name and state adjuster license number. All subsequent communications by an adjuster must include the adjuster's name and license number. The insurer must maintain a record of each adjuster who engages in the foregoing communications, and provide that list to the insured, the OIR, or the DFS upon request.

The bill requires the insurer to provide notices that explain when the insurer is providing a preliminary or partial estimate, or making a claim payment that is not the full and final payment for the claim. The insurer must include with any preliminary or partial estimate of damages, the following notice in 12-point bold, uppercase type:

THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROEPRTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE TO CONTACT US.

The insurer must include with any claim payment which is not the full and final payment for the claim, the following notice in 12-point bold, uppercase type:

WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

The bill creates a new subsection (8) that applies the section to surplus lines insurers and authorized surplus lines insurance providing personal residential property insurance coverage.

This section is effective January 1, 2022.

Section 16 amends s. 627.062, F.S., to correct a cross reference to s. 627.70131(7), F.S., relating to insurer's rate standards. The insurer may not include any interest paid pursuant to s. 627.7013(7), F.S., in their rate base and may not be used to justify a rate or rate change.

Homeowner Claims Bill of Rights

Section 19 amends s. 627.7142, F.S., which contains the Homeowner Claims Bill of Rights which the insurer must provide the homeowner after receiving the initial communication regarding a personal lines residential property insurance claim. Currently, the Homeowner Claims Bill of Rights must be provided within 14 days after an insurer receives an initial communication on any personal lines residential property insurance claim. Additionally, the Homeowner Claims Bill of Rights currently include notice the consumer has the right to receive interest payments; these payments begin accruing when a consumer files a claim if the insurer does not deny the claim or pay the full settlement of the claim, or the undisputed portion of the claim, within 90 calendar days after a claim is filed.⁷² Any payable interest must be paid when the claim, or undisputed portion of the claim, is paid.

The Homeowner Claims Bill of Rights is also amended to encourage insureds to take video of damage before and after any repairs, and specify the purpose of such videos or photographs is so they can be provided to the insurer. In addition, insureds are encouraged to file claims directly with their insurance company.

This section is effective January 1, 2022.

Elimination of the \$100 Florida Insurance Guaranty Fund Deductible

Section 20 amends s. 631.57, F.S., to remove the insured's obligation to pay a \$100 deductible to FIGA in order to receive payment on their claim through FIGA. The insured remains obligated to pay their original insurer's deductible.

Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) Covered Claims

Section 21 amends s. 631.904(2), F.S., to revise the definition of a "covered claim" for purposes of the FWCIGA, to exclude from the definition the return of premium resulting from a policy that was not in force on the date of the final order of liquidation.

Effective Date

Section 22 provides the bill, except as otherwise provided, is effective upon becoming a law.

⁷² See s. 627.70131(5)(a), F.S.

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:

Credit Bureaus will no longer be permitted to charge a fee to re-issue a personal identification number to consumers. *See Section VII, Related Issues.*

Consumers who seek to have their claims covered by Florida Insurance Guaranty Association (FIGA) will no longer be required to pay the \$100 deductible to FIGA.

Certain property adjusting businesses will be required to become licensed by the Department of Financial Services (DFS) and pay related application fees; those who fail to submit an application for licensure will be subject to administrative penalties.

Consumers may benefit from the extended cooling-off period, which allows them to void a contract for public adjusting services without penalty.

Certain licensees may be subject to administrative or criminal penalties as a result of the additional penalties created by this bill.

Insurers will be prohibited from selling industrial life insurance policies, although this should have a de minimis impact, as few currently offer this type of policy.

Insurers and certain agents may be required to update forms or mailers to reflect the new surplus lines export disclosure, the hurricane disclosure, the updated homeowner claims bill of rights, and the prohibition of forum selection clauses.

C. Government Sector Impact:

The bill has an insignificant indeterminate impact to state funds and expenditures.

The elimination of the \$60 fee for a new or renewal adjusting firm license may have an insignificant impact on future state revenues. In addition, eliminating the \$100 FIGA deductible may have an insignificant financial impact on FIGA.

Sections 4, 10 and 12 increase the DFS's authority to take administrative action and impose administrative fines, which may result in an insignificant indeterminate increase in administrative fines collected.

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. Section 5 of the bill revises the Licensing Procedures Law's prohibition against unlicensed activity to include knowingly and abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities in Florida without a license. A person who does so commits a third degree felony. **Section 12** of the bill amends the Unfair Insurance Trade Practices Act (Act). The new violations under **Section 12** are punishable as administrative violations under the general provisions of the Act. However, the underlying acts which give rise to the administrative violations may give rise to charges under s. 626.9541(1)(ee), F.S., which is punishable as a third degree felony.

VI. Technical Deficiencies:

Section 6 of the bill amends s. 626.621, F.S., to authorize the Department of Financial Services (DFS) to suspend or revoke the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent, or refuse to issue a license to an applicant for taking an action that allows a consumer's or customer's personal financial or medical information to be made available or accessible to the public; however, it is unclear what information would be considered financial or medical information. These terms are undefined. For purposes of HIPAA, protected health information is defined. Further, s. 624.23, F.S., defines the term, "personal financial and health information," as it relates to consumer complaints and inquiries received by the DFS.

Section 10 of the bill amending s. 626.854(19), F.S., appears intended to prohibit a person that is not an attorney or licensed public adjuster from, on behalf of a public adjuster, advertising, providing advice regarding a claim, or assisting in the adjustment of a claim. This bill section also creates a new subsection (20) to s. 626.854, F.S., to authorize the DFS to take administrative actions and impose fines for unlicensed public adjusting or claims adjusting activity; however, DFS will have difficulty enforcing such a fine or taking administrative action when the violator is not a licensee of the DFS.

VII. Related Issues:

Section 1 of the bill may be federally preempted pursuant to 15 U.S.C. s. 1681t. This federal law prohibits states from imposing laws with respect to any subject matter regulated under subsections (i) and (j) of section 605A relating to security freezes.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 501.0051, 624.307, 624.501, 626.015, 626.112, 626.602, 626.621, 626.7315, 626.782, 626.783, 626.7845, 626.8305, 626.854, 626.916, 626.9541, 626.9741, 626.9953, 626.9957, 627.062, 627.502, 627.70131, 627.7142, 631.57, and 631.904.

This bill repeals section 626.796 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 Appropriations on April 15, 2021:

The committee substitute:

- Clarifies contractors may recommend that policyholders contact their insurance company, but may not initiate, manage, or handle the claim for the policyholder; but does not prohibit or preclude a contractor from recommending the policyholder contact the insurer to determine if proposed repair is covered under the insured's insurance policy;
- Clarifies the surplus lines 90-day provision would apply only to personal residential properties;
- Clarifies no person other than an attorney at law or a licensed public adjuster, may offer to initiate or negotiate a claim or advertise services which require a public adjuster license on behalf of a public adjuster, an insured, or a third-party claimant
- Removes the definition of claims adjusting and the respective cross-references.
- Authorizes the Department of Financial Services to take administrative action and impose fines against persons performing claims adjusting, soliciting, or any other services described in the section, without licensure required under the bill and s. 626.112, F.S.
- Prohibits a public adjustor, public adjustor apprentice, or public adjusting firm, who solicits a claim and does not enter into a contract with an insured or third party claimant, from charging or receiving payment from an insured or a third-party claimant.
- Removes the prohibition against foreign venue clauses.
- Revises the Homeowner Claims Bill of Rights.

CS by Banking and Insurance on March 16, 2021:

The committee substitute:

- Prohibits persons other than a public adjuster or attorney from advertising, providing advice, or assisting the adjustment of a claim on behalf of a public adjuster, insured, or third-party claimant.
- Authorizes the Department of Financial Services to take administrative actions and impose fines against persons performing without the necessary licensure claims adjusting or any of the public adjusting services detailed in s. 626.854, F.S.

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 Banking and Insurance; and Senator Gruters

597-02952-21

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1 A bill to be entitled
 2 An act relating to consumer protection; amending s.
 3 501.0051, F.S.; prohibiting consumer reporting
 4 agencies from charging to reissue or provide a new
 5 unique personal identifier to a consumer for the
 6 removal of a security freeze; amending s. 624.307,
 7 F.S.; revising a requirement for persons licensed or
 8 authorized by the Department of Financial Services or
 9 the Office of Insurance Regulation to respond to the
 10 department's Division of Consumer Services regarding
 11 consumer complaints; amending s. 624.501, F.S.;
 12 deleting a fee for adjusting firm licenses; amending
 13 s. 626.015, F.S.; defining the term "claims
 14 adjusting"; amending s. 626.112, F.S.; deleting an
 15 obsolete provision; prohibiting unlicensed activity by
 16 an adjusting firm; providing an exemption; providing
 17 an exemption from licensure for branch firms that meet
 18 certain criteria; providing an administrative penalty
 19 for failing to apply for certain licensure; providing
 20 a criminal penalty for aiding or abetting unlicensed
 21 activity; amending s. 626.602, F.S.; authorizing the
 22 department to disapprove the use of insurance agency
 23 names containing the words "Medicare" or "Medicaid";
 24 providing an exception for certain insurance agencies
 25 for a certain period; providing for expiration of
 26 certain licenses on a certain date; amending s.
 27 626.621, F.S.; adding grounds on which the department
 28 may take certain actions against a license,
 29 appointment, or application of certain insurance

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

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30 representatives; amending s. 626.7315, F.S.;
 31 conforming a cross-reference; amending ss. 626.782 and
 32 626.783, F.S.; revising the definitions of the terms
 33 "industrial class insurer" and "ordinary-combination
 34 class insurer," respectively, to conform to changes
 35 made by the act; amending s. 626.7845, F.S.;
 36 conforming a cross-reference; repealing s. 626.796,
 37 F.S., relating to the representation of multiple
 38 insurers in the same industrial debit territory;
 39 amending s. 626.8305, F.S.; conforming a cross-
 40 reference; amending s. 626.854, F.S.; revising the
 41 timeframes in which an insured or a claimant may
 42 cancel a public adjuster's contract to adjust a claim
 43 without penalty or obligation; requiring that public
 44 adjuster's contracts include a specified disclosure;
 45 specifying requirements for written estimates of loss
 46 provided by public adjusters to claimants or insureds;
 47 prohibiting certain contractors from soliciting
 48 insureds to file insurance claims under certain
 49 circumstances; revising services a person is
 50 prohibited from performing unless the person meets
 51 specified requirements; authorizing the department to
 52 take administrative actions and impose fines against
 53 persons performing specified activities without
 54 licensure; amending s. 626.916, F.S.; revising
 55 disclosure requirements for certain classes of
 56 insurance before being eligible for export under the
 57 Surplus Lines Law; amending s. 626.9541, F.S.; adding
 58 certain acts or practices to the definition of

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59 sliding; amending s. 626.9741, F.S.; requiring an
 60 insurer to include certain additional information when
 61 providing an applicant or insured with certain credit
 62 report or score information; amending s. 626.9953,
 63 F.S.; correcting a cross-reference; amending ss.
 64 626.9957 and 627.062, F.S.; conforming cross-
 65 references; amending s. 627.502, F.S.; prohibiting
 66 life insurers from writing new policies of industrial
 67 life insurance beginning on a certain date; making
 68 technical changes; amending s. 627.70131, F.S.;
 69 providing that a communication made to or by an
 70 insurer's representative, rather than to or by an
 71 insurer's agent, constitutes communication to or by
 72 the insurer; revising the timeframe for insurers to
 73 begin certain investigations; requiring an insurer-
 74 assigned licensed adjuster to provide the policyholder
 75 with certain information in certain investigations;
 76 requiring insurers to maintain certain records and
 77 provide certain lists upon request; requiring insurers
 78 to include specified notices when providing
 79 preliminary or partial damage estimates or claim
 80 payments; providing applicability; conforming
 81 provisions to changes made by the act; creating s.
 82 627.7031, F.S.; prohibiting foreign venue clauses in
 83 property insurance policies; providing applicability;
 84 amending s. 627.7142, F.S.; revising information
 85 contained in the Homeowner Claims Bill of Rights;
 86 conforming provisions to changes made by the act;
 87 amending s. 631.57, F.S.; deleting a deductible on the

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88 obligation of the Florida Insurance Guaranty
 89 Association, Incorporated, as to certain covered
 90 claims; amending s. 631.904, F.S.; revising the
 91 definition of the term "covered claim"; deleting a
 92 requirement that a policy be in force on the date of
 93 the final order of liquidation; providing effective
 94 dates.

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

97
 98 Section 1. Paragraph (b) of subsection (9) of section
 99 501.0051, Florida Statutes, is amended to read:

100 501.0051 Protected consumer report security freeze.-
 101 (9)

102 (b) A consumer reporting agency may not charge a fee to a
 103 ~~reasonable fee, not to exceed \$10, if the representative fails~~
 104 ~~to retain the original unique personal identifier provided by~~
 105 ~~the consumer reporting agency and the agency must reissue the~~
 106 unique personal identifier or to provide a new unique personal
 107 identifier to the consumer representative.

108 Section 2. Paragraph (b) of subsection (10) of section
 109 624.307, Florida Statutes, is amended to read:

110 624.307 General powers; duties.-
 111 (10)

112 (b) Any person licensed or issued a certificate of
 113 authority by the department or the office shall respond, in
 114 writing, to the division within 20 days after receipt of a
 115 written request for documents and information from the division
 116 concerning a consumer complaint. The response must address the

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117 issues and allegations raised in the complaint and include any
118 requested documents concerning the consumer complaint not
119 subject to attorney-client or work-product privilege. The
120 division may impose an administrative penalty for failure to
121 comply with this paragraph of up to \$2,500 per violation upon
122 any entity licensed by the department or the office and \$250 for
123 the first violation, \$500 for the second violation, and up to
124 \$1,000 for the third or subsequent violation upon any individual
125 licensed by the department or the office.

126 Section 3. Subsection (20) of section 624.501, Florida
127 Statutes, is amended to read:

128 624.501 Filing, license, appointment, and miscellaneous
129 fees.-The department, commission, or office, as appropriate,
130 shall collect in advance, and persons so served shall pay to it
131 in advance, fees, licenses, and miscellaneous charges as
132 follows:

133 ~~(20) Adjusting firm, original or renewal 3-year~~
134 ~~license.....\$60.00~~

135 Section 4. Present subsections (6) through (21) of section
136 626.015, Florida Statutes, are redesignated as subsections (7)
137 through (22), respectively, and a new subsection (6) is added to
138 that section, to read:

139 626.015 Definitions.-As used in this part:

140 (6) "Claims adjusting" means directly or indirectly
141 attempting or undertaking to ascertain and determine the amount
142 of a claim, loss, or damage payable under an insurance contract
143 or undertaking to negotiate or effect settlement of a claim,
144 loss, or damage under an insurance contract, if such action
145 results in payment to or receipt of money, commission, or any

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146 other thing of value by the party or parties rendering such
147 service or persons affiliated with such party or parties. Claims
148 adjusting also includes soliciting claims adjusting services as
149 described in this chapter or soliciting an insured or
150 policyholder to file an insurance claim. Claims adjusting does
151 not include:

152 (a) Paid services as a spokesperson used as part of a
153 written or an electronic advertisement;

154 (b) Paid services as a photographer or videographer used to
155 capture images of damage;

156 (c) Paid services to inventory personal property or
157 business personal property; or

158 (d) Discussion or explanation of a bid for construction or
159 repair services with a property owner or the insurer of such
160 property by a contractor licensed pursuant to part I of chapter
161 489 or a subcontractor for a licensed contractor.

162 Section 5. Present subsection (9) of section 626.112,
163 Florida Statutes, is redesignated as subsection (10) and
164 amended, a new subsection (9) is added to that section, and
165 paragraph (d) of subsection (7) of that section is amended, to
166 read:

167 626.112 License and appointment required; agents, customer
168 representatives, adjusters, insurance agencies, service
169 representatives, managing general agents, insurance adjusting
170 firms.-

171 (7)

172 ~~(d) Effective October 1, 2015, the department must~~
173 ~~automatically convert the registration of an approved registered~~
174 ~~insurance agency to an insurance agency license.~~

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175 (9) (a) An individual, firm, partnership, corporation,
 176 association, or other entity may not act in its own name or
 177 under a trade name, directly or indirectly, as an adjusting firm
 178 unless it complies with s. 626.8696 with respect to possessing
 179 an adjusting firm license for each place of business at which it
 180 engages in an activity that may be performed only by a licensed
 181 insurance adjuster. However, an adjusting firm that is owned and
 182 operated by a single licensed adjuster conducting business in
 183 his or her individual name and not employing or otherwise using
 184 the services of or appointing other licensees is exempt from the
 185 adjusting firm licensing requirements of this subsection.

186 (b) A branch place of business that is established by a
 187 licensed adjusting firm is considered a branch firm and is not
 188 required to be licensed if:

189 1. It transacts business under the same name and federal
 190 tax identification number as the licensed adjusting firm;

191 2. It has designated with the department a primary adjuster
 192 operating the location as required by s. 626.8695; and

193 3. The address and telephone number of the branch location
 194 have been submitted to the department for inclusion in the
 195 licensing record of the licensed adjusting firm within 30 days
 196 after insurance transactions begin at the branch location.

197 (c) If an adjusting firm is required to be licensed but
 198 fails to apply for licensure in accordance with this section,
 199 the department must impose an administrative penalty of up to
 200 \$10,000 on the firm.

201 (10) (9) Any person who knowingly transacts insurance or
 202 otherwise engages in insurance activities in this state without
 203 a license in violation of this section or who knowingly aids or

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204 abets an unlicensed person in transacting insurance or otherwise
 205 engaging in insurance activities in this state without a license
 206 commits a felony of the third degree, punishable as provided in
 207 s. 775.082, s. 775.083, or s. 775.084.

208 Section 6. Subsection (4) is added to section 626.602,
 209 Florida Statutes, to read:

210 626.602 Insurance agency names; disapproval.—The department
 211 may disapprove the use of any true or fictitious name, other
 212 than the bona fide natural name of an individual, by any
 213 insurance agency on any of the following grounds:

214 (4) The name contains the word "Medicare" or "Medicaid." An
 215 insurance agency whose name contains the word "Medicare" or
 216 "Medicaid" but which is licensed as of July 1, 2021, may
 217 continue to use that name until June 30, 2023, provided that the
 218 agency's license remains valid. If the agency's license expires
 219 or is suspended or revoked, the agency may not be relicensed
 220 using that name. Licenses for agencies with names containing
 221 either of these words automatically expire on July 1, 2023,
 222 unless these words are removed from the name.

223 Section 7. Subsections (16) and (17) are added to section
 224 626.621, Florida Statutes, to read:

225 626.621 Grounds for discretionary refusal, suspension, or
 226 revocation of agent's, adjuster's, customer representative's,
 227 service representative's, or managing general agent's license or
 228 appointment.—The department may, in its discretion, deny an
 229 application for, suspend, revoke, or refuse to renew or continue
 230 the license or appointment of any applicant, agent, adjuster,
 231 customer representative, service representative, or managing
 232 general agent, and it may suspend or revoke the eligibility to

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233 hold a license or appointment of any such person, if it finds
234 that as to the applicant, licensee, or appointee any one or more
235 of the following applicable grounds exist under circumstances
236 for which such denial, suspension, revocation, or refusal is not
237 mandatory under s. 626.611:

238 (16) Taking an action that allows the personal financial or
239 medical information of a consumer or customer to be made
240 available or accessible to the general public, regardless of the
241 format in which the record is stored.

242 (17) Initiating in-person or telephone solicitation after 9
243 p.m. or before 8 a.m. local time of the prospective customer
244 unless requested by the prospective customer.

245 Section 8. Section 626.7315, Florida Statutes, is amended
246 to read:

247 626.7315 Prohibition against the unlicensed transaction of
248 general lines insurance.—With respect to any line of authority
249 as defined in s. 626.015(8) ~~s. 626.015(7)~~, no individual shall,
250 unless licensed as a general lines agent:

251 (1) Solicit insurance or procure applications therefor;

252 (2) In this state, receive or issue a receipt for any money
253 on account of or for any insurer, or receive or issue a receipt
254 for money from other persons to be transmitted to any insurer
255 for a policy, contract, or certificate of insurance or any
256 renewal thereof, even though the policy, certificate, or
257 contract is not signed by him or her as agent or representative
258 of the insurer, except as provided in s. 626.0428(1);

259 (3) Directly or indirectly represent himself or herself to
260 be an agent of any insurer or as an agent, to collect or forward
261 any insurance premium, or to solicit, negotiate, effect,

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262 procure, receive, deliver, or forward, directly or indirectly,
263 any insurance contract or renewal thereof or any endorsement
264 relating to an insurance contract, or attempt to effect the
265 same, of property or insurable business activities or interests,
266 located in this state;

267 (4) In this state, engage or hold himself or herself out as
268 engaging in the business of analyzing or abstracting insurance
269 policies or of counseling or advising or giving opinions, other
270 than as a licensed attorney at law, relative to insurance or
271 insurance contracts, for fee, commission, or other compensation,
272 other than as a salaried bona fide full-time employee so
273 counseling and advising his or her employer relative to the
274 insurance interests of the employer and of the subsidiaries or
275 business affiliates of the employer;

276 (5) In any way, directly or indirectly, make or cause to be
277 made, or attempt to make or cause to be made, any contract of
278 insurance for or on account of any insurer;

279 (6) Solicit, negotiate, or in any way, directly or
280 indirectly, effect insurance contracts, if a member of a
281 partnership or association, or a stockholder, officer, or agent
282 of a corporation which holds an agency appointment from any
283 insurer; or

284 (7) Receive or transmit applications for suretyship, or
285 receive for delivery bonds founded on applications forwarded
286 from this state, or otherwise procure suretyship to be effected
287 by a surety insurer upon the bonds of persons in this state or
288 upon bonds given to persons in this state.

289 Section 9. Section 626.782, Florida Statutes, is amended to
290 read:

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291 626.782 "Industrial class insurer" defined.—An "industrial
 292 class insurer" is an insurer collecting premiums on policies of
 293 ~~writing~~ industrial life insurance, as defined in s. 627.502,
 294 written before July 1, 2021, and as to such insurance, operates
 295 under a system of collecting a debit by its agent.

296 Section 10. Section 626.783, Florida Statutes, is amended
 297 to read:

298 626.783 "Ordinary-combination class insurer" defined.—An
 299 "ordinary-combination class insurer" is an insurer writing ~~both~~
 300 ordinary class insurance and collecting premiums on existing
 301 industrial life class insurance as defined by s. 627.502.

302 Section 11. Subsection (2) of section 626.7845, Florida
 303 Statutes, is amended to read:

304 626.7845 Prohibition against unlicensed transaction of life
 305 insurance.—

306 (2) Except as provided in s. 626.112(6), with respect to
 307 any line of authority specified in s. 626.015(13) ~~or~~
 308 ~~626.015(12)~~, an individual may not, unless licensed as a life
 309 agent:

310 (a) Solicit insurance or annuities or procure applications;
 311 (b) In this state, engage or hold himself or herself out as
 312 engaging in the business of analyzing or abstracting insurance
 313 policies or of counseling or advising or giving opinions to
 314 persons relative to insurance or insurance contracts, unless the
 315 individual is:

316 1. A consulting actuary advising insurers;
 317 2. An employee of a labor union, association, employer, or
 318 other business entity, or the subsidiaries and affiliates of
 319 each, who counsels and advises such entity or entities relative

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320 to their interests and those of their members or employees under
 321 insurance benefit plans; or

322 3. A trustee advising a settlor, a beneficiary, or a person
 323 regarding his or her interests in a trust, relative to insurance
 324 benefit plans; or

325 (c) In this state, from this state, or with a resident of
 326 this state, offer or attempt to negotiate on behalf of another
 327 person a viatical settlement contract as defined in s. 626.9911.

328 Section 12. Section 626.796, Florida Statutes, is repealed.

329 Section 13. Section 626.8305, Florida Statutes, is amended
 330 to read:

331 626.8305 Prohibition against the unlicensed transaction of
 332 health insurance.—Except as provided in s. 626.112(6), with
 333 respect to any line of authority specified in s. 626.015(9) ~~or~~
 334 ~~626.015(8)~~, an individual may not, unless licensed as a health
 335 agent:

336 (1) Solicit insurance or procure applications; or

337 (2) In this state, engage or hold himself or herself out as
 338 engaging in the business of analyzing or abstracting insurance
 339 policies or of counseling or advising or giving opinions to
 340 persons relative to insurance contracts, unless the individual
 341 is:

342 (a) A consulting actuary advising insurers;

343 (b) An employee of a labor union, association, employer, or
 344 other business entity, or the subsidiaries and affiliates of
 345 each, who counsels and advises such entity or entities relative
 346 to their interests and those of their members or employees under
 347 insurance benefit plans; or

348 (c) A trustee advising a settlor, a beneficiary, or a

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349 person regarding his or her interests in a trust, relative to
350 insurance benefit plans.

351 Section 14. Subsections (6), (11), (15), and (19) of
352 section 626.854, Florida Statutes, are amended, and subsection
353 (20) is added to that section, to read:

354 626.854 "Public adjuster" defined; prohibitions.—The
355 Legislature finds that it is necessary for the protection of the
356 public to regulate public insurance adjusters and to prevent the
357 unauthorized practice of law.

358 (6) An insured or claimant may cancel a public adjuster's
359 contract to adjust a claim without penalty or obligation within
360 10 calendar ~~3 business~~ days after the date on which the contract
361 is executed ~~or within 3 business days after the date on which~~
362 ~~the insured or claimant has notified the insurer of the claim,~~
363 ~~whichever is later.~~ The public adjuster's contract must contain
364 the following language in minimum 18-point bold type: "You, the
365 insured, may cancel this contract for any reason without penalty
366 or obligation to you within 10 days after the date of this
367 contract by providing notice to ...(name of public adjuster)...,
368 submitted in writing and sent by certified mail, return receipt
369 requested, or other form of mailing that provides proof thereof,
370 at the address specified in the contract ~~disclose to the insured~~
371 ~~or claimant his or her right to cancel the contract and advise~~
372 ~~the insured or claimant that notice of cancellation must be~~
373 ~~submitted in writing and sent by certified mail, return receipt~~
374 ~~requested, or other form of mailing that provides proof thereof,~~
375 ~~to the public adjuster at the address specified in the contract,~~
376 ~~provided, during any state of emergency as declared by the~~
377 ~~Governor and for 1 year after the date of loss, the insured or~~

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378 ~~claimant has 5 business days after the date on which the~~
379 ~~contract is executed to cancel a public adjuster's contract.~~

380 (11) Each public adjuster must provide to the claimant or
381 insured a written estimate of the loss to assist in the
382 submission of a proof of loss or any other claim for payment of
383 insurance proceeds within 60 days after the date of the
384 contract. The written estimate must include an itemized, per-
385 unit estimate of the repairs, including itemized information on
386 equipment, materials, labor, and supplies, in accordance with
387 accepted industry standards. The public adjuster shall retain
388 such written estimate for at least 5 years and shall make the
389 estimate available to the claimant or insured, the insurer, and
390 the department upon request.

391 (15) A licensed contractor under part I of chapter 489, or
392 a subcontractor, may not adjust a claim on behalf of an insured,
393 or solicit an insured to file a claim, unless licensed and
394 compliant as a public adjuster under this chapter. However, the
395 contractor may discuss or explain a bid for construction or
396 repair of covered property with the residential property owner
397 who has suffered loss or damage covered by a property insurance
398 policy, or the insurer of such property, if the contractor is
399 doing so for the usual and customary fees applicable to the work
400 to be performed as stated in the contract between the contractor
401 and the insured.

402 (19) Except as otherwise provided in this chapter, no
403 person, except an attorney at law or a public adjuster, may for
404 money, commission, or any other thing of value, directly or
405 indirectly:

406 (a) Prepare, complete, or file an insurance claim for an

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407 insured or a third-party claimant;

408 (b) Act on behalf of or aid an insured or a third-party
409 claimant in negotiating for or effecting the settlement of a
410 claim for loss or damage covered by an insurance contract;

411 (c) Advertise for employment as a public adjuster; or

412 (d) Solicit, advertise, advise, assist, investigate, or
413 adjust a claim on behalf of a public adjuster, an insured, or a
414 third-party claimant.

415 (20) The department may take administrative actions and
416 impose fines against any persons performing claims adjusting as
417 defined in s. 626.015(6) or any other services as described in
418 this section without the licensure required under this section
419 and s. 626.112.

420 Section 15. Effective January 1, 2022, subsection (3) of
421 section 626.916, Florida Statutes, is amended, and paragraph (f)
422 is added to subsection (1) of that section, to read:

423 626.916 Eligibility for export.—

424 (1) No insurance coverage shall be eligible for export
425 unless it meets all of the following conditions:

426 (f) The insured has signed or otherwise provided documented
427 acknowledgment of a disclosure in substantially the following
428 form: "You are agreeing to place coverage in the surplus lines
429 market. Coverage may be available in the admitted market.
430 Persons insured by surplus lines carriers are not protected
431 under the Florida Insurance Guaranty Act with respect to any
432 right of recovery for the obligation of an insolvent unlicensed
433 insurer."

434 (3) (a) Subsection (1) does not apply to wet marine and
435 transportation or aviation risks ~~that which~~ are subject to s.

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436 626.917.

437 (b) Paragraphs (1) (a)-(d) do not apply to classes of
438 insurance which are subject to s. 627.062(3) (d)1. These classes
439 may be exportable under the following conditions:

440 1. The insurance must be placed only by or through a
441 surplus lines agent licensed in this state;

442 2. The insurer must be made eligible under s. 626.918; and

443 3. The insured has complied with paragraph (1) (f) ~~must sign~~
444 ~~a disclosure that substantially provides the following: "You are~~
445 ~~agreeing to place coverage in the surplus lines market. Superior~~
446 ~~coverage may be available in the admitted market and at a lesser~~
447 ~~cost. Persons insured by surplus lines carriers are not~~
448 ~~protected under the Florida Insurance Guaranty Act with respect~~
449 ~~to any right of recovery for the obligation of an insolvent~~
450 ~~unlicensed insurer."~~ If the disclosure notice is signed by the
451 insured, the insured is presumed to have been informed and to
452 know that other coverage may be available, and, with respect to
453 the diligent-effort requirement under subsection (1), there is
454 no liability on the part of, and no cause of action arises
455 against, the retail agent presenting the form.

456 Section 16. Paragraph (z) of subsection (1) of section
457 626.9541, Florida Statutes, is amended to read:

458 626.9541 Unfair methods of competition and unfair or
459 deceptive acts or practices defined.—

460 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
461 ACTS.—The following are defined as unfair methods of competition
462 and unfair or deceptive acts or practices:

463 (z) Sliding.—Sliding is the act or practice of any of the
464 following:

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465 1. Representing to the applicant that a specific ancillary
466 coverage or product is required by law in conjunction with the
467 purchase of insurance when such coverage or product is not
468 required.~~+~~

469 2. Representing to the applicant that a specific ancillary
470 coverage or product is included in the policy applied for
471 without an additional charge when such charge is required.~~+~~

472 3. Charging an applicant for a specific ancillary coverage
473 or product, in addition to the cost of the insurance coverage
474 applied for, without the informed consent of the applicant.

475 4. Initiating, effectuating, binding, or otherwise issuing
476 a policy of insurance without the prior informed consent of the
477 owner of the property to be insured.

478 5. Mailing, transmitting, or otherwise submitting by any
479 means an invoice for premium payment to a mortgagee or escrow
480 agent, for the purpose of effectuating an insurance policy,
481 without the prior informed consent of the owner of the property
482 to be insured. However, this subparagraph does not apply in
483 cases in which the mortgagee or escrow agent is renewing
484 insurance or issuing collateral protection insurance, as defined
485 in s. 624.6085, pursuant to the mortgage or other pertinent loan
486 documents or communications regarding the property.

487 Section 17. Effective January 1, 2022, subsection (3) of
488 section 626.9741, Florida Statutes, is amended to read:

489 626.9741 Use of credit reports and credit scores by
490 insurers.—

491 (3) An insurer must inform an applicant or insured, in the
492 same medium as the application is taken, that a credit report or
493 score is being requested for underwriting or rating purposes.

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494 The notification to the consumer must include the following
495 language: "The Department of Financial Services offers free
496 financial literacy programs to assist you with insurance-related
497 questions, including how credit works and how credit scores are
498 calculated. To learn more, visit www.MyFloridaCFO.com." An
499 insurer that makes an adverse decision based, in whole or in
500 part, upon a credit report must provide at no charge, a copy of
501 the credit report to the applicant or insured or provide the
502 applicant or insured with the name, address, and telephone
503 number of the consumer reporting agency from which the insured
504 or applicant may obtain the credit report. The insurer must
505 provide notification to the consumer explaining the reasons for
506 the adverse decision. The reasons must be provided in
507 sufficiently clear and specific language so that a person can
508 identify the basis for the insurer's adverse decision. Such
509 notification shall include a description of the four primary
510 reasons, or such fewer number as existed, which were the primary
511 influences of the adverse decision. The use of generalized terms
512 such as "poor credit history," "poor credit rating," or "poor
513 insurance score" does not meet the explanation requirements of
514 this subsection. A credit score may not be used in underwriting
515 or rating insurance unless the scoring process produces
516 information in sufficient detail to permit compliance with the
517 requirements of this subsection. It shall not be deemed an
518 adverse decision if, due to the insured's credit report or
519 credit score, the insured continues to receive a less favorable
520 rate or placement in a less favorable tier or company at the
521 time of renewal except for renewals or reunderwriting required
522 by this section.

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523 Section 18. Subsection (5) of section 626.9953, Florida
524 Statutes, is amended to read:

525 626.9953 Qualifications for registration; application
526 required.—

527 (5) An applicant must submit a set of his or her
528 fingerprints to the department and pay the processing fee
529 established under s. 624.501(23) ~~s. 624.501(24)~~. The department
530 shall submit the applicant's fingerprints to the Department of
531 Law Enforcement for processing state criminal history records
532 checks and local criminal records checks through local law
533 enforcement agencies and for forwarding to the Federal Bureau of
534 Investigation for national criminal history records checks. The
535 fingerprints shall be taken by a law enforcement agency, a
536 designated examination center, or another department-approved
537 entity. The department may not approve an application for
538 registration as a navigator if fingerprints have not been
539 submitted.

540 Section 19. Subsection (1) of section 626.9957, Florida
541 Statutes, is amended to read:

542 626.9957 Conduct prohibited; denial, revocation, or
543 suspension of registration.—

544 (1) As provided in s. 626.112, only a person licensed as an
545 insurance agent or customer representative may engage in the
546 solicitation of insurance. A person who engages in the
547 solicitation of insurance as described in s. 626.112(1) without
548 such license is subject to the penalties provided under s.
549 626.112(10) ~~s. 626.112(9)~~.

550 Section 20. Subsection (10) of section 627.062, Florida
551 Statutes, is amended to read:

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552 627.062 Rate standards.—

553 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
554 ~~627.70131(5)~~ may not be included in the insurer's rate base and
555 may not be used to justify a rate or rate change.

556 Section 21. Section 627.502, Florida Statutes, is amended
557 to read:

558 627.502 "Industrial life insurance" defined; reporting;
559 prohibition on new policies after a certain date.—

560 (1) For the purposes of this code, "industrial life
561 insurance" is that form of life insurance written under policies
562 under which premiums are payable monthly or more often, bearing
563 the words "industrial policy" or "weekly premium policy" or
564 words of similar import imprinted upon the policies as part of
565 the descriptive matter, and issued by an insurer that ~~which~~, as
566 to such industrial life insurance, is operating under a system
567 of collecting a debit by its agent.

568 (2) Every life insurer servicing existing ~~transacting~~
569 industrial life insurance shall report to the office all annual
570 statement data regarding the exhibit of life insurance,
571 including relevant information for industrial life insurance.

572 (3) Beginning July 1, 2021, a life insurer may not write a
573 new policy of industrial life insurance.

574 Section 22. Effective January 1, 2022, section 627.70131,
575 Florida Statutes, is amended to read:

576 627.70131 Insurer's duty to acknowledge communications
577 regarding claims; investigation.—

578 (1) (a) Upon an insurer's receiving a communication with
579 respect to a claim, the insurer shall, within 14 calendar days,
580 review and acknowledge receipt of such communication unless

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581 payment is made within that period of time or unless the failure
 582 to acknowledge is caused by factors beyond the control of the
 583 insurer which reasonably prevent such acknowledgment. If the
 584 acknowledgment is not in writing, a notification indicating
 585 acknowledgment shall be made in the insurer's claim file and
 586 dated. A communication made to or by a representative ~~an agent~~
 587 of an insurer with respect to a claim shall constitute
 588 communication to or by the insurer.

589 (b) As used in this subsection, the term "representative"
 590 ~~"agent"~~ means any person to whom an insurer has granted
 591 authority or responsibility to receive or make such
 592 communications with respect to claims on behalf of the insurer.

593 (c) This subsection ~~does shall~~ not apply to claimants
 594 represented by counsel beyond those communications necessary to
 595 provide forms and instructions.

596 (2) Such acknowledgment ~~must shall~~ be responsive to the
 597 communication. If the communication constitutes a notification
 598 of a claim, unless the acknowledgment reasonably advises the
 599 claimant that the claim appears not to be covered by the
 600 insurer, the acknowledgment ~~must shall~~ provide necessary claim
 601 forms, and instructions, including an appropriate telephone
 602 number.

603 (3) (a) Unless otherwise provided by the policy of insurance
 604 or by law, within 14 ~~10 working~~ days after an insurer receives
 605 proof of loss statements, the insurer shall begin such
 606 investigation as is reasonably necessary unless the failure to
 607 begin such investigation is caused by factors beyond the control
 608 of the insurer which reasonably prevent the commencement of such
 609 investigation.

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610 (b) If such investigation involves a physical inspection of
 611 the property, the licensed adjuster assigned by the insurer must
 612 provide the policyholder with a printed or electronic document
 613 containing his or her name and state adjuster license number.

614 (c) Any subsequent communication with the policyholder
 615 regarding the claim must also include the name and license
 616 number of the adjuster communicating about the claim.
 617 Communication of the adjuster's name and license number may be
 618 included with other information provided to the policyholder.

619 (4) An insurer shall maintain a record or log of each
 620 adjuster who communicates with the policyholder as provided in
 621 paragraphs (3) (b) and (c) and provide a list of such adjusters
 622 to the insured, office, or department upon request.

623 (5) For purposes of this section, the term "insurer" means
 624 any residential property insurer.

625 (6) (a) When providing a preliminary or partial estimate of
 626 damage regarding a claim, an insurer shall include with the
 627 estimate the following statement printed in at least 12-point
 628 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
 629 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
 630 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
 631 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
 632 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

633 (b) When providing a payment on a claim which is not the
 634 full and final payment for the claim, an insurer shall include
 635 with the payment the following statement printed in at least 12-
 636 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
 637 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
 638 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL

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639 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
640 US.

641 ~~(7) (a) (5) (a)~~ Within 90 days after an insurer receives
642 notice of an initial, reopened, or supplemental property
643 insurance claim from a policyholder, the insurer shall pay or
644 deny such claim or a portion of the claim unless the failure to
645 pay is caused by factors beyond the control of the insurer which
646 reasonably prevent such payment. Any payment of an initial or
647 supplemental claim or portion of such claim made 90 days after
648 the insurer receives notice of the claim, or made more than 15
649 days after there are no longer factors beyond the control of the
650 insurer which reasonably prevented such payment, whichever is
651 later, bears interest at the rate set forth in s. 55.03.
652 Interest begins to accrue from the date the insurer receives
653 notice of the claim. The provisions of this subsection may not
654 be waived, voided, or nullified by the terms of the insurance
655 policy. If there is a right to prejudgment interest, the insured
656 shall select whether to receive prejudgment interest or interest
657 under this subsection. Interest is payable when the claim or
658 portion of the claim is paid. Failure to comply with this
659 subsection constitutes a violation of this code. However,
660 failure to comply with this subsection does not form the sole
661 basis for a private cause of action.

662 (b) Notwithstanding subsection (5) (4), for purposes of
663 this subsection, the term "claim" means any of the following:

- 664 1. A claim under an insurance policy providing residential
665 coverage as defined in s. 627.4025(1);
666 2. A claim for structural or contents coverage under a
667 commercial property insurance policy if the insured structure is

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668 10,000 square feet or less; or

669 3. A claim for contents coverage under a commercial tenant
670 policy if the insured premises is 10,000 square feet or less.

671 (c) This subsection ~~does shall~~ not apply to claims under an
672 insurance policy covering nonresidential commercial structures
673 or contents in more than one state.

674 (8) This section also applies to surplus lines insurers and
675 surplus lines insurance authorized under ss. 626.913-626.937
676 providing residential coverage.

677 Section 23. Section 627.7031, Florida Statutes, is created
678 to read:

679 627.7031 Foreign venue clauses prohibited.—After July 1,
680 2021, a personal residential property insurance policy sold in
681 this state, insuring only real property located in this state,
682 may not require an insured to pursue dispute resolution through
683 litigation, arbitration, or mediation outside this state. This
684 section also applies to surplus lines insurers and surplus lines
685 insurance authorized under ss. 626.913-626.937.

686 Section 24. Effective January 1, 2022, section 627.7142,
687 Florida Statutes, is amended to read:

688 627.7142 Homeowner Claims Bill of Rights.—An insurer
689 issuing a personal lines residential property insurance policy
690 in this state must provide a Homeowner Claims Bill of Rights to
691 a policyholder within 14 days after receiving an initial
692 communication with respect to a claim, ~~unless the claim follows~~
693 ~~an event that is the subject of a declaration of a state of~~
694 ~~emergency by the Governor.~~ The purpose of the bill of rights is
695 to summarize, in simple, nontechnical terms, existing Florida
696 law regarding the rights of a personal lines residential

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 697 property insurance policyholder who files a claim of loss. The
 698 Homeowner Claims Bill of Rights is specific to the claims
 699 process and does not represent all of a policyholder's rights
 700 under Florida law regarding the insurance policy. The Homeowner
 701 Claims Bill of Rights does not create a civil cause of action by
 702 any individual policyholder or class of policyholders against an
 703 insurer or insurers. The failure of an insurer to properly
 704 deliver the Homeowner Claims Bill of Rights is subject to
 705 administrative enforcement by the office but is not admissible
 706 as evidence in a civil action against an insurer. The Homeowner
 707 Claims Bill of Rights does not enlarge, modify, or contravene
 708 statutory requirements, including, but not limited to, ss.
 709 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
 710 not prohibit an insurer from exercising its right to repair
 711 damaged property in compliance with the terms of an applicable
 712 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
 713 Claims Bill of Rights must state:

714
 715 HOMEOWNER CLAIMS
 716 BILL OF RIGHTS

717 This Bill of Rights is specific to the claims process
 718 and does not represent all of your rights under
 719 Florida law regarding your policy. There are also
 720 exceptions to the stated timelines when conditions are
 721 beyond your insurance company's control. This document
 722 does not create a civil cause of action by an
 723 individual policyholder, or a class of policyholders,
 724 against an insurer or insurers and does not prohibit
 725 an insurer from exercising its right to repair damaged

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

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 726 property in compliance with the terms of an applicable
 727 policy.
 728
 729 YOU HAVE THE RIGHT TO:
 730 1. Receive from your insurance company an
 731 acknowledgment of your reported claim within 14 days
 732 after the time you communicated the claim.
 733 2. Upon written request, receive from your
 734 insurance company within 30 days after you have
 735 submitted a complete proof-of-loss statement to your
 736 insurance company, confirmation that your claim is
 737 covered in full, partially covered, or denied, or
 738 receive a written statement that your claim is being
 739 investigated.
 740 3. Within 90 days, subject to any dual interest
 741 noted in the policy, receive full settlement payment
 742 for your claim or payment of the undisputed portion of
 743 your claim, or your insurance company's denial of your
 744 claim.
 745 4. Receive payment of interest, as provided in s.
 746 627.70131, Florida Statutes, from your insurance
 747 company, which begins accruing from the date your
 748 claim is filed if your insurance company does not pay
 749 full settlement of your initial, reopened, or
 750 supplemental claim or the undisputed portion of your
 751 claim or does not deny your claim within 90 days after
 752 your claim is filed. The interest, if applicable, must
 753 be paid when your claim or undisputed portion of your
 754 claim is paid.

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755 5. Free mediation of your disputed claim by the
756 Florida Department of Financial Services, Division of
757 Consumer Services, under most circumstances and
758 subject to certain restrictions.

759 ~~6.5-~~ Neutral evaluation of your disputed claim,
760 if your claim is for damage caused by a sinkhole and
761 is covered by your policy.

762 ~~7.6-~~ Contact the Florida Department of Financial
763 Services, Division of Consumer Services' toll-free
764 helpline for assistance with any insurance claim or
765 questions pertaining to the handling of your claim.
766 You can reach the Helpline by phone at...(toll-free
767 phone number)..., or you can seek assistance online at
768 the Florida Department of Financial Services, Division
769 of Consumer Services' website at...(website
770 address)....

771
772 YOU ARE ADVISED TO:

773 1. Contact your insurance company before entering
774 into any contract for repairs to confirm any managed
775 repair policy provisions or optional preferred
776 vendors.

777 2. Make and document emergency repairs that are
778 necessary to prevent further damage. Keep the damaged
779 property, if feasible, keep all receipts, and take
780 photographs or video of damage before and after any
781 repairs to provide to your insurer.

782 3. Carefully read any contract that requires you
783 to pay out-of-pocket expenses or a fee that is based

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784 on a percentage of the insurance proceeds that you
785 will receive for repairing or replacing your property.

786 4. Confirm that the contractor you choose is
787 licensed to do business in Florida. You can verify a
788 contractor's license and check to see if there are any
789 complaints against him or her by calling the Florida
790 Department of Business and Professional Regulation.
791 You should also ask the contractor for references from
792 previous work.

793 5. Require all contractors to provide proof of
794 insurance before beginning repairs.

795 6. Take precautions if the damage requires you to
796 leave your home, including securing your property and
797 turning off your gas, water, and electricity, and
798 contacting your insurance company and provide a phone
799 number where you can be reached.

800 Section 25. Paragraph (a) of subsection (1) and subsection
801 (6) of section 631.57, Florida Statutes, are amended to read:
802 631.57 Powers and duties of the association.-

803 (1) The association shall:

804 (a)1. Be obligated to the extent of the covered claims
805 existing:

806 a. Prior to adjudication of insolvency and arising within
807 30 days after the determination of insolvency;

808 b. Before the policy expiration date if less than 30 days
809 after the determination; or

810 c. Before the insured replaces the policy or causes its
811 cancellation, if she or he does so within 30 days of the
812 determination.

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813 2. The obligation under subparagraph 1. includes ~~only~~ the
 814 amount of each covered claim which is ~~in excess of \$100 and is~~
 815 less than \$300,000, except that policies providing coverage for
 816 homeowner's insurance ~~must~~ shall provide for an additional
 817 \$200,000 for the portion of a covered claim which relates only
 818 to the damage to the structure and contents.

819 3.a. Notwithstanding subparagraph 2., the obligation under
 820 subparagraph 1. for policies covering condominium associations
 821 or homeowners' associations, which associations have a
 822 responsibility to provide insurance coverage on residential
 823 units within the association, ~~includes~~ shall include that amount
 824 of each covered property insurance claim which is less than
 825 \$200,000 multiplied by the number of condominium units or other
 826 residential units; however, as to homeowners' associations, this
 827 sub-subparagraph applies only to claims for damage or loss to
 828 residential units and structures attached to residential units.

829 b. Notwithstanding sub-subparagraph a., the association has
 830 no obligation to pay covered claims that are to be paid from the
 831 proceeds of bonds issued under s. 631.695. However, the
 832 association shall assign and pledge the first available moneys
 833 from all or part of the assessments to be made under paragraph
 834 (3) (a) to or on behalf of the issuer of such bonds for the
 835 benefit of the holders of such bonds. The association shall
 836 administer any such covered claims and present valid covered
 837 claims for payment in accordance with the provisions of the
 838 assistance program in connection with which such bonds have been
 839 issued.

840 4. ~~In no event shall~~ The association may not be obligated
 841 to a policyholder or claimant in an amount in excess of the

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842 obligation of the insolvent insurer under the policy from which
 843 the claim arises.

844 (6) The association may extend the time limits specified in
 845 paragraph (1) (a) by up to an additional 60 days ~~or waive the~~
 846 ~~applicability of the \$100 deductible specified in paragraph~~
 847 ~~(1) (a) if the board determines it is that either or both such~~
 848 ~~actions are necessary to facilitate the bulk assumption of~~
 849 obligations.

850 Section 26. Subsection (2) of section 631.904, Florida
 851 Statutes, is amended to read:

852 631.904 Definitions.—As used in this part, the term:

853 (2) "Covered claim" means an unpaid claim, including a
 854 claim for return of unearned premiums, which arises out of, is
 855 within the coverage of, and is not in excess of the applicable
 856 limits of, an insurance policy to which this part applies, which
 857 policy was issued by an insurer and which claim is made on
 858 behalf of a claimant or insured who was a resident of this state
 859 at the time of the injury. The term "covered claim" includes
 860 unpaid claims under any employer liability coverage of a
 861 workers' compensation policy limited to the lesser of \$300,000
 862 or the limits of the policy. The term "covered claim" does not
 863 include any amount sought as a return of premium under any
 864 retrospective rating plan; any amount due any reinsurer,
 865 insurer, insurance pool, or underwriting association, as
 866 subrogation recoveries or otherwise; or any claim that would
 867 otherwise be a covered claim that has been rejected or denied by
 868 any other state guaranty fund based upon that state's statutory
 869 exclusions, including, but not limited to, those based on
 870 coverage, policy type, or an insured's net worth, except this

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871 exclusion from the definition of covered claim does not apply to
872 employers who, prior to April 30, 2004, entered into an
873 agreement with the corporation preserving the employer's right
874 to seek coverage of claims rejected by another state's guaranty
875 fund, ~~or any return of premium resulting from a policy that was~~
876 ~~not in force on the date of the final order of liquidation.~~
877 Member insurers have no right of subrogation against the insured
878 of any insolvent insurer. This provision applies retroactively
879 to cover claims of an insolvent self-insurance fund resulting
880 from accidents or losses incurred prior to January 1, 1994,
881 regardless of the date the petition in circuit court was filed
882 alleging insolvency and the date the court entered an order
883 appointing a receiver.

884 Section 27. Except as otherwise expressly provided in this
885 act, this act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 1, 2021

I respectfully request that **Senate Bill #1598**, relating to Consumer Protection, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: Tim Sadberry, Staff Director
Alicia Weiss, Committee Administrative Assistant

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/15

Meeting Date

1598

Bill Number (if applicable)

205350

Amendment Barcode (if applicable)

Topic Consumer Protection

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address 2L 17, The Capitol

Phone (850) 413-2890

Tallahassee

FL

32399

Email Meredith.Stanfield@myFloridaCFO.com

Speaking: For Against Information

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

Representing CFO Jimmy Patronis

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)

4/15
Meeting Date

1598
Bill Number (if applicable)

Topic Consumer Protection

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol
Street

Phone (850) 413-2890

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State

32399
Zip

Email Meredith.Stanfield@myfloridacfo.com

Speaking: For Against Information

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

Representing CFO Jimmy Patronis

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

SB 1598

Bill Number (if applicable)

Topic Consumer Protection

Amendment Barcode (if applicable)

Name Tim Meenan

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Phone 850-425-4000

Street

Tallahassee

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32302

Email tim@meenanlawfirm.com

City

State

Zip

Speaking: For Against Information

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

Representing NAIFA-FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21

Meeting Date

1598

Bill Number (if applicable)

Topic Consumer Protection

Amendment Barcode (if applicable)

Name BG Murphy

Job Title Director of Government Affairs

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Phone 850-893-4155

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Tallahassee

FL

32309

Email bmurphy@faia.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Insurance Agents

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 Appropriations

BILL: CS/SB 1728

INTRODUCER: Education Committee and Senator Baxley and others

SUBJECT: Out-of-state Fee Waiver for Nonresident Students

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
2.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1728 establishes an interstate compact and provides an out-of-state fee waiver, applicable for up to 110 percent of the number of required credit hours of the enrolled degree program, for a nonresident student who:

- Is a United States citizen;
- Has a grandparent who is a legal resident;
- Earns the equivalent of a standard Florida high school diploma;
- Achieves an SAT combined score no lower than the 89th national percentile or appropriate concordant score on the ACT or the Classic Learning Test; and
- Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.

The interstate compact is intended to increase access to postsecondary education to students with families split across states, and to increase postsecondary educational choice, by providing a reciprocity agreement between states. The interstate compact fee waiver may be applied when the compact is enacted into law by two states. The bill also provides for state oversight of, withdrawal from, and amendment to the compact.

The bill does not require a state appropriation. However, state universities will have reduced revenues from out-of-state fees for each eligible student that enrolls at a Florida state university. See Section V.

The bill has an indeterminate fiscal impact.

The bill takes effect July 1, 2021.

II. Present Situation:

Tuition and Out-of-State Fees

Tuition is the basic fee a student is charged for instruction provided by a public postsecondary educational institution in Florida. An out-of-state fee is charged as an additional fee for a student who does not qualify for the in-state tuition rate.¹

Residency for Tuition Purposes

A legal resident of Florida for tuition purposes means one who has maintained his or her residence in this state for the preceding year, has purchased and occupies a home as primary residence, or has established a domicile in this state.² For tuition purposes, a person who does not qualify for the in-state tuition rate is considered a nonresident.³ Grandparents are unable to serve as family members who are able to provide residency documentation for residency for tuition purposes unless the grandparents are currently the student's legal guardian or have had daily supervision of the dependent student for the past three years.⁴

Unless costs are exempted or waived, residents for tuition purposes are charged the in-state rate for tuition while nonresident students pay the out-of-state fees in addition to tuition.⁵ The in-state tuition rate for Florida residents for the State University System (SUS) is currently set at \$105.07 per credit hour.⁶ The average cost of resident and nonresident tuition and fees per credit is shown in the table below.⁷

¹ Section 1009.01(1) and (2), F.S. The in-state tuition rate is defined in s. 1009.21(1)(g), F.S.

² Section. 1009.21(1)(d), F.S. To qualify as a resident for tuition purposes, a person or, if that person is a dependent child, his or her parent or parents, must have established legal residence in this state and must have maintained legal residence in this state for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education. Section 1009.21(2)(a)1., F.S.

³ Section 1009.21(1)(e), F.S. In general, nonresidents are ineligible for state merit- and need-based financial aid and tuition assistance. Section 1009.40(1)(a)2., F.S. However, specified nonresident students may be eligible for a Benacquisto Scholarship. Section 1009.893(4)(b), F.S.

⁴ Board of Governors, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

⁵ Section 1009.24(2), F.S.

⁶ Section 1009.24(4)(a), F.S.

⁷ State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 4.

State University Tuition & Fees				
Undergraduate Baccalaureate	Standard Tuition (Per Credit Hour)	Average Tuition & Fees (Per Credit Hour)	Standard Tuition (Per 30 Credit Hours)	Average Tuition & Fees (Per 30 Credit Hours)
Resident	\$105.07	\$199.72	\$3,152.10	\$5,991.79
Nonresident ⁸	\$105.07	\$690.63	\$3,152.10	\$20,719.07
Difference	-	\$490.91	-	\$14,727.28

The Board of Governors (BOG) of the SUS currently limits the systemwide enrollment of out-of-state students to ten percent.⁹

Fee Waivers

Florida law provides for waivers from specified fees to certain students who meet identified criteria.¹⁰ Some waivers are mandatory,¹¹ while others are permissive.¹² Each university board of trustees is authorized to waive tuition and out-of-state fees for purposes that support and enhance the mission of the university. All fees waived must be based on policies that are adopted by the university board of trustees pursuant to BOG regulations.¹³ Each state university is required to report the purpose, number, authority, and value of all fee waivers and exemptions granted annually in a format prescribed by the BOG.¹⁴

Interstate Compacts

An interstate compact is an agreement between or among two or more states of the United States. To become effective, it must be approved by those states' respective legislatures and, depending on the subject matter of the compact, consented to by Congress.¹⁵

Florida currently partners in a number of interstate compacts, including the Interstate Compact on Mental Health,¹⁶ the Southeastern Interstate Forest Fire Protection Compact,¹⁷ the Interstate

⁸ The BOG may establish out-of-state fees. Section 1009.24(4)(b), F.S.

⁹ BOG Regulation 7.006. The total systemwide nonresident enrollment is currently at nine percent. Board of Governors, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

¹⁰ Section 1009.26, F.S.

¹¹ Section 1009.26 (5), (7)-(8), (12)-(14), F.S.

¹² Section 1009.26 (1)-(4), (6), (9)-(11), (15)-(16), F.S.

¹³ Section 1009.26(9), F.S.

¹⁴ Board of Governors Regulation 7.008(5).

¹⁵ Library of Congress, *Interstate Compacts: United States* (June 2018), available at <https://www.loc.gov/law/help/interstate-compacts/us-interstate-compacts.pdf>, at 1. Although the U.S. Constitution contains an express requirement for approval by Congress of compacts between states, the U.S. Supreme Court has held that some agreements between states do not require such congressional consent. *Id.* at 2. The Court in 1893 stated in *Virginia v. Tennessee* that congressional consent is required only for a compact if it is "directed to the formation of any combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States." *Virginia v. Tennessee*, 148 U.S. 503, 519 (1893).

¹⁶ See s. 394.479, F.S.

¹⁷ See s. 590.31, F.S.

Insurance Product Regulation Compact,¹⁸ the Interstate Corrections Compact,¹⁹ The Regional Compact for Southern States,²⁰ and the Interstate Compact on Educational Opportunity for Military Children.²¹

In addition, Florida also participates in a reciprocity agreement with other states for the delivery of postsecondary distance education. Each member state or institution participating in a reciprocity agreement must accept each other's authorization of accredited institutions to operate in their state to offer distance educational services beyond state boundaries.²²

High School Graduation and College Entrance Requirements

High School Diploma Requirements

Receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum. In order to graduate from a Florida high school with a standard high school diploma under a 24-credit option, a student must complete:

- Four credits in English Language Arts;
- Four credits in mathematics, including one credit in Algebra I and one credit in Geometry;
- Three credits in science, of which two credits must have a laboratory component;
- Three credits in social studies, comprised of one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government;
- One credit in fine or performing arts, speech and debate, or practical arts;
- One credit in physical education; and
- Eight credits in electives.²³

Home Education Program

A home education program in Florida means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy attendance requirements specified in law.²⁴ Students completing a home education program satisfy the state university admissions requirement that a student earn a high school diploma or equivalent, but each university may require additional documentation to verify eligibility.²⁵

¹⁸ See s. 626.9932, F.S.

¹⁹ See s. 941.56, F.S.

²⁰ Sections 1000.31 and 1000.32, F.S. The Regional Compact created the Southern Regional Education Board.

²¹ Section 100.39, F.S. The Interstate Compact on Educational Opportunity for Military Children is scheduled for repeal on July 1, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. Section 1000.40, F.S.

²² Section 1000.35, F.S.

²³ Section 1003.4282(1)(a) and (3), F.S. A student who completes the Career and Technical Education Pathway is not required to complete one credit in fine or performing arts, speech and debate, or practical arts; one credit in physical education, and eight credits in electives. Section 1002.4282(11), F.S. A student who completes the 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option under s. 1002.3105, F.S., is not required to complete the physical education or elective requirements. A student with a disability may satisfy standard high school diploma options as specified in the student's individual education plan. Section 1003.4282(10), F.S.

²⁴ Section 1002.01(1), F.S.

²⁵ Board of Governors Regulation 6.002(1)(d).

College Entrance Exams

College entrance exams accepted by institutions of higher education in Florida include the SAT, the ACT, and the Classic Learning Test (CLT).²⁶

The SAT is comprised of sections that assess skills in reading, writing and language, math, and analysis in science.²⁷ Income-eligible SAT takers receive college application fee waivers and all students can select to receive free information about admission and financial aid from colleges, universities, and scholarship programs.²⁸ Nationally, close to 2.2 million students in the class of 2020 took the SAT.²⁹

The ACT contains multiple-choice tests in four areas: English, mathematics, reading, and science.³⁰ Nearly 1.8 million graduates in the United States took the ACT during high school.³¹

The CLT is an online college entrance exam that assesses English, mathematical, and critical reasoning skills.³² The CLT is taken online and offers scoring within 24 hours.³³ As of 2019, about 21,000 students took the CLT.³⁴

III. Effect of Proposed Changes:

The bill modifies s. 1009.26, F.S., to specify that a state university must waive the out-of-state fee for a nonresident student who meets all of the following criteria:

- Is a United States citizen.
- Has a grandparent who is a legal resident.
- Earns a high school diploma comparable to a standard Florida high school diploma, or its equivalency, or completes a home education program.
- Achieves an SAT combined score no lower than the 89th national percentile on the SAT; achieves an ACT score concordant to the required SAT score as specified, using the latest published national concordance table developed jointly by the College Board and ACT, Inc.; or if a state university accepts the Classic Learning Test (CLT) for admission purposes, achieves a CLT score concordant to the required SAT score as specified, using the latest published scoring comparison developed by Classic Learning Initiatives.³⁵

²⁶ Board of Governors Regulation 6.002 requires first-time, degree-seeking students to provide an ACT, Inc. or SAT score for admission purposes.

²⁷ CollegeBoard, *SAT Test Description*, <https://collegereadiness.collegeboard.org/sat/inside-the-test/sat-test-description> (last visited March 10, 2021).

²⁸ CollegeBoard, *Benefits*, <https://collegereadiness.collegeboard.org/about/benefits> (last visited March 10, 2021).

²⁹ CollegeBoard *SAT Suite of Assessments Annual Report* (2020), available at <https://reports.collegeboard.org/pdf/2020-total-group-sat-suite-assessments-annual-report.pdf>, at 3.

³⁰ ACT, *The ACT Test*, <http://www.act.org/content/act/en/products-and-services/the-act.html> (last visited March 10, 2021).

³¹ ACT, *About ACT*, <https://www.act.org/content/act/en/about-act.html> (last visited March 10, 2021).

³² CLT, *Products*, <https://www.cltextam.com/products> (last visited March 10, 2021).

³³ CLT, *CLT vs. SAT vs. ACT*, <https://www.cltextam.com/comparison> (last visited March 19, 2021).

³⁴ Scott Jaschik, *The Classical Alternative to the SAT*, Inside Higher Ed, Oct. 21, 2019, available at <https://www.insidehighered.com/admissions/article/2019/10/21/classic-learning-test-aims-challenge-sat#:~:text=The%20test%20had%20more%20than,the%20same%20took%20the%20ACT.>

³⁵ The 89th percentile for the SAT is 1330. CollegeBoard, *SAT: Understanding Scores* (2020), available at <https://collegereadiness.collegeboard.org/pdf/understanding-sat-scores.pdf>, at 5. This could be compared with the grade of 85 on the CLT. CLT, *CLT vs. SAT vs. ACT*, <https://www.cltextam.com/comparison> (last visited March 19, 2021). The ACT

- Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.³⁶

For the fee waiver, the bill specifies that:

- This waiver is applicable for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled.³⁷ Most SUS baccalaureate degree programs are set at 120 credit hours, which would authorize the tuition discount for up to 132 credit hours.
- Prior to waiving the out-of-state fee, the state university must require the student, or the student's parent if the student is a dependent child, to provide a written declaration pursuant to law³⁸ verifying the student's familial relationship to a grandparent who is a legal resident.³⁹
- Each state university must report to the Board of Governors (BOG) the number and value of all fee waivers granted annually.
- A nonresident student granted an out-of-state fee waiver under this subsection must be excluded from the limitation on systemwide total enrollment of nonresident students established by regulation of the BOG, currently set at 10 percent.⁴⁰
- The BOG adopt regulations to administer the fee waiver.

The bill creates s. 1009.261, F.S., to establish an interstate compact specifying the purposes of the grandchild out-of-state fees waiver compact are to:

- Increase access to postsecondary education to students whose families are split between two or more states by reducing costs associated with out-of-state fees.
- Encourage students to exercise their rights to travel and to choose the postsecondary education that best suits their needs.
- Increase postsecondary educational choices.
- Decrease the economic burden posed by postsecondary out-of-state fees.

The interstate compact applies the criteria from the fee waiver, with a modification to the assessment provision, to authorize postsecondary educational institutions located within each member state to waive out-of-state fees for a nonresident student who:

- Is a United States citizen;
- Has a grandparent who is a legal resident under the applicable laws of the member state;

concordant score to an SAT score of 1330 is 29. CollegeBoard, ACT, *Guide to the 2018 ACT/SAT Concordance*, available at <https://collegereadiness.collegeboard.org/pdf/guide-2018-act-sat-concordance.pdf>.

³⁶ The BOG has noted that the bill does not specify whether students currently enrolled might qualify for the waiver if they meet the specified qualifications. BOG, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

³⁷ The BOG has noted that the bill should clarify that the waiver applies only to the initial undergraduate degree in which the student enrolls, and is not applicable to subsequent baccalaureate or graduate or professional degrees. BOG, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

³⁸ A written declaration is a statement declaring, under penalty of perjury, that one has read and verifies the specified document, followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law. Section 92.525(2), F.S.

³⁹ The bill does not stipulate the documentation required to verify residency beyond the student's written declaration, or, if the student is a dependent, that of the parent. BOG, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

⁴⁰ Board of Governors Regulation 7.006.

- Achieves an SAT combined score no lower than the 89th national percentile on the SAT, or a concordant ACT score or concordant CLT score, as designated in the latest published national concordance table developed jointly by the College Board and ACT, Inc. or designated in the latest published scoring comparison developed by Classic Learning Initiatives, but only if the member state postsecondary institution accepts the CLT for admission purposes; and
- Enrolls as a full-time undergraduate student at a member state postsecondary institution in the fall academic term immediately following high school graduation.

In addition, in an identical manner to the fee waiver, the interstate compact waiver is applicable for up to 110 percent of the number of required credit hours of the degree program in which the student is enrolled, and prior to waiving any out-of-state fees, a member state postsecondary educational institution must require the student, or the student's parent if the student is a dependent child, to provide a written declaration verifying the student's familial relationship to a grandparent who is a legal resident of the member state.

For the interstate compact, the bill further specifies that:

- The executive, legislative, and judicial branches of state government in each member state are to enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact have standing as statutory law.
- The compact takes effect on the date on which it is enacted into law by two states. Thereafter, it is effective as to any state upon its enactment by that state.
- A member state may withdraw from this compact by repealing the statute in which it is enacted. A member state's withdrawal may not take effect until 6 months after enactment of the repeal.
- This compact may not be construed to invalidate or prohibit any law of a member state that does not conflict with the provisions of this compact.
- This compact may be amended by the member states. An amendment to this compact is effective and binding after it is enacted into the laws of all member states.
- The provisions of this compact are severable, and if any phrase, clause, sentence, or provision thereof is declared to be contrary to the constitution of any state or to the Constitution of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby.

For the interstate compact, the bill includes the following definitions:

- "Grandparent" means a person who has a legal relationship to a student's parent as the natural or adopted parent or legal guardian of the student's parent.
- "Member state" means a state that has enacted this compact.
- "Out-of-state fees" means any additional fee for instruction, which is charged to a student who does not qualify for the in-state tuition rate pursuant to the laws of a member state, imposed by a public postsecondary educational institution located within the member state. A charge for any other purpose may not be included within this fee.
- "Postsecondary educational institution" means a public university or college located within a member state.

- “State” includes the District of Columbia and any state, territory, or possession of the United States that oversees one or more public postsecondary educational institutions.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Providing in-state tuition for out-of-state high-school graduates who meet specified criteria, including having a grandparent who is a Florida resident, may increase the number of students residing and enrolled in postsecondary institutions in Florida. Ensuring interstate compacts exists between states regarding which students qualify for fee waivers may enable Florida students to enroll in out-of-state postsecondary institutions in member states at reduced cost.

C. Government Sector Impact:

The bill does not require a state appropriation. However, state universities will have reduced revenues from out-of-state fees for each eligible student. The number of students who will qualify for and make use of the out-of-state fee waiver is unknown. For each student who participates in the waiver, a state university would collect only the resident undergraduate tuition and fees, which systemwide averages \$199.72 per credit hour,

instead of nonresident undergraduate tuition and fees, which systemwide averages \$690.63 per credit hour.⁴¹ The Board of Governors (BOG) estimates that there could be a \$1.7 million fiscal impact to the State University System.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.26 of the Florida Statutes.

This bill creates section 1009.261 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 Education on March 23, 2021:

The committee substitute creates a new section of law, in addition to the waiver program created by the original bill, to establish a new interstate compact. Specifically, the committee substitute declares the purposes of the grandchild out-of-state fees waiver compact to:

- Increase access to postsecondary education to students whose families are split between two or more states by reducing costs associated with out-of-state fees.
- Encourage students to exercise their rights to travel and to choose the postsecondary education that best suits their needs.
- Increase postsecondary educational choices.
- Decrease the economic burden posed by postsecondary out-of-state fees.

Additionally, the committee substitute specifies that:

- The executive, legislative, and judicial branches of state government in each member state are to enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent.
- The compact takes effect on the date on which it is enacted into law by two states. Thereafter it is effective as to any state upon its enactment by that state.
- A member state may withdraw from this compact by repealing the statute in which it is enacted. A member state's withdrawal may not take effect until 6 months after enactment of the repeal.

⁴¹ State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 1.

⁴² BOG, *Senate Bill 1728 Agency Bill Analysis* (March 4, 2021).

- This compact may not be construed to invalidate or prohibit any law of a member state that does not conflict with the provisions of this compact.
- This compact may be amended by the member states. An amendment to this compact is effective and binding after it is enacted into the laws of all member states.

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 Education; and Senators Baxley and Garcia

581-03260-21

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1 A bill to be entitled
 2 An act relating to an out-of-state fee waiver for
 3 nonresident students; amending s. 1009.26, F.S.;
 4 requiring a state university to waive the out-of-state
 5 fee for a nonresident student who meets certain
 6 requirements; providing applicability; requiring each
 7 state university to report specified information
 8 regarding such out-of-state fee waivers to the Board
 9 of Governors annually; requiring that a student who is
 10 granted such out-of-state fee waiver be excluded from
 11 the limitation on the systemwide total enrollment of
 12 nonresident students; requiring the Board of Governors
 13 to adopt regulations; creating s. 1009.261, F.S.;
 14 enacting the Grandchild Out-of-State Fees Waiver
 15 Compact; providing the purposes of the compact;
 16 defining terms; requiring postsecondary educational
 17 institutions located within member states to waive
 18 out-of-state fees for students who meet specified
 19 criteria; providing that the waiver is applicable for
 20 up to a specified amount of credits; requiring member-
 21 state postsecondary educational institutions to
 22 require a student, or the student's parent if the
 23 student is a dependent child, to provide a written
 24 declaration verifying eligibility; requiring the
 25 executive, legislative, and judicial branches of
 26 member state governments to enforce the compact;
 27 providing that the provisions of the compact have
 28 standing as statutory law; providing for the
 29 implementation, withdrawal, and amendment of the

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30 compact; providing construction; providing an
 31 effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Subsection (18) is added to section 1009.26,
 36 Florida Statutes, to read:
 37 1009.26 Fee waivers.—
 38 (18) (a) A state university shall waive the out-of-state fee
 39 for a nonresident student who:
 40 1. Is a United States citizen.
 41 2. Has a grandparent who is a legal resident as defined in
 42 s. 1009.21(1).
 43 3. Earns a high school diploma comparable to a standard
 44 Florida high school diploma, or its equivalency, or completes a
 45 home education program.
 46 4.a. Achieves an SAT combined score no lower than the 89th
 47 national percentile on the SAT;
 48 b. Achieves an ACT score concordant to the required SAT
 49 score in sub-subparagraph a., using the latest published
 50 national concordance table developed jointly by the College
 51 Board and ACT, Inc.; or
 52 c. If a state university accepts the Classic Learning Test
 53 (CLT) for admission purposes, achieves a CLT score concordant to
 54 the required SAT score in sub-subparagraph a., using the latest
 55 published scoring comparison developed by Classic Learning
 56 Initiatives.
 57 5. Enrolls as a full-time undergraduate student at a state
 58 university in the fall academic term immediately following high

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59 school graduation.

60 (b) The waiver under this subsection is applicable for up
 61 to 110 percent of the number of required credit hours of the
 62 degree program for which the student is enrolled.

63 (c) Prior to waiving the out-of-state fee, the state
 64 university shall require the student, or the student's parent if
 65 the student is a dependent child, to provide a written
 66 declaration pursuant to s. 92.525(2) verifying the student's
 67 familial relationship to a grandparent who is a legal resident.

68 (d) Each state university shall report to the Board of
 69 Governors the number and value of all fee waivers granted
 70 annually under this subsection.

71 (e) A nonresident student granted an out-of-state fee
 72 waiver under this subsection shall be excluded from the
 73 limitation on systemwide total enrollment of nonresident
 74 students established by regulation of the Board of Governors.

75 (f) The Board of Governors shall adopt regulations to
 76 administer this subsection.

77 Section 2. Section 1009.261, Florida Statutes, is created
 78 to read:

79 1009.261 Grandchild Out-of-State Fees Waiver Compact.—The
 80 Grandchild Out-of-State Fees Waiver Compact is enacted into law
 81 and entered into by this state with all other jurisdictions
 82 legally joining therein in the form substantially as follows:

83
 84 GRANDCHILD OUT-OF-STATE
 85 FEES WAIVER COMPACT

86
 87 ARTICLE I

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88 DECLARATION OF PURPOSE

89
 90 The general purposes of this compact are to:

91 (1) Increase access to postsecondary education to students
 92 whose families are split between two or more states by reducing
 93 costs associated with out-of-state fees.

94 (2) Encourage students to exercise their rights to travel
 95 and to choose the postsecondary education that best suits their
 96 needs.

97 (3) Increase postsecondary educational choices.

98 (4) Decrease the economic burden posed by postsecondary
 99 out-of-state fees.

100
 101 ARTICLE II

102 DEFINITIONS

103
 104 As used in this compact, the term:

105 (1) "Grandparent" means a person who has a legal
 106 relationship to a student's parent as the natural or adopted
 107 parent or legal guardian of the student's parent.

108 (2) "Member state" means a state that has enacted this
 109 compact.

110 (3) "Out-of-state fees" means any additional fee for
 111 instruction, which is charged to a student who does not qualify
 112 for the in-state tuition rate pursuant to the laws of a member
 113 state, imposed by a public postsecondary educational institution
 114 located within the member state. A charge for any other purpose
 115 may not be included within this fee.

116 (4) "Postsecondary educational institution" means a public

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117 university or college located within a member state.

118 (5) "State" includes the District of Columbia and any
 119 state, territory, or possession of the United States which
 120 oversees one or more public postsecondary educational
 121 institutions.

122 (6) "Student's parent" means a person who has a legal
 123 relationship to a student as the natural or adopted parent or
 124 legal guardian of the student.

125
 126 ARTICLE III

127 OUT-OF-STATE FEES WAIVER

128
 129 (1) Postsecondary educational institutions located within
 130 each member state shall waive out-of-state fees for a
 131 nonresident student who:

132 (a) Is a United States citizen.

133 (b) Has a grandparent who is a legal resident under the
 134 applicable laws of the member state.

135 (c)1. Achieves an SAT combined score no lower than the 89th
 136 national percentile on the SAT;

137 2. Achieves an ACT score concordant to the SAT score
 138 required in subparagraph 1., as designated in the latest
 139 published national concordance table developed jointly by the
 140 College Board and ACT, Inc.; or

141 3. Achieves a Classic Learning Test (CLT) score concordant
 142 to the required SAT score in subparagraph 1., as designated in
 143 the latest published scoring comparison developed by Classic
 144 Learning Initiatives, but only if the member state postsecondary
 145 institution accepts the CLT for admission purposes.

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146 (d) Enrolls as a full-time undergraduate student at a
 147 member state postsecondary institution in the fall academic term
 148 immediately following high school graduation.

149 (2) The waiver under this compact is applicable for up to
 150 110 percent of the number of required credit hours of the degree
 151 program in which the student is enrolled.

152 (3) Prior to waiving any out-of-state fees, a member state
 153 postsecondary educational institution shall require the student,
 154 or the student's parent if the student is a dependent child, to
 155 provide a written declaration verifying the student's familial
 156 relationship to a grandparent who is a legal resident of the
 157 member state.

158
 159 ARTICLE IV

160 OVERSIGHT

161
 162 The executive, legislative, and judicial branches of state
 163 government in each member state shall enforce this compact and
 164 take all actions necessary and appropriate to effectuate the
 165 compact's purposes and intent. The provisions of this compact
 166 have standing as statutory law.

167
 168 ARTICLE V

169 DATE OF IMPLEMENTATION, WITHDRAWAL, AND AMENDMENT

170
 171 (1) The compact shall take effect on the date on which it
 172 is enacted into law by two states. Thereafter it is effective as
 173 to any state upon its enactment by that state.

174 (2) A member state may withdraw from this compact by

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175 repealing the statute in which it is enacted. A member state's
176 withdrawal may not take effect until 6 months after enactment of
177 the repeal.

178 (3) This compact may not be construed to invalidate or
179 prohibit any law of a member state that does not conflict with
180 the provisions of this compact.

181 (4) This compact may be amended by the member states. An
182 amendment to this compact is effective and binding after it is
183 enacted into the laws of all member states.

184
185 ARTICLE VI

186 CONSTRUCTION AND SEVERABILITY

187
188 This compact shall be liberally construed so as to
189 effectuate its purposes. The provisions of this compact are
190 severable, and if any phrase, clause, sentence, or provision
191 thereof is declared to be contrary to the constitution of any
192 state or to the Constitution of the United States, or the
193 application thereof to any government, agency, person, or
194 circumstance is held invalid, the validity of the remainder of
195 this compact and the applicability thereof to any government,
196 agency, person, or circumstance is not affected thereby. If this
197 compact is held to be contrary to the constitution of any state
198 participating therein, it remains in full force and effect as to
199 the state affected as to all severable provisions.

200 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 Appropriations

BILL: CS/SB 1864

INTRODUCER: Appropriations Committee; and Senators Perry and Diaz

SUBJECT: Education

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1864 requires the Department of Education (DOE) to maintain a list of persons permanently disqualified from employment in a public school or a private school that participates in a state educational scholarship program (private scholarship school). The bill requires this disqualification list to include the identities of persons who were terminated or resigned from employment as a result of sexual misconduct with a student and prohibits public schools and private scholarship schools, from employing a person in a position with direct contact with students if the person is included on the disqualification list. The bill also:

- Requires that educational support employees be included to the same extent required for instructional personnel and school administrators in policies establishing standards of ethical conduct and procedures for investigating, reporting, and terminating personnel.
- Requires the complete investigation of complaints of misconduct by public school personnel and provides authority for the DOE to place a person on the disqualification list.
- Provides that a person on the disqualification list commits a felony of the third degree for serving or applying for employment in a public or private scholarship school.
- Provides authority for the DOE to remove a person from the disqualification list.

The bill has a state fiscal impact and may increase cost for school districts and for private schools that participate in state school choice scholarship programs. DOE projects needing a total of three additional staff to perform administrative activities outlined in this bill, at a projected recurring cost of \$262,522. In addition, the DOE estimates needing between \$200,000

and \$500,000 to modify the administrative and instructional staff database to meet the requirements of the bill. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

The Department of Education (DOE) is required to provide technical assistance to school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program (private scholarship schools) in the development of policies, procedures, and training related to employment practices and standards of ethical conduct for instructional personnel and school administrators. In addition, the DOE is required to provide authorized staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private scholarship schools with access to:

- The Professional Practices' Database of Disciplinary Actions Against Educators;
- The DOE's Teacher Certification Database; and
- Data necessary for performing employment history checks of the instructional personnel and school administrators included in the databases.¹

Disqualification from Employment

Before employing a person in any position that requires direct contact with students in a district school, charter school, or private scholarship school, the employer must conduct employment history checks of each of the person's previous employers, screen instructional personnel and school administrators using the Professional Practices' Database of Disciplinary Actions Against Educators and the DOE's Teacher Certification Database, and document the findings.²

A person is ineligible for an educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or private scholarship school if the person has been convicted of certain offenses specified in law.³ District school boards and charter school governing boards must disqualify instructional personnel and school administrators from employment in any position that requires direct contact with students if the person is ineligible for employment due to a conviction of any of the specified offenses.

A school district or private scholarship school may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination. School districts and private scholarship schools must disclose misconduct that affects the health, safety, or welfare of a student when discussing performance with prospective employers in another educational setting. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators that affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.⁴

¹ Section 1001.10(4) and (5), F.S.

² Sections 1002.33(12), 1002.421(1), and 1012.27(6), F.S.

³ Section 1012.315, F.S.

⁴ *Id.*

Criminal History Background Screening

Public Schools

Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in any public school, including a charter school, must file with the district school board a complete set of fingerprints, which are submitted to the Florida Department of Law Enforcement (FDLE), for statewide criminal and juvenile records checks, and to the Federal Bureau of Investigation (FBI), for national criminal records checks.⁵ The screening cost is borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.⁶ FBI criminal history record information may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.⁷ The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting school district or the school district with which the person is affiliated.⁸ Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.⁹

Private Schools Accepting State Scholarship Students

A private scholarship school must require each employee, contracted personnel, and owner or operator with direct student contact to undergo a state and national background screening by electronically filing a complete set of fingerprints with the FDLE. The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting private scholarship school. Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.¹⁰

Standards of Ethical Conduct for Education Personnel

District school boards, charter school governing boards, and private scholarship schools are required to adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators to complete training on the standards of ethical conduct, establish the duty of, and procedures for, instructional personnel and school administrators to report alleged misconduct by other instructional personnel and school administrators that affects the health, safety, or welfare of a student.¹¹ These policies must also include an explanation of liability protections for reporting child abuse and disclosing information concerning former employees.¹²

⁵ Section 1012.32(2), F.S. This requirement is subject to limited exceptions for noninstructional contractors who meet the requirements specified in s. 1012.468, F.S.

⁶ Section 1012.32(2), F.S.

⁷ 28 C.F.R. s. 50.12(b).

⁸ Section 1012.32(3), F.S.

⁹ Sections 1012.465 and 1012.56(10), F.S.

¹⁰ Section 1002.421(1)(m) and (p), F.S.

¹¹ Sections 1001.42(6), 1002.33(12)(g), 1002.421(1)(n), and 1012.796(1)(d), F.S.

¹² Section 1006.061, F.S.

District school board policies must require the superintendent to report to law enforcement misconduct by instructional personnel or school administrators that would result in disqualification from educator certification or employment.¹³

District school board officials and superintendents, charter schools, and private scholarship schools are subject to penalties for failing to adopt policies establishing standards of ethical conduct. Specifically:

- If a school board member knowingly fails to adopt policies that require instructional personnel and school administrators to report misconduct, the member forfeits his or her salary for one year.¹⁴
- A district school superintendent who knowingly fails to investigate or report such misconduct, or knowingly files a false report of misconduct, also forfeits his or her salary for one year.¹⁵
- The sponsor¹⁶ of the charter school must terminate the charter.¹⁷
- The DOE must suspend the payment of funds to a private scholarship school and shall prohibit the school from enrolling new scholarship students for one fiscal year and until the school complies. In the event the private scholarship school consistently fails to comply, the commissioner may determine that the private scholarship school is ineligible to participate in a scholarship program.

The commissioner may deny, suspend, or revoke a private school's participation in a scholarship program if the commissioner determines that:

- An owner or operator of the private scholarship school is operating or has operated an educational institution in this state or in another state or jurisdiction in a manner contrary to health, safety or welfare of the public; or
- The owner or operator has exhibited a previous pattern of failure to comply with the relevant law or specific requirements identified within respective scholarship program laws.¹⁸

Complaints against Teachers and Administrators

A person seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must hold a certificate issued by the DOE.¹⁹ If allegations arise against an employee who possesses an educator certificate and is employed in an educator-certificated position in any public school, charter school, or private scholarship school, the school must file a legally sufficient complaint

¹³ Section 1001.42(6), F.S.

¹⁴ Section 1001.42(7)(b), F.S.

¹⁵ Section 1001.51(12), F.S.

¹⁶ The local district school board or a state university may sponsor a charter school. Section 1002.33(5), F.S.

¹⁷ Section 1002.33(12)(g)5., F.S.

¹⁸ Section 1002.421(3), F.S.

¹⁹ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

with the DOE within 30 days from the date the school had notice of the incident, regardless of whether the subject of the allegations is still employed by the school.²⁰

The DOE is tasked with investigating any legally sufficient complaint filed before it or otherwise called to its attention which contains grounds for sanctions against an educator certificate and must immediately investigate any legally sufficient complaint that involves misconduct by any certificated personnel which affects the health, safety, or welfare of a student, giving the complaint priority over other pending complaints—even if the complainant withdraws the complaint. The DOE may investigate a complaint filed against a person whose educator certificate has expired if the act or acts that are the basis for the complaint were allegedly committed while that person possessed an educator certificate.²¹

A school district superintendent must report to the DOE an arrest or conviction of any administrative or instructional personnel for certain offenses specified by the DOE within twenty-four hours of a matter coming to the attention of a school district. The same reporting requirements apply to substantiated allegations of misconduct by any administrative or instructional personnel that would constitute any of offenses specified by the DOE, regardless of whether there has been an arrest or conviction.²²

The Education Practices Commission

The Education Practices Commission (EPC) is a quasi-judicial body of peers, law enforcement, and lay persons, which interprets and applies the standards of professional practice established by the SBE.²³ The EPC is assigned to the DOE for administrative purposes but is not subject to control, supervision, or direction by the DOE.²⁴

The EPC may impose one or more of the following penalties against a person with an educator certificate:

- Suspend the educator certificate of any instructional personnel or school administrator, for up to five years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the person may return to teaching.
- Revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to law.
- Permanently revoke the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students.
- Suspend an educator's certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or impose any other penalty provided by law.²⁵

²⁰ Section 1012.796(1)(e), F.S.

²¹ Section 1012.796(1), F.S.

²² Rule 6A-10.082, F.A.C.

²³ Section 1012.79, F.S.

²⁴ Section 1012.79(6)(a), F.S.

²⁵ Section 1012.795(1), F.S.

III. Effect of Proposed Changes:

The Florida Department of Education

The bill requires the DOE to maintain a list of persons permanently disqualified from employment in a public school or a private scholarship school. The bill requires this disqualification list to include the identity of any person who has been:²⁶

- Permanently denied an educator certificate or whose educator certificate has been permanently revoked and has been placed on the list by the Education Practices Commission (EPC);
- Permanently disqualified by the commissioner from owning or operating a private scholarship school;
- Terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student; or
- Disqualified from employment due to a conviction of any of the offenses specified in law.

The DOE is authorized to remove a person from the disqualification list if the person demonstrates that:

- A completed law enforcement investigation resulted in an exoneration or no conviction or finding of guilt, and a completed investigation and proceeding, as applicable, by the responsible education agency resulted in a finding that the person did not commit the disqualifying conduct;
- The person was not the subject of the report of disqualifying conduct and was included on the disqualification list in error or as a result of mistaken identity; or
- The employer that submitted the person for inclusion on the disqualification list requests that the person be removed and submits documentation to support the request.

The bill authorizes the EPC to direct the DOE to place employees or contractual personnel of any public school, charter school, charter school governing board, or private scholarship school on the disqualification list for conduct that would render the person ineligible for employment.

The bill requires the State Board of Education (SBE) to adopt rules to implement the disqualification list.

Disqualification from Employment

The bill requires that staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private scholarship schools conduct employment history checks on educational support employees to the same extent currently required for instructional personnel and school administrators. The bill also adds the disqualification list to the employment screening tools provided by the DOE to staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private scholarship schools.

²⁶ A person has a liberty interest to pursue employment and must be afforded notice and an opportunity to be heard when that interest is adversely affected by state action. Florida Department of Education, *2021 Agency Legislative Bill Analysis for CS/CS/HB 131*, at 9. The Florida Administrative Procedure Act sets forth the procedures for persons adversely affected by agency action to be given notice and an opportunity to be heard. *See s. 120.569, F.S.*

The bill prohibits a person included on the disqualification list from educator certification or employment in a position that requires direct contact with students²⁷ in a district school system, charter school, or private scholarship school.

The bill provides that a person commits a felony of the third degree if the person is included on the disqualification list and serves or applies to serve as an employee or contractual personnel at any public school or private scholarship school.

The bill requires a law enforcement agency to make certain notifications to the appropriate employer regarding the arrest of public school contractors and private school employees and contractors. This notification is in addition to the existing requirement that a law enforcement agency must, within 48 hours, notify the appropriate district school superintendent of the name and address of any employee of the school district who is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance. The bill additionally requires, within 24 hours after such notification, the school principal or designee to notify parents of enrolled students who had direct contact with the employee and include, at a minimum, the name and specific charges against the employee.

Standards of Ethical Conduct for Education Personnel

Educational Support Employees

The bill requires district school boards, charter schools, and private scholarship schools to include educational support employees to the same extent required for instructional personnel and school administrators in policies establishing standards of ethical conduct and procedures for investigating, reporting, and terminating personnel.

Public Schools

The bill adds to existing requirements that subject a school board official to penalties for failing to adopt policies to investigate misconduct and report misconduct to the DOE. Specifically, the bill subjects a school board official to existing penalties if the school board official knowingly fails to adopt policies that require:

- The investigation of all reports of misconduct of specified personnel, regardless of whether the personnel resigned or was terminated before the conclusion of the investigation.
- The superintendent to notify the DOE of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated prior to the conclusion of the investigation.

The bill requires, in cases of separation due to termination or resignation in lieu of termination, a person to execute and maintain an affidavit of separation, on a form adopted by the Department of Education, setting forth in detail the facts and reasons for such separation. The affidavit must expressly disclose when separation is due to a report of sexual misconduct with a student. The affidavit of separation must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit of separation must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree.

²⁷ Section 1012.315, F.S

Public school superintendents are required by the bill to review each affidavit of separation from previous employers before employing a person in a position that requires direct contact with students.

The bill provides that a district school superintendent forfeits his salary for 1 year if the superintendent knowingly:

- Signs and transmits to any state official a report that the superintendent knows to be false or incorrect;
- Fails to investigate any allegation of misconduct that affects the health, safety, or welfare of a student;
- Fails to report alleged misconduct to the DOE; or
- Fails to report misconduct to the law enforcement agencies with jurisdiction over the conduct.

Private Schools

The bill authorizes the Commissioner of Education (commissioner) to permanently revoke or deny the authority of an owner or operator to establish or operate a private scholarship school if the commissioner decides that the owner or operator is operating or has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public. That owner or operator must be included on the disqualification list.

Complaints against Educational Personnel

The bill requires district school boards and charter school governing boards to report an investigation that results in termination, or the accused person's resignation in lieu of termination, to the DOE for inclusion on the disqualification list.

The bill requires the commissioner to make a determination of probable cause within 90 days after receipt of any complaint involving sexual misconduct with a student. Upon the written request of a state attorney, this deadline may be held in abeyance during criminal proceedings related to the sexual misconduct with a student.

The bill clarifies that the duty of:

- School districts to maintain confidentiality of employee personnel files does not absolve the school district of any legally required notifications or duties to report allegations of misconduct to the DOE.
- District school boards to investigate complaints of misconduct and report findings and conclusions to the DOE is not limited by the district school board's notification to the DOE of the resignation or termination of the subject of a legally sufficient complaint prior to the conclusion of the school district's investigation.
- The DOE to maintain reports of misconduct as a public record in personnel's certification files does not limit or restrict the power and duty of the DOE to investigate complaints regarding certificated personnel, nor does it create a duty for the DOE to investigate complaints regarding noncertified personnel.

The bill requires a complete investigation before the DOE may issue a new certificate to a person whose educator certificate has expired if the person is the subject of a complaint for which the act or acts that were the basis for the complaint were allegedly committed while that person possessed an educator certificate.

The bill requires school district investigations and proceedings to be completed by a school district within one year after submission of the legally sufficient complaint and requires the suspension to continue throughout the proceedings.

The bill requires private scholarship schools and public schools to post in a prominent place in a clearly visible location and public area of the school which is readily accessible to and widely used by students a sign in English and Spanish that contains directions for accessing the Department of Education's website for more information on offenses against students by authority figures.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private schools that participate in an educational scholarship program may incur additional costs associated with the addition of educational support personnel relating to

establishing ethical standards, employment, and inclusion of individuals on the disqualification list.

C. Government Sector Impact:

School districts may incur costs associated with the provisions of the bill addressing the investigation of complaints of misconduct; these costs are indeterminable but may be significant.

The Office of Professional Practices Services within the DOE projects two additional staff members will be needed to maintain the Disqualification List and perform related administrative activities outlined in this bill. In addition, the department's Office of General Counsel also requires an attorney to review the additional legal challenges. The projected recurring cost for the three positions is \$262,522.

In addition, DOE may incur costs to develop or update databases related to maintaining the disqualification list. The DOE estimates costs between \$200,000 and \$500,000 to modify the administrative and instructional staff database to meet the requirements of the bill.²⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.10, 1001.42, 1001.51, 1002.33, 1002.421, 1006.061, 1012.27, 1012.31, 1012.315, 1012.795, 1012.796, and 1012.797.

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 Appropriations on April 15, 2021:

The committee substitute:

- Narrows to sexual misconduct with a student the misconduct that results in the placement of terminated or resigned school district personnel on the disqualification list.

²⁸ Department of Education, House Bill 131 Agency Bill Analysis (January 5, 2021) (on file with the Senate Appropriations Committee).

- Authorizes the state board of education to remove someone from the disqualification list if the applicable employer requests that the person be removed and submits documentation to support the request.
- Requires charter school policies to establish the duty to report, and procedures for reporting, alleged misconduct by any charter school employee with direct student contact.
- Extends to all private schools the commissioner's authority to terminate an owner or operator's eligibility to operate a private school.
- Expands requirements for school districts to provide information about reporting child abuse or lewd acts.
- Requires a supervisor, instead of indicating the facts regarding termination or resignation in a personnel file, to complete an affidavit of separation setting forth specified details in the personnel file.
- Adds registration as a sex offender as described in 42 USC s. 9858f(c)(1)(c) to the list of offenses that renders a person ineligible for employment in a position with direct student contact.
- Narrows to certificated personnel the individuals which the Education Practices Commission may place on the disqualification list.
- Requires the commissioner to determine probable cause within 90 days of receiving complaint, unless state attorney requests abeyance.
- Removes requirement to suspend with pay and investigate alleged misconduct by educational support personnel.
- Additionally requires DOE to place persons on the disqualification list if they resign or are terminated before the conclusion of a complaint involving the health, safety, or welfare of a student.
- Removes felony penalty for an employer who knowingly hires a person in violation of the prohibitions required by the disqualification list.
- Adds the Florida School for the Deaf and Blind and university lab schools to the list of institutions a law enforcement agency must notify concerning an arrest of one of the institution's employees but removes the requirement to report the person's name and address. The amendment additionally requires school principals or designees to notify parents whose children had direct contact with the person.
- Removes provisions addressing approved virtual instruction providers.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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	.	

The Committee on Appropriations (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (4) and (5) of section 1001.10,
Florida Statutes, are amended to read:

1001.10 Commissioner of Education; general powers and
duties.—

(4) The Department of Education shall:

(a) Provide technical assistance to school districts,



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11 charter schools, the Florida School for the Deaf and the Blind,
12 and private schools that accept scholarship students who
13 participate in a state scholarship program under chapter 1002 in
14 the development of policies, procedures, and training related to
15 employment practices and standards of ethical conduct for
16 instructional personnel and school administrators, as defined in
17 s. 1012.01.

18 (b) Maintain a disqualification list that includes all of
19 the following:

20 1. The identity of each person who has been permanently
21 denied an educator certificate or whose educator certificate has
22 been permanently revoked and has been placed on the list as
23 directed by the Education Practices Commission pursuant to s.
24 1012.795(1) or s. 1012.796(7).

25 2. The identity of each person who has been permanently
26 disqualified by the commissioner from owning or operating a
27 private school that participates in state scholarship programs
28 under s. 1002.421.

29 3. The identity of each person who has been terminated, or
30 has resigned in lieu of termination, from employment as a result
31 of sexual misconduct with a student.

32 4. The identity of each person who is ineligible for
33 educator certification or employment pursuant to s. 1012.315.

34 (c) The department may remove a person from the
35 disqualification list if the person demonstrates that:

36 1. A completed law enforcement investigation resulted in an
37 exoneration or no conviction or finding of guilt and a completed
38 investigation and proceeding, as applicable, by the responsible
39 education agency resulted in a finding that the person did not



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40 commit disqualifying conduct;

41 2. The person was not the subject of the report of
42 disqualifying conduct and was included on the disqualification
43 list in error or as a result of mistaken identity; or

44 3. The employer that submitted the person for inclusion on
45 the disqualification list requests that the person be removed
46 and submits documentation to support the request.

47 (d) The State Board of Education shall adopt rules to
48 implement this subsection.

49 (5) The Department of Education shall provide authorized
50 staff of school districts, charter schools, the Florida School
51 for the Deaf and the Blind, and private schools that accept
52 scholarship students who participate in a state scholarship
53 program under chapter 1002 with access to electronic
54 verification of information from the following employment
55 screening tools:

56 (a) The Professional Practices' Database of Disciplinary
57 Actions Against Educators. ~~;~~ and

58 (b) The ~~department's~~ Department of Education's Teacher
59 Certification Database.

60 (c) The department's disqualification list under paragraph

61 (4) (b).

62

63 This subsection does not require the department to provide these
64 staff with unlimited access to the databases. However, the
65 department shall provide the staff with access to the data
66 necessary for performing employment history checks of the
67 persons instructional personnel and school administrators
68 included in the databases.



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69 Section 2. Subsections (6) and (7) of section 1001.42,
70 Florida Statutes, are amended to read:

71 1001.42 Powers and duties of district school board.—The
72 district school board, acting as a board, shall exercise all
73 powers and perform all duties listed below:

74 (6) STANDARDS OF ETHICAL CONDUCT ~~FOR INSTRUCTIONAL~~
75 ~~PERSONNEL, ADMINISTRATIVE PERSONNEL, AND SCHOOL OFFICERS.~~—Adopt
76 policies establishing standards of ethical conduct for
77 educational support employees, instructional personnel,
78 administrative personnel, and school officers. The policies must
79 require all educational support employees, instructional
80 personnel, administrative personnel, and school officers, as
81 defined in s. 1012.01, to complete training on the standards;
82 establish the duty of educational support employees,
83 instructional personnel, administrative personnel, and school
84 officers to report, and procedures for reporting, alleged
85 misconduct by other educational support employees, instructional
86 or administrative personnel, and school officers which affects
87 the health, safety, or welfare of a student, including
88 misconduct that involves engaging in or soliciting sexual,
89 romantic, or lewd conduct with a student; require the district
90 school superintendent to report to law enforcement misconduct by
91 educational support employees, instructional personnel, or
92 school administrators that would result in disqualification from
93 educator certification or employment as provided in s. 1012.315;
94 and include an explanation of the liability protections provided
95 under ss. 39.203 and 768.095. A district school board, or any of
96 its employees or personnel, may not enter into a confidentiality
97 agreement regarding terminated or dismissed educational support



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98 employees, instructional or administrative personnel, or school
99 officers who resign in lieu of termination, based in whole or in
100 part on misconduct that affects the health, safety, or welfare
101 of a student, and may not provide educational support employees,
102 instructional personnel, administrative personnel, or school
103 officers with employment references or discuss the employees',
104 personnel's, or officers' performance with prospective employers
105 in another educational setting, without disclosing the
106 employees', personnel's, or officers' misconduct. Any part of an
107 agreement or contract that has the purpose or effect of
108 concealing misconduct by educational support employees,
109 instructional personnel, administrative personnel, or school
110 officers which affects the health, safety, or welfare of a
111 student is void, is contrary to public policy, and may not be
112 enforced.

113 (7) PROHIBITION ~~DISQUALIFICATION~~ FROM EMPLOYMENT.—Prohibit
114 educational support employees, Disqualify instructional
115 personnel, and administrative personnel, as defined in s.
116 1012.01, from employment in any position that requires direct
117 contact with students if the employees or personnel are
118 ineligible for such employment under s. 1012.315 or have been
119 terminated or resigned in lieu of termination for sexual
120 misconduct with a student. If the prohibited conduct occurs
121 while employed, the district school board must report the
122 employees or personnel and the disqualifying circumstances to
123 the department for inclusion on the disqualification list
124 maintained by the department pursuant s. 1001.10(4)(b). An
125 elected or appointed school board official forfeits his or her
126 salary for 1 year if:



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127 (a) The school board official knowingly signs and transmits
128 to any state official a report of alleged misconduct by
129 educational support employees, instructional personnel, or
130 administrative personnel which ~~affects the health, safety, or~~
131 ~~welfare of a student and~~ the school board official knows ~~the~~
132 ~~report~~ to be false or incorrect; or

133 (b) The school board official knowingly fails to adopt
134 policies that require:

135 1. Educational support employees, instructional personnel,
136 and administrative personnel to report alleged misconduct by
137 other educational support employees, instructional personnel,
138 and administrative personnel;

139 2. The district school superintendent to report misconduct
140 by educational support employees, instructional personnel, or
141 school administrators that would result in disqualification from
142 educator certification or employment as provided in s. 1012.315
143 to the law enforcement agencies with jurisdiction over the
144 conduct; or

145 3. The investigation of all reports of alleged misconduct
146 by educational support employees, instructional personnel, and
147 administrative personnel, if the misconduct affects the health,
148 safety, or welfare of a student, regardless of whether the
149 person resigned or was terminated before the conclusion of the
150 investigation. The policies must require the district school
151 superintendent to notify the department of the result of the
152 investigation and whether the misconduct warranted termination,
153 regardless of whether the person resigned or was terminated
154 before the conclusion of the investigation.

155 Section 3. Subsection (12) of section 1001.51, Florida



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156 Statutes, is amended to read:

157 1001.51 Duties and responsibilities of district school
158 superintendent.—The district school superintendent shall
159 exercise all powers and perform all duties listed below and
160 elsewhere in the law, provided that, in so doing, he or she
161 shall advise and counsel with the district school board. The
162 district school superintendent shall perform all tasks necessary
163 to make sound recommendations, nominations, proposals, and
164 reports required by law to be acted upon by the district school
165 board. All such recommendations, nominations, proposals, and
166 reports by the district school superintendent shall be either
167 recorded in the minutes or shall be made in writing, noted in
168 the minutes, and filed in the public records of the district
169 school board. It shall be presumed that, in the absence of the
170 record required in this section, the recommendations,
171 nominations, and proposals required of the district school
172 superintendent were not contrary to the action taken by the
173 district school board in such matters.

174 (12) RECORDS AND REPORTS.—Recommend such records as should
175 be kept in addition to those prescribed by rules of the State
176 Board of Education; prepare forms for keeping such records as
177 are approved by the district school board; ensure that such
178 records are properly kept; and make all reports that are needed
179 or required, as follows:

180 (a) *Forms, blanks, and reports.*—Require that all employees
181 accurately keep all records and promptly make in proper form all
182 reports required by the education code or by rules of the State
183 Board of Education; recommend the keeping of such additional
184 records and the making of such additional reports as may be



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185 deemed necessary to provide data essential for the operation of
186 the school system; and prepare such forms and blanks as may be
187 required and ensure that these records and reports are properly
188 prepared.

189 (b) *Reports to the department.*—Prepare, for the approval of
190 the district school board, all reports required by law or rules
191 of the State Board of Education to be made to the department and
192 transmit promptly all such reports, when approved, to the
193 department, as required by law. If any reports are not
194 transmitted at the time and in the manner prescribed by law or
195 by State Board of Education rules, the salary of the district
196 school superintendent must be withheld until the report has been
197 properly submitted. Unless otherwise provided by rules of the
198 State Board of Education, the annual report on attendance and
199 personnel is due on or before July 1, and the annual school
200 budget and the report on finance are due on the date prescribed
201 by the commissioner.

202
203 Any district school superintendent who knowingly signs and
204 transmits to any state official a report that the superintendent
205 knows to be false or incorrect; who knowingly fails to complete
206 the investigation of ~~investigate~~ any allegation of misconduct
207 that by instructional personnel or school administrators, as
208 defined in s. 1012.01, which affects the health, safety, or
209 welfare of a student, that would be a violation of s. 800.101,
210 or that would be a disqualifying offense under s. 1012.315, or
211 any allegation of sexual misconduct with a student; who
212 knowingly fails to report the alleged misconduct to the
213 department as required in s. 1012.796; or who knowingly fails to



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214 report misconduct to the law enforcement agencies with
215 jurisdiction over the conduct pursuant to district school board
216 policy under s. 1001.42(6), forfeits his or her salary for 1
217 year following the date of such act or failure to act.

218 Section 4. Paragraph (g) of subsection (12) of section
219 1002.33, Florida Statutes, is amended to read:

220 1002.33 Charter schools.—

221 (12) EMPLOYEES OF CHARTER SCHOOLS.—

222 (g)1. A charter school shall employ or contract with
223 employees who have undergone background screening as provided in
224 s. 1012.32. Members of the governing board of the charter school
225 shall also undergo background screening in a manner similar to
226 that provided in s. 1012.32. An individual may not be employed
227 as an employee or contract personnel of a charter school or
228 serve as a member of a charter school governing board if the
229 individual is on the disqualification list maintained by the
230 department pursuant to s. 1001.10(4)(b).

231 2. A charter school shall prohibit educational support
232 employees, disqualify instructional personnel, and school
233 administrators, as defined in s. 1012.01, from employment in any
234 position that requires direct contact with students if the
235 employees, personnel, or administrators are ineligible for such
236 employment under s. 1012.315 or have been terminated or resigned
237 in lieu of termination for sexual misconduct with a student. If
238 the prohibited conduct occurs while employed, a charter school
239 must report the individual and the disqualifying circumstances
240 to the department for inclusion on the disqualification list
241 maintained pursuant to s. 1001.10(4)(b).

242 3. The governing board of a charter school shall adopt



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243 policies establishing standards of ethical conduct for
244 educational support employees, instructional personnel, and
245 school administrators. The policies must require all educational
246 support employees, instructional personnel, and school
247 administrators, as defined in s. 1012.01, to complete training
248 on the standards; establish the duty of educational support
249 employees, instructional personnel, and school administrators to
250 report, and procedures for reporting, alleged misconduct that by
251 ~~other instructional personnel and school administrators which~~
252 affects the health, safety, or welfare of a student; and include
253 an explanation of the liability protections provided under ss.
254 39.203 and 768.095. A charter school, or any of its employees,
255 may not enter into a confidentiality agreement regarding
256 terminated or dismissed educational support employees,
257 instructional personnel, or school administrators, or employees,
258 personnel, or administrators who resign in lieu of termination,
259 based in whole or in part on misconduct that affects the health,
260 safety, or welfare of a student, and may not provide employees,
261 ~~instructional personnel, or school~~ administrators with
262 employment references or discuss the employees', personnel's, or
263 administrators' performance with prospective employers in
264 another educational setting, without disclosing the employees',
265 personnel's, or administrators' misconduct. Any part of an
266 agreement or contract that has the purpose or effect of
267 concealing misconduct by educational support employees,
268 instructional personnel, or school administrators which affects
269 the health, safety, or welfare of a student is void, is contrary
270 to public policy, and may not be enforced.

271 4. Before employing an individual instructional personnel



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272 ~~or school administrators~~ in any position that requires direct
273 contact with students, a charter school shall conduct employment
274 history checks of each individual ~~of the personnel's or~~
275 ~~administrators' previous employers,~~ screen the instructional
276 ~~personnel or school administrators~~ through use of the educator
277 screening tools described in s. 1001.10(5), and document the
278 findings. If unable to contact a previous employer, the charter
279 school must document efforts to contact the employer.

280 5. The sponsor of a charter school that knowingly fails to
281 comply with this paragraph shall terminate the charter under
282 subsection (8).

283 Section 5. Paragraphs (n) and (o) of subsection (1) and
284 subsection (3) of section 1002.421, Florida Statutes, are
285 amended, and paragraph (r) is added to subsection (1) of that
286 section, to read:

287 1002.421 State school choice scholarship program
288 accountability and oversight.—

289 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
290 school participating in an educational scholarship program
291 established pursuant to this chapter must be a private school as
292 defined in s. 1002.01(2) in this state, be registered, and be in
293 compliance with all requirements of this section in addition to
294 private school requirements outlined in s. 1002.42, specific
295 requirements identified within respective scholarship program
296 laws, and other provisions of Florida law that apply to private
297 schools, and must:

298 (n) Adopt policies establishing standards of ethical
299 conduct for educational support employees, instructional
300 personnel, and school administrators. The policies must require



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301 all educational support employees, instructional personnel, and
302 school administrators, as defined in s. 1012.01, to complete
303 training on the standards; establish the duty of educational
304 support employees, instructional personnel, and school
305 administrators to report, and procedures for reporting, alleged
306 misconduct by other educational support employees, instructional
307 personnel, and school administrators which affects the health,
308 safety, or welfare of a student; and include an explanation of
309 the liability protections provided under ss. 39.203 and 768.095.
310 A private school, or any of its employees, may not enter into a
311 confidentiality agreement regarding terminated or dismissed
312 educational support employees, instructional personnel, or
313 school administrators, or employees, personnel, or
314 administrators who resign in lieu of termination, based in whole
315 or in part on misconduct that affects the health, safety, or
316 welfare of a student, and may not provide the employees,
317 ~~instructional personnel~~, or ~~school~~ administrators with
318 employment references or discuss the employees', personnel's, or
319 administrators' performance with prospective employers in
320 another educational setting, without disclosing the employees',
321 personnel's, or administrators' misconduct. Any part of an
322 agreement or contract that has the purpose or effect of
323 concealing misconduct by educational support employees,
324 instructional personnel, or school administrators which affects
325 the health, safety, or welfare of a student is void, is contrary
326 to public policy, and may not be enforced.

327 (o) Before employing a person ~~instructional personnel or~~
328 ~~school administrators~~ in any position that requires direct
329 contact with students, conduct employment history checks of each



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330 ~~of the personnel's or administrators'~~ previous employers, screen
331 the person ~~personnel or administrators~~ through use of the
332 ~~educator~~ screening tools described in s. 1001.10(5), and
333 document the findings. If unable to contact a previous employer,
334 the private school must document efforts to contact the
335 employer. The private school may not employ a person whose
336 educator certificate is revoked, who is barred from reapplying
337 for an educator certificate, or who is on the disqualification
338 list maintained by the department pursuant to s. 1001.10(4)(b).

339 (r) Prohibit education support employees, instructional
340 personnel, and school administrators from employment in any
341 position that requires direct contact with students if the
342 personnel or administrators are ineligible for such employment
343 pursuant to this section or s. 1012.315, or have been terminated
344 or resigned in lieu of termination for sexual misconduct with a
345 student. If the prohibited conduct occurs subsequent to
346 employment, the private school must report the person and the
347 disqualifying circumstances to the department for inclusion on
348 the disqualification list maintained pursuant to s.
349 1001.10(4)(b).

350
351 The department shall suspend the payment of funds to a private
352 school that knowingly fails to comply with this subsection, and
353 shall prohibit the school from enrolling new scholarship
354 students, for 1 fiscal year and until the school complies. If a
355 private school fails to meet the requirements of this subsection
356 or has consecutive years of material exceptions listed in the
357 report required under paragraph (q), the commissioner may
358 determine that the private school is ineligible to participate



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359 in a scholarship program.

360 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—
361 The Commissioner of Education:

362 (a) Shall deny, suspend, or revoke a private school's
363 participation in a scholarship program if it is determined that
364 the private school has failed to comply with this section or
365 exhibits a previous pattern of failure to comply. However, if
366 the noncompliance is correctable within a reasonable amount of
367 time, not to exceed 45 days, and if the health, safety, or
368 welfare of the students is not threatened, the commissioner may
369 issue a notice of noncompliance which provides the private
370 school with a timeframe within which to provide evidence of
371 compliance before taking action to suspend or revoke the private
372 school's participation in the scholarship program.

373 (b) May deny, suspend, or revoke a private school's
374 participation in a scholarship program if the commissioner
375 determines that an owner or operator of the private school is
376 operating or has operated an educational institution in this
377 state or in another state or jurisdiction in a manner contrary
378 to the health, safety, or welfare of the public or if the owner
379 or operator has exhibited a previous pattern of failure to
380 comply with this section or specific requirements identified
381 within respective scholarship program laws. For purposes of this
382 subsection, the term "owner or operator" has the same meaning as
383 provided in paragraph (1) (p).

384 (c) May permanently deny or revoke the authority of an
385 owner or operator to establish or operate a private school in
386 the state if the commissioner decides that the owner or operator
387 is operating or has operated an educational institution in the



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388 state or another state or jurisdiction in a manner contrary to
389 the health, safety, or welfare of the public, and shall include
390 such individuals on the disqualification list maintained by the
391 department pursuant to s. 1001.10(4)(b).

392 (d)1.(e)1- In making such a determination, may consider
393 factors that include, but are not limited to, acts or omissions
394 by an owner or operator which led to a previous denial,
395 suspension, or revocation of participation in a state or federal
396 education scholarship program; an owner's or operator's failure
397 to reimburse the department or scholarship-funding organization
398 for scholarship funds improperly received or retained by a
399 school; the imposition of a prior criminal sanction related to
400 an owner's or operator's management or operation of an
401 educational institution; the imposition of a civil fine or
402 administrative fine, license revocation or suspension, or
403 program eligibility suspension, termination, or revocation
404 related to an owner's or operator's management or operation of
405 an educational institution; or other types of criminal
406 proceedings in which an owner or operator was found guilty of,
407 regardless of adjudication, or entered a plea of nolo contendere
408 or guilty to, any offense involving fraud, deceit, dishonesty,
409 or moral turpitude.

410 2. The commissioner's determination is subject to the
411 following:

412 a. If the commissioner intends to deny, suspend, or revoke
413 a private school's participation in the scholarship program, the
414 department shall notify the private school of such proposed
415 action in writing by certified mail and regular mail to the
416 private school's address of record with the department. The



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417 notification shall include the reasons for the proposed action
418 and notice of the timelines and procedures set forth in this
419 paragraph.

420 b. The private school that is adversely affected by the
421 proposed action shall have 15 days after receipt of the notice
422 of proposed action to file with the department's agency clerk a
423 request for a proceeding pursuant to ss. 120.569 and 120.57. If
424 the private school is entitled to a hearing under s. 120.57(1),
425 the department shall forward the request to the Division of
426 Administrative Hearings.

427 c. Upon receipt of a request referred pursuant to this
428 subparagraph, the director of the Division of Administrative
429 Hearings shall expedite the hearing and assign an administrative
430 law judge who shall commence a hearing within 30 days after the
431 receipt of the formal written request by the division and enter
432 a recommended order within 30 days after the hearing or within
433 30 days after receipt of the hearing transcript, whichever is
434 later. Each party shall be allowed 10 days in which to submit
435 written exceptions to the recommended order. A final order shall
436 be entered by the agency within 30 days after the entry of a
437 recommended order. The provisions of this sub-subparagraph may
438 be waived upon stipulation by all parties.

439 (e) ~~(d)~~ May immediately suspend payment of scholarship funds
440 if it is determined that there is probable cause to believe that
441 there is:

442 1. An imminent threat to the health, safety, or welfare of
443 the students;

444 2. A previous pattern of failure to comply with this
445 section; or



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446 3. Fraudulent activity on the part of the private school.
447 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
448 activity pursuant to this section, the department's Office of
449 Inspector General is authorized to release personally
450 identifiable records or reports of students to the following
451 persons or organizations:

452 a. A court of competent jurisdiction in compliance with an
453 order of that court or the attorney of record in accordance with
454 a lawfully issued subpoena, consistent with the Family
455 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

456 b. A person or entity authorized by a court of competent
457 jurisdiction in compliance with an order of that court or the
458 attorney of record pursuant to a lawfully issued subpoena,
459 consistent with the Family Educational Rights and Privacy Act,
460 20 U.S.C. s. 1232g.

461 c. Any person, entity, or authority issuing a subpoena for
462 law enforcement purposes when the court or other issuing agency
463 has ordered that the existence or the contents of the subpoena
464 or the information furnished in response to the subpoena not be
465 disclosed, consistent with the Family Educational Rights and
466 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

467
468 The commissioner's order suspending payment pursuant to this
469 paragraph may be appealed pursuant to the same procedures and
470 timelines as the notice of proposed action set forth in
471 subparagraph (d)2 ~~(e)2~~.

472 Section 6. Subsection (2) and paragraph (a) of subsection
473 (4) of section 1006.061, Florida Statutes, are amended to read:

474 1006.061 Child abuse, abandonment, and neglect policy.—Each



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475 district school board, charter school, and private school that
476 accepts scholarship students who participate in a state
477 scholarship program under chapter 1002 shall:

478 (2) Post in a prominent place at each school site and on
479 each school's ~~Internet~~ website, if available, the policies and
480 procedures for reporting alleged misconduct by educational
481 support employees, instructional personnel, or school
482 administrators which affects the health, safety, or welfare of a
483 student; the contact person to whom the report is made; and the
484 penalties imposed on educational support employees,
485 instructional personnel, or school administrators who fail to
486 report suspected or actual child abuse or alleged misconduct by
487 other educational support employees, instructional personnel, or
488 school administrators.

489 (4) (a) Post in a prominent place in a clearly visible
490 location and public area of the school which is readily
491 accessible to and widely used by students a sign in English and
492 Spanish that contains:

493 1. The statewide toll-free telephone number of the central
494 abuse hotline as provided in chapter 39. ~~;~~

495 2. Instructions to call 911 for emergencies. ~~;~~ ~~and~~

496 3. Directions for accessing the Department of Children and
497 Families Internet website for more information on reporting
498 abuse, neglect, and exploitation.

499 4. Directions for accessing the Department of Education's
500 website for more information on reporting acts that violate s.
501 800.101.

502
503 The Department of Education shall develop, and publish on the



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504 department's Internet website, sample notices suitable for
505 posting in accordance with subsections (1), (2), and (4).

506 Section 7. Subsection (6) of section 1012.27, Florida
507 Statutes, is amended to read:

508 1012.27 Public school personnel; powers and duties of
509 district school superintendent.—The district school
510 superintendent is responsible for directing the work of the
511 personnel, subject to the requirements of this chapter, and in
512 addition the district school superintendent shall perform the
513 following:

514 (6) EMPLOYMENT HISTORY CHECKS.—Before employing a person in
515 any position that requires direct contact with students, conduct
516 employment history checks of each of the person's previous
517 employers, review each affidavit of separation from previous
518 employers pursuant to s. 1012.31, screen instructional personnel
519 and school administrators, as defined in s. 1012.01, through use
520 of the educator screening tools described in s. 1001.10(5), and
521 document the findings. If unable to contact a previous employer,
522 the district school superintendent shall document efforts to
523 contact the employer.

524 Section 8. Paragraph (a) of subsection (2) of section
525 1012.31, Florida Statutes, is amended to read:

526 1012.31 Personnel files.—Public school system employee
527 personnel files shall be maintained according to the following
528 provisions:

529 (2) (a) Materials relating to work performance, discipline,
530 suspension, or dismissal must be reduced to writing and signed
531 by a person competent to know the facts or make the judgment. In
532 cases of separation due to termination or resignation in lieu of



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533 termination, the person shall execute and maintain an affidavit
534 of separation, on the form adopted by the Department of
535 Education, setting forth in detail the facts and reasons for
536 such separation. The affidavit must expressly disclose when
537 separation is due to a report of sexual misconduct with a
538 student. The affidavit of separation must be executed under oath
539 and constitutes an official statement within the purview of s.
540 837.06. The affidavit of separation must include conspicuous
541 language that intentional false execution of the affidavit
542 constitutes a misdemeanor of the second degree ~~The resignation~~
543 ~~or termination of an employee before an investigation of alleged~~
544 ~~misconduct by the employee affecting the health, safety, or~~
545 ~~welfare of a student is concluded must be clearly indicated in~~
546 ~~the employee's personnel file.~~

547 Section 9. Section 1012.315, Florida Statutes, is amended
548 to read:

549 1012.315 Screening standards ~~Disqualification from~~
550 ~~employment.~~-A person is ineligible for educator certification or
551 employment in any position that requires direct contact with
552 students in a district school system, charter school, or a
553 private school that participates ~~accepts scholarship students~~
554 ~~who participate~~ in a state scholarship program under chapter
555 1002 if the person is on the disqualification list maintained by
556 the department pursuant to s. 1001.10(4)(b), is registered as a
557 sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C), or has
558 been convicted or found guilty of, has had adjudication withheld
559 for, or has pled guilty or nolo contendere to ~~of:~~

560 (1) Any felony offense prohibited under any of the
561 following statutes:



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562 (a) Section 393.135, relating to sexual misconduct with
563 certain developmentally disabled clients and reporting of such
564 sexual misconduct.

565 (b) Section 394.4593, relating to sexual misconduct with
566 certain mental health patients and reporting of such sexual
567 misconduct.

568 (c) Section 415.111, relating to adult abuse, neglect, or
569 exploitation of aged persons or disabled adults.

570 (d) Section 782.04, relating to murder.

571 (e) Section 782.07, relating to manslaughter, aggravated
572 manslaughter of an elderly person or disabled adult, aggravated
573 manslaughter of a child, or aggravated manslaughter of an
574 officer, a firefighter, an emergency medical technician, or a
575 paramedic.

576 (f) Section 784.021, relating to aggravated assault.

577 (g) Section 784.045, relating to aggravated battery.

578 (h) Section 784.075, relating to battery on a detention or
579 commitment facility staff member or a juvenile probation
580 officer.

581 (i) Section 787.01, relating to kidnapping.

582 (j) Section 787.02, relating to false imprisonment.

583 (k) Section 787.025, relating to luring or enticing a
584 child.

585 (l) Section 787.04(2), relating to leading, taking,
586 enticing, or removing a minor beyond the state limits, or
587 concealing the location of a minor, with criminal intent pending
588 custody proceedings.

589 (m) Section 787.04(3), relating to leading, taking,
590 enticing, or removing a minor beyond the state limits, or



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591 concealing the location of a minor, with criminal intent pending
592 dependency proceedings or proceedings concerning alleged abuse
593 or neglect of a minor.

594 (n) Section 790.115(1), relating to exhibiting firearms or
595 weapons at a school-sponsored event, on school property, or
596 within 1,000 feet of a school.

597 (o) Section 790.115(2)(b), relating to possessing an
598 electric weapon or device, destructive device, or other weapon
599 at a school-sponsored event or on school property.

600 (p) Section 794.011, relating to sexual battery.

601 (q) Former s. 794.041, relating to sexual activity with or
602 solicitation of a child by a person in familial or custodial
603 authority.

604 (r) Section 794.05, relating to unlawful sexual activity
605 with certain minors.

606 (s) Section 794.08, relating to female genital mutilation.

607 (t) Chapter 796, relating to prostitution.

608 (u) Chapter 800, relating to lewdness and indecent
609 exposure.

610 (v) Section 800.101, relating to offenses against students
611 by authority figures.

612 (w) Section 806.01, relating to arson.

613 (x) Section 810.14, relating to voyeurism.

614 (y) Section 810.145, relating to video voyeurism.

615 (z) Section 812.014(6), relating to coordinating the
616 commission of theft in excess of \$3,000.

617 (aa) Section 812.0145, relating to theft from persons 65
618 years of age or older.

619 (bb) Section 812.019, relating to dealing in stolen



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620 property.
621 (cc) Section 812.13, relating to robbery.
622 (dd) Section 812.131, relating to robbery by sudden
623 snatching.
624 (ee) Section 812.133, relating to carjacking.
625 (ff) Section 812.135, relating to home-invasion robbery.
626 (gg) Section 817.563, relating to fraudulent sale of
627 controlled substances.
628 (hh) Section 825.102, relating to abuse, aggravated abuse,
629 or neglect of an elderly person or disabled adult.
630 (ii) Section 825.103, relating to exploitation of an
631 elderly person or disabled adult.
632 (jj) Section 825.1025, relating to lewd or lascivious
633 offenses committed upon or in the presence of an elderly person
634 or disabled person.
635 (kk) Section 826.04, relating to incest.
636 (ll) Section 827.03, relating to child abuse, aggravated
637 child abuse, or neglect of a child.
638 (mm) Section 827.04, relating to contributing to the
639 delinquency or dependency of a child.
640 (nn) Section 827.071, relating to sexual performance by a
641 child.
642 (oo) Section 843.01, relating to resisting arrest with
643 violence.
644 (pp) Chapter 847, relating to obscenity.
645 (qq) Section 874.05, relating to causing, encouraging,
646 soliciting, or recruiting another to join a criminal street
647 gang.
648 (rr) Chapter 893, relating to drug abuse prevention and



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649 control, if the offense was a felony of the second degree or
650 greater severity.

651 (ss) Section 916.1075, relating to sexual misconduct with
652 certain forensic clients and reporting of such sexual
653 misconduct.

654 (tt) Section 944.47, relating to introduction, removal, or
655 possession of contraband at a correctional facility.

656 (uu) Section 985.701, relating to sexual misconduct in
657 juvenile justice programs.

658 (vv) Section 985.711, relating to introduction, removal, or
659 possession of contraband at a juvenile detention facility or
660 commitment program.

661 (2) Any misdemeanor offense prohibited under any of the
662 following statutes:

663 (a) Section 784.03, relating to battery, if the victim of
664 the offense was a minor.

665 (b) Section 787.025, relating to luring or enticing a
666 child.

667 (3) Any criminal act committed in another state or under
668 federal law which, if committed in this state, constitutes an
669 offense prohibited under any statute listed in subsection (1) or
670 subsection (2).

671 (4) Any delinquent act committed in this state or any
672 delinquent or criminal act committed in another state or under
673 federal law which, if committed in this state, qualifies an
674 individual for inclusion on the Registered Juvenile Sex Offender
675 List under s. 943.0435(1)(h)1.d.

676 Section 10. Subsection (1) of section 1012.795, Florida
677 Statutes, is amended to read:



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678 1012.795 Education Practices Commission; authority to
679 discipline.—

680 (1) The Education Practices Commission may suspend the
681 educator certificate of any instructional personnel or school
682 administrator, as defined in s. 1012.01(2) or (3), for up to 5
683 years, thereby denying that person the right to teach or
684 otherwise be employed by a district school board or public
685 school in any capacity requiring direct contact with students
686 for that period of time, after which the person may return to
687 teaching as provided in subsection (4); may revoke the educator
688 certificate of any person, thereby denying that person the right
689 to teach or otherwise be employed by a district school board or
690 public school in any capacity requiring direct contact with
691 students for up to 10 years, with reinstatement subject to
692 subsection (4); may permanently revoke the educator certificate
693 of any person thereby denying that person the right to teach or
694 otherwise be employed by a district school board or public
695 school in any capacity requiring direct contact with students;
696 may suspend a person's educator certificate, upon an order of
697 the court or notice by the Department of Revenue relating to the
698 payment of child support; may direct the department to place a
699 certificateholder employed by a public school, charter school,
700 charter school governing board, or private school that
701 participates in a state scholarship program under chapter 1002
702 on the disqualification list maintained by the department
703 pursuant to s. 1001.10(4)(b) for misconduct that would render
704 the person ineligible pursuant to s. 1012.315 or sexual
705 misconduct with a student; or may impose any other penalty
706 provided by law, if the person:



707 (a) Obtained or attempted to obtain an educator certificate
708 by fraudulent means.

709 (b) Knowingly failed to report actual or suspected child
710 abuse as required in s. 1006.061 or report alleged misconduct by
711 instructional personnel or school administrators which affects
712 the health, safety, or welfare of a student as required in s.
713 1012.796.

714 (c) Has proved to be incompetent to teach or to perform
715 duties as an employee of the public school system or to teach in
716 or to operate a private school.

717 (d) Has been guilty of gross immorality or an act involving
718 moral turpitude as defined by rule of the State Board of
719 Education, including engaging in or soliciting sexual, romantic,
720 or lewd conduct with a student or minor.

721 (e) Has had an educator certificate or other professional
722 license sanctioned by this or any other state or has had the
723 authority to practice the regulated profession revoked,
724 suspended, or otherwise acted against, including a denial of
725 certification or licensure, by the licensing or certifying
726 authority of any jurisdiction, including its agencies and
727 subdivisions. The licensing or certifying authority's acceptance
728 of a relinquishment, stipulation, consent order, or other
729 settlement offered in response to or in anticipation of the
730 filing of charges against the licensee or certificateholder
731 shall be construed as action against the license or certificate.
732 For purposes of this section, a sanction or action against a
733 professional license, a certificate, or an authority to practice
734 a regulated profession must relate to being an educator or the
735 fitness of or ability to be an educator.



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736 (f) Has been convicted or found guilty of, has had
737 adjudication withheld for, or has pled guilty or nolo contendere
738 to a misdemeanor, felony, or any other criminal charge, other
739 than a minor traffic violation.

740 (g) Upon investigation, has been found guilty of personal
741 conduct that seriously reduces that person's effectiveness as an
742 employee of the district school board.

743 (h) Has breached a contract, as provided in s. 1012.33(2)
744 or s. 1012.335.

745 (i) Has been the subject of a court order or notice by the
746 Department of Revenue pursuant to s. 409.2598 directing the
747 Education Practices Commission to suspend the certificate as a
748 result of noncompliance with a child support order, a subpoena,
749 an order to show cause, or a written agreement with the
750 Department of Revenue.

751 (j) Has violated the Principles of Professional Conduct for
752 the Education Profession prescribed by State Board of Education
753 rules.

754 (k) Has otherwise violated the provisions of law, the
755 penalty for which is the revocation of the educator certificate.

756 (l) Has violated any order of the Education Practices
757 Commission.

758 (m) Has been the subject of a court order or plea agreement
759 in any jurisdiction which requires the certificateholder to
760 surrender or otherwise relinquish his or her educator's
761 certificate. A surrender or relinquishment shall be for
762 permanent revocation of the certificate. A person may not
763 surrender or otherwise relinquish his or her certificate prior
764 to a finding of probable cause by the commissioner as provided



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765 in s. 1012.796.

766 (n) Has been disqualified from educator certification under
767 s. 1012.315.

768 (o) Has committed a third recruiting offense as determined
769 by the Florida High School Athletic Association (FHSAA) pursuant
770 to s. 1006.20(2)(b).

771 (p) Has violated test security as provided in s. 1008.24.

772 Section 11. Paragraphs (a), (b), (d), and (e) of subsection
773 (1) and subsection (5) of section 1012.796, Florida Statutes,
774 are amended, paragraph (i) is added to subsection (7), and
775 subsection (10) is added to that section, to read:

776 1012.796 Complaints against teachers and administrators;
777 procedure; penalties.-

778 (1)(a) The Department of Education shall cause to be
779 investigated expeditiously any complaint filed before it or
780 otherwise called to its attention which, if legally sufficient,
781 contains grounds for the revocation or suspension of a
782 certificate or any other appropriate penalty as set forth in
783 subsection (7). The complaint is legally sufficient if it
784 contains the ultimate facts which show a violation has occurred
785 as provided in s. 1012.795 and defined by rule of the State
786 Board of Education. The department shall investigate or continue
787 to investigate and take appropriate action on a complaint even
788 though the original complainant withdraws the complaint or
789 otherwise indicates a desire not to cause it to be investigated
790 or prosecuted to completion. The department may investigate or
791 continue to investigate and take action on a complaint filed
792 against a person whose educator certificate has expired if the
793 act or acts that are the basis for the complaint were allegedly



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794 committed while that person possessed an educator certificate
795 and may not issue a certificate to such a person unless an
796 investigation has been completed.

797 (b) The department shall immediately investigate any
798 legally sufficient complaint that involves misconduct by any
799 certificated personnel which affects the health, safety, or
800 welfare of a student, giving the complaint priority over other
801 pending complaints. The department must investigate or continue
802 to investigate and take action on such a complaint filed against
803 a person whose educator certificate has expired if the act or
804 acts that are the basis for the complaint were allegedly
805 committed while that person possessed an educator certificate.
806 The Commissioner of Education shall make a determination of
807 probable cause within 90 days after receipt of any complaint
808 involving sexual misconduct with a student. Upon the written
809 request of a state attorney, this deadline may be held in
810 abeyance during criminal proceedings related to the sexual
811 misconduct with a student.

812 (d)1. Each school district shall file in writing with the
813 department all legally sufficient complaints within 30 days
814 after the date on which subject matter of the complaint comes to
815 the attention of the school district, regardless of whether the
816 subject of the complaint is still an employee of the school
817 district. A complaint is legally sufficient if it contains
818 ultimate facts that show a violation has occurred as provided in
819 s. 1012.795 and defined by rule of the State Board of Education.
820 The school district shall include all information relating to
821 the complaint which is known to the school district at the time
822 of filing.



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823 2. A school district shall immediately notify the
824 department if the subject of a legally sufficient complaint of
825 misconduct affecting the health, safety, or welfare of a student
826 resigns or is terminated before the conclusion of the school
827 district's investigation. Upon receipt of the notification, the
828 department shall place an alert on the person's certification
829 file indicating that he or she resigned or was terminated before
830 an investigation involving allegations of misconduct affecting
831 the health, safety, or welfare of a student was concluded. In
832 such circumstances, the database may not include specific
833 information relating to the alleged misconduct until permitted
834 by subsection (4). This subparagraph does not limit or restrict
835 the duty of the district school board to investigate the
836 complaint and report the findings and conclusion to the
837 department.

838 3. Each district school board shall develop and adopt
839 policies and procedures to comply with this reporting
840 requirement. School board policies and procedures must include
841 standards for screening, hiring, and terminating instructional
842 personnel and school administrators, as defined in s. 1012.01;
843 standards of ethical conduct for instructional personnel and
844 school administrators; the duties of instructional personnel and
845 school administrators for upholding the standards; detailed
846 procedures for reporting alleged misconduct by instructional
847 personnel and school administrators which affects the health,
848 safety, or welfare of a student; requirements for the
849 reassignment of instructional personnel and ~~or~~ school
850 administrators pending the outcome of a misconduct
851 investigation; and penalties for failing to comply with s.



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852 1001.51 or s. 1012.795. The district school board policies and
853 procedures must ~~shall~~ include appropriate penalties for all
854 personnel of the district school board for nonreporting and
855 procedures for promptly informing the district school
856 superintendent of each legally sufficient complaint. The
857 district school superintendent is charged with knowledge of
858 these policies and procedures and is accountable for the
859 training of all instructional personnel and school
860 administrators of the school district on the standards of
861 ethical conduct, policies, and procedures.

862 4. If the district school superintendent has knowledge of a
863 legally sufficient complaint and does not report the complaint,
864 or fails to enforce the policies and procedures of the district
865 school board, and fails to comply with the requirements of this
866 subsection, in addition to other actions against
867 certificateholders authorized by law, the district school
868 superintendent is subject to penalties as specified in s.
869 1001.51(12).

870 5. If the superintendent determines that misconduct by
871 instructional personnel or school administrators who hold an
872 educator certificate affects the health, safety, or welfare of a
873 student and the misconduct warrants termination, the
874 instructional personnel or school administrators may resign or
875 be terminated, and the superintendent must report the misconduct
876 to the department in the format prescribed by the department.
877 The department shall maintain each report of misconduct as a
878 public record in the instructional personnel's or school
879 administrators' certification files. This paragraph does not
880 limit or restrict the power and duty of the department to



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881 investigate complaints regarding certificateholders, regardless
882 of the school district's untimely filing, or failure to file,
883 complaints and followup reports. This subparagraph does not
884 create a duty for the department to investigate complaints
885 regarding noncertificateholders.

886 (e) If allegations arise against an employee who is
887 certified under s. 1012.56 and employed in an educator-
888 certificated position in any public school, charter school or
889 governing board thereof, or private school that accepts
890 scholarship students who participate in a state scholarship
891 program under chapter 1002, the school shall file in writing
892 with the department a legally sufficient complaint within 30
893 days after the date on which the subject matter of the complaint
894 came to the attention of the school, regardless of whether the
895 subject of the allegations is still an employee of the school. A
896 complaint is legally sufficient if it contains ultimate facts
897 that show a violation has occurred as provided in s. 1012.795
898 and defined by rule of the State Board of Education. The school
899 shall include all known information relating to the complaint
900 with the filing of the complaint. This paragraph does not limit
901 or restrict the power and duty of the department to investigate
902 complaints, regardless of the school's untimely filing, or
903 failure to file, complaints and followup reports. A school
904 described in this paragraph shall immediately notify the
905 department if the subject of a legally sufficient complaint of
906 misconduct affecting the health, safety, or welfare of a student
907 resigns or is terminated before the conclusion of the school's
908 investigation. Upon receipt of the notification, the department
909 shall place an alert on the person's certification file



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910 indicating that he or she resigned or was terminated before an
911 investigation involving allegations of misconduct affecting the
912 health, safety, or welfare of a student was concluded and place
913 the person on the disqualification list maintained by the
914 department pursuant to s. 1001.10(4)(b). In such circumstances,
915 the database may not include specific information relating to
916 the alleged misconduct until permitted by subsection (4).

917 (5) When an allegation of misconduct by instructional
918 personnel or school administrators, as defined in s. 1012.01, is
919 received, if the alleged misconduct affects the health, safety,
920 or welfare of a student, the district school superintendent in
921 consultation with the school principal, or upon the request of
922 the Commissioner of Education, must, at a minimum, immediately
923 suspend the instructional personnel or school administrators
924 from regularly assigned duties, with pay, and remove ~~reassign~~
925 the suspended personnel or administrators from ~~to~~ positions that
926 may ~~do not~~ require direct contact with students in the district
927 school system. Such suspension shall continue until submission
928 of a legally sufficient complaint. The proceedings and
929 determination of sanctions shall be completed by a school
930 district within 1 year after submission of the legally
931 sufficient complaint ~~the completion of the proceedings and the~~
932 ~~determination of sanctions, if any, pursuant to this section and~~
933 ~~s. 1012.795.~~

934 (7) A panel of the commission shall enter a final order
935 either dismissing the complaint or imposing one or more of the
936 following penalties:

937 (i) Direct the department to place instructional personnel
938 or school administrators on the disqualification list maintained



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939 by the department pursuant to s. 1001.10(4)(b) for conduct that
940 would render the person ineligible pursuant to s. 1012.315 or
941 sexual misconduct with a student.

942
943 The penalties imposed under this subsection are in addition to,
944 and not in lieu of, the penalties required for a third
945 recruiting offense pursuant to s. 1006.20(2)(b).

946 (10) A person on the disqualification list maintained by
947 the department pursuant to s. 1001.10(4)(b) shall be notified
948 that he or she may not serve or apply to serve as an employee or
949 contracted personnel at a public school or private school that
950 participates in a state scholarship program under chapter 1002.
951 A person who knowingly violates this provision commits a felony
952 of the third degree, punishable as provided in s. 775.082 or s.
953 775.083.

954 Section 12. Section 1012.797, Florida Statutes, is amended
955 to read:

956 1012.797 Notification of ~~district school superintendent of~~
957 certain charges against ~~or convictions of~~ employees.-

958 ~~(1)~~ Notwithstanding the provisions of s. 985.04(7) or any
959 other ~~provision of~~ law to the contrary, a law enforcement agency
960 shall, within 48 hours, notify the appropriate district school
961 superintendent, charter school governing board, private school
962 owner or administrator, president of the Florida School for the
963 Deaf and the Blind, or university lab schools director or
964 principal, as applicable, when its ~~of the name and address of~~
965 any employee of the school district who is arrested for charged
966 with a felony or with a misdemeanor involving the abuse of a
967 minor child or the sale or possession of a controlled substance.



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968 The notification shall include the specific charge for which the
969 employee of the school district was arrested. Notwithstanding
970 ss. 1012.31(3)(a)1. and 1012.796(4), within 24 hours after such
971 notification, the school principal or designee shall notify
972 parents of enrolled students who had direct contact with the
973 employee and include, at a minimum, the name and specific
974 charges against the employee. Such notification shall include
975 ~~other education providers such as the Florida School for the~~
976 ~~Deaf and the Blind, university lab schools, and private~~
977 ~~elementary and secondary schools.~~

978 ~~(2) Except to the extent necessary to protect the health,~~
979 ~~safety, and welfare of other students, the information obtained~~
980 ~~by the district school superintendent pursuant to this section~~
981 ~~may be released only to appropriate school personnel or as~~
982 ~~otherwise provided by law.~~

983 Section 13. This act shall take effect July 1, 2021.

984
985 ===== T I T L E A M E N D M E N T =====

986 And the title is amended as follows:

987 Delete everything before the enacting clause
988 and insert:

989 A bill to be entitled
990 An act relating to educator conduct; amending s.
991 1001.10, F.S.; requiring the Department of Education
992 to maintain a disqualification list of certain
993 persons; providing for the removal of a person from
994 the list under certain circumstances; requiring the
995 State Board of Education to adopt rules; requiring the
996 department to provide access to specified information



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997 to certain staff for specified purposes; amending s.
998 1001.42, F.S.; providing that certain provisions
999 relating to conduct and prohibition from employment
1000 apply to educational support employees; prohibiting
1001 certain employees and personnel from employment under
1002 certain circumstances; requiring district school
1003 boards to report specified persons to the department
1004 for inclusion on the list; providing that a school
1005 board official forfeits his or her salary for 1 year
1006 under additional circumstances; amending s. 1001.51,
1007 F.S.; providing that a district school superintendent
1008 forfeits his or her salary for 1 year under additional
1009 circumstances; amending s. 1002.33, F.S.; prohibiting
1010 certain individuals from employment at a charter
1011 school; providing requirements for charter schools
1012 relating to employing certain individuals; requiring
1013 the governing board of a charter school to establish
1014 the duty of instructional personnel and school
1015 administrators to report specified alleged misconduct
1016 by certain individuals; prohibiting an individual on
1017 the list from employment in specified positions;
1018 requiring a charter school to report specified
1019 individuals to the department for inclusion on a
1020 certain list; amending s. 1002.421, F.S.; requiring
1021 certain private schools to include educational support
1022 employees in specified policies; requiring certain
1023 private schools to deny employment to certain persons;
1024 prohibiting the employment of certain employees and
1025 personnel under circumstances; requiring private



1026 schools to report specified persons to the department
1027 for inclusion on a certain list; authorizing the
1028 Commissioner of Education to permanently revoke an
1029 owner's or operator's authority to establish or
1030 operate a private school in the state under certain
1031 circumstances; amending s. 1006.061, F.S.; revising
1032 the contents of a sign certain educational entities
1033 are required to post to include information relating
1034 to reporting of certain criminal acts; amending s.
1035 1012.27, F.S.; revising the requirements for certain
1036 employment history checks to include a specified
1037 affidavit; amending s. 1012.31, requiring certain
1038 persons to execute and maintain an affidavit of
1039 separation form for specified purposes; providing
1040 requirements for such affidavit; amending s. 1012.315,
1041 F.S.; providing that certain persons are ineligible
1042 for an educator certification or specified employment;
1043 amending s. 1012.795, F.S.; revising acts that warrant
1044 a disciplinary action by the commission; amending s.
1045 1012.796, F.S.; prohibiting the department from
1046 issuing a certificate to certain persons; requiring
1047 the commissioner to make a determination of probable
1048 cause within a specified timeframe for complaints
1049 relating to sexual misconduct with a student;
1050 providing for such timeframe to be held in abeyance
1051 under certain circumstances; providing construction;
1052 requiring certain individuals to be placed on a
1053 disqualification list; requiring the commissioner to
1054 remove certain suspended personnel or administrators



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1055 from certain positions under specified circumstances;
1056 requiring a district school superintendent to
1057 immediately suspend certain individuals and take
1058 specified action as a results of alleged misconduct;
1059 prohibiting certain individuals from serving or
1060 applying to serve in specified positions at public
1061 schools and specified private schools; providing a
1062 timeframe for specified investigations; providing
1063 timeframe for administrative suspension; providing
1064 criminal penalties; amending s. 1012.797, F.S.;
1065 revising provisions relating to notification by law
1066 enforcement of certain charges against employees;
1067 expanding the entities who receive such notifications;
1068 requiring a school principal or designee to notify
1069 certain parents of such notifications within a
1070 specified timeframe; providing minimum requirements
1071 for parental notifications; providing an effective
1072 date.

By Senator Perry

8-01134-21

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1 A bill to be entitled
 2 An act relating to education; amending s. 1001.10,
 3 F.S.; requiring the Department of Education to
 4 maintain a disqualification list that includes the
 5 identities of certain persons; providing requirements
 6 for the disqualification list; authorizing the
 7 department to remove a person from the
 8 disqualification list if certain conditions are met;
 9 requiring the State Board of Education to adopt rules;
 10 requiring the department to provide certain staff with
 11 access to information from the disqualification list;
 12 amending s. 1001.42, F.S.; requiring district school
 13 boards to investigate certain complaints and report
 14 certain results of such investigations to the
 15 department; requiring the department to place a person
 16 who is terminated, or resigns in lieu of termination,
 17 for a certain reason on the disqualification list;
 18 requiring district school boards to adopt policies
 19 establishing standards of ethical conduct for
 20 educational support employees; requiring district
 21 school boards to disqualify educational support
 22 employees from employment in certain circumstances;
 23 requiring district school boards to report a
 24 disqualified person to the department for inclusion on
 25 the disqualification list; revising the circumstances
 26 under which a school board official shall forfeit his
 27 or her salary for 1 year; amending s. 1002.33, F.S.;

28 prohibiting an individual who is on the
 29 disqualification list from being employed by a charter

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30 school or serving as a member of a charter school
 31 governing board; requiring a charter school to
 32 disqualify certain persons and make a report to the
 33 department to include the person on the
 34 disqualification list; requiring charter school
 35 governing boards to adopt policies establishing
 36 standards of ethical conduct for certain employees;
 37 requiring charter schools to perform a certain
 38 screening before employing a person in any position
 39 that requires direct contact with students; requiring
 40 charter schools to comply with a specified provision;
 41 assigning duties to certain charter school
 42 administrative personnel and a charter school
 43 governing board; amending s. 1002.421, F.S.; requiring
 44 certain private schools to adopt policies establishing
 45 standards of ethical conduct for certain employees;
 46 revising requirements for certain private schools
 47 relating to employment; requiring certain private
 48 schools to disqualify certain persons and make a
 49 report to the department to include the person on the
 50 disqualification list; authorizing the Commissioner of
 51 Education to deny or revoke the authority of an owner
 52 or operator of a certain private school to establish
 53 or operate a private school under certain conditions;
 54 requiring the commissioner to include such person on
 55 the disqualification list; amending s. 1002.45, F.S.;

56 revising virtual instruction program provider
 57 qualifications for department approval; expanding the
 58 screening requirements for employees and personnel of

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59 an approved virtual instruction program provider;
 60 requiring an approved virtual instruction program
 61 provider to disqualify certain persons and make a
 62 report to the department to include the persons on the
 63 disqualification list; requiring an approved virtual
 64 instruction program provider to comply with a
 65 specified provision; requiring an approved virtual
 66 instruction program provider to inform the district
 67 school board of a certain complaint; amending s.
 68 1006.061, F.S.; requiring certain schools to include
 69 information related to certain employees in a required
 70 posting; amending s. 1012.31, F.S.; clarifying a
 71 school district reporting requirement; amending s.
 72 1012.315, F.S.; expanding ineligibility for educator
 73 certification or employment to persons who are on the
 74 disqualification list; amending s. 1012.32, F.S.;
 75 expanding requirements for screening of certain
 76 personnel of a virtual instruction program;
 77 prohibiting district school boards from requiring
 78 additional background screening of certain employees
 79 and personnel; amending s. 1012.795, F.S.; expanding
 80 the authority of the Education Practices Commission to
 81 discipline certain employees and personnel; amending
 82 s. 1012.796, F.S.; requiring the department to
 83 complete an investigation before issuing a new
 84 educator certificate to certain persons; clarifying
 85 the duty of a district school board to perform certain
 86 investigations; requiring certain entities to report
 87 certain arrests and allegations of misconduct of

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88 certain employees, personnel, and administrators to
 89 the department; requiring district school boards to
 90 adopt certain policies and procedures regarding
 91 educational support employees; requiring school
 92 superintendents to report certain misconduct of
 93 educational support employees to the department;
 94 requiring the department to include certain employees,
 95 personnel, and administrators on the disqualification
 96 list; requiring the department to maintain certain
 97 reports of misconduct; clarifying the department's
 98 duty to investigate certificated personnel; requiring
 99 a district school superintendent to suspend and
 100 reassign educational support employees for a certain
 101 allegation of misconduct; expanding penalties that may
 102 be imposed by the commission; authorizing the
 103 commission to direct the department to include a
 104 certain person on the disqualification list for
 105 certain conduct; prohibiting persons on the
 106 disqualification list from serving or applying to
 107 serve as employees or contract personnel at certain
 108 institutions; providing criminal penalties; amending
 109 s. 1012.797, F.S.; expanding the list of entities that
 110 law enforcement agencies must notify of certain
 111 charges; requiring law enforcement agencies to notify
 112 certain institutions of certain charges against
 113 employees or contractors; providing an effective date.

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

116

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117 Section 1. Subsections (4) and (5) of section 1001.10,
118 Florida Statutes, are amended to read:
119 1001.10 Commissioner of Education; general powers and
120 duties.-

121 (4) (a) The Department of Education shall provide technical
122 assistance to school districts, charter schools, the Florida
123 School for the Deaf and the Blind, and private schools that
124 accept scholarship students who participate in a state
125 scholarship program under chapter 1002 in the development of
126 policies, procedures, and training related to employment
127 practices and standards of ethical conduct for instructional
128 personnel and school administrators, as defined in s. 1012.01.

129 (b) The department shall maintain a disqualification list,
130 which must include the following information:

131 1. The identity of any person who has been permanently
132 denied an educator certificate or whose educator certificate has
133 been permanently revoked and the person has been placed on the
134 list as directed by the Education Practices Commission pursuant
135 to s. 1012.795(1) or s. 1012.796(7);

136 2. The identity of any person who has been permanently
137 disqualified by the commissioner to be an owner or operator of a
138 private school participating in state scholarship programs
139 pursuant to s. 1002.421 for a reason that reflects any risk of
140 harm to the health, safety, or welfare of a student;

141 3. The identity of any person who has been terminated, or
142 has resigned in lieu of termination, from employment with a
143 district school board as a result of misconduct that affects the
144 health, safety, or welfare of a student; and

145 4. The identity of any person who has been disqualified

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146 from employment pursuant to s. 1012.315.

147 (c) The department may remove a person from the
148 disqualification list if the person demonstrates that:

149 1. A completed law enforcement investigation resulted in an
150 exoneration or no conviction or finding of guilt, and a
151 completed investigation and proceeding, as applicable, by the
152 responsible education agency resulted in no finding that the
153 person committed disqualifying conduct; or

154 2. The person was not the subject of the report of
155 disqualifying conduct and was included on the disqualification
156 list in error or as a result of mistaken identity.

157 (d) The State Board of Education shall adopt rules to
158 implement the disqualification list.

159 (5) The Department of Education shall provide authorized
160 staff of school districts, charter schools, the Florida School
161 for the Deaf and the Blind, and private schools that accept
162 scholarship students who participate in a state scholarship
163 program under chapter 1002 with access to electronic
164 verification of information from the following employment
165 screening tools:

166 (a) The Professional Practices' Database of Disciplinary
167 Actions Against Educators; ~~and~~

168 (b) The Department of Education's Teacher Certification
169 Database; and

170 (c) The Department of Education's disqualification list
171 maintained pursuant to paragraph (4) (b).

172
173 This subsection does not require the department to provide these
174 staff with unlimited access to the databases. However, the

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175 department shall provide the staff with access to the data
176 necessary for performing employment history checks of the
177 educational support employees, instructional personnel, and
178 school administrators included in the databases.

179 Section 2. Subsections (6) and (7) of section 1001.42,
180 Florida Statutes, are amended, and paragraph (c) is added to
181 subsection (5) of that section, to read:

182 1001.42 Powers and duties of district school board.—The
183 district school board, acting as a board, shall exercise all
184 powers and perform all duties listed below:

185 (5) PERSONNEL.—

186 (c) Immediately investigate any legally sufficient
187 complaint that involves misconduct by an educational support
188 employee, instructional personnel, or administrative personnel
189 which affects the health, safety, or welfare of a student and
190 would result in termination. An investigation that results in
191 termination, or the accused person's resignation in lieu of
192 termination, must be reported to the department, and the
193 department shall place the person on the disqualification list
194 maintained pursuant to s. 1001.10(4)(b).

195 (6) STANDARDS OF ETHICAL CONDUCT FOR EDUCATIONAL SUPPORT
196 EMPLOYEES, INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL,
197 AND SCHOOL OFFICERS.—Adopt policies establishing standards of
198 ethical conduct for educational support employees, instructional
199 personnel, administrative personnel, and school officers. The
200 policies must require all educational support employees,
201 instructional personnel, administrative personnel, and school
202 officers, as defined in s. 1012.01, to complete training on the
203 standards; establish the duty of educational support employees,

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204 instructional personnel, administrative personnel, and school
205 officers to report, and procedures for reporting, alleged
206 misconduct by other educational support employees, instructional
207 or administrative personnel, and school officers which affects
208 the health, safety, or welfare of a student, including
209 misconduct that involves engaging in or soliciting sexual,
210 romantic, or lewd conduct with a student; require the district
211 school superintendent to report to law enforcement misconduct by
212 educational support employees, instructional personnel, or
213 school administrators that would result in disqualification from
214 educator certification or employment as provided in s. 1012.315;
215 and include an explanation of the liability protections provided
216 under ss. 39.203 and 768.095. A district school board, or any of
217 its employees or personnel, may not enter into a confidentiality
218 agreement regarding terminated or dismissed educational support
219 employees, instructional or administrative personnel, or school
220 officers who resign in lieu of termination, based in whole or in
221 part on misconduct that affects the health, safety, or welfare
222 of a student, and may not provide educational support employees,
223 instructional personnel, administrative personnel, or school
224 officers with employment references or discuss the employees',
225 personnel's, or officers' performance with prospective employers
226 in another educational setting, without disclosing the
227 employees', personnel's, or officers' misconduct. Any part of an
228 agreement or contract that has the purpose or effect of
229 concealing misconduct by educational support employees,
230 instructional personnel, administrative personnel, or school
231 officers which affects the health, safety, or welfare of a
232 student is void, is contrary to public policy, and may not be

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233 enforced.

234 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify

235 educational support employees, instructional personnel, and

236 administrative personnel, as defined in s. 1012.01, from

237 employment in any position that requires direct contact with

238 students if the employees or personnel are ineligible for such

239 employment under s. 1012.315, and, if the disqualifying conduct

240 occurs subsequent to employment, report the disqualified

241 employees or personnel and the disqualifying circumstances to

242 the department for inclusion on the disqualification list

243 maintained by the department pursuant to s. 1001.10(4)(b). An

244 electd or appointed school board official forfeits his or her

245 salary for 1 year if:

246 (a) The school board official knowingly signs and transmits

247 to any state official a report of alleged misconduct by

248 educational support employees, instructional personnel, or

249 administrative personnel which affects the health, safety, or

250 welfare of a student and the school board official knows the

251 report to be false or incorrect; or

252 (b) The school board official knowingly fails to adopt

253 policies that require:

254 1. Educational support employees, instructional personnel,

255 and administrative personnel to report alleged misconduct by

256 other educational support employees, instructional personnel,

257 and administrative personnel;

258 2. The district school superintendent to report misconduct

259 by educational support employees, instructional personnel, or

260 school administrators that would result in disqualification from

261 educator certification or employment as provided in s. 1012.315

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262 to the law enforcement agencies with jurisdiction over the

263 conduct and the department as required by s. 1012.796; or

264 3. The complete investigation of all reports of alleged

265 misconduct by educational support employees, instructional

266 personnel, and administrative personnel, if the misconduct

267 affects the health, safety, or welfare of a student, regardless

268 of whether the educational support employees, instructional

269 personnel, or administrative personnel resign or are terminated

270 before the conclusion of the investigation. The policy must

271 require the superintendent to notify the department of the

272 result of the investigation and whether the misconduct warranted

273 termination, regardless of whether the person resigned or was

274 terminated before the conclusion of the investigation.

275 Section 3. Paragraph (g) of subsection (12) and paragraphs

276 (b) and (c) of subsection (16) of section 1002.33, Florida

277 Statutes, are amended to read:

278 1002.33 Charter schools.—

279 (12) EMPLOYEES OF CHARTER SCHOOLS.—

280 (g)1. A charter school shall employ or contract with

281 employees who have undergone background screening as provided in

282 s. 1012.32. Members of the governing board of the charter school

283 shall also undergo background screening in a manner similar to

284 that provided in s. 1012.32. A person may not be employed by a

285 charter school or serve as a member of a charter school

286 governing board if the person is ineligible pursuant to s.

287 1012.315 or is included on the disqualification list maintained

288 by the department pursuant to s. 1001.10(4)(b).

289 2. A charter school shall disqualify educational support

290 employees, instructional personnel, and school administrators,

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 291 as defined in s. 1012.01, from employment in any position that
 292 requires direct contact with students if the employees,
 293 personnel, or administrators are ineligible for such employment
 294 under s. 1012.315, and, if the disqualifying conduct occurs
 295 subsequent to employment, report the person and the
 296 disqualifying circumstances to the department for inclusion on
 297 the disqualification list maintained pursuant to s.
 298 1001.10(4)(b).

299 3. The governing board of a charter school shall adopt
 300 policies establishing standards of ethical conduct for
 301 educational support employees, instructional personnel, and
 302 school administrators. The policies must require all educational
 303 support employees, instructional personnel, and school
 304 administrators, as defined in s. 1012.01, to complete training
 305 on the standards; establish the duty of educational support
 306 employees, instructional personnel, and school administrators to
 307 report, and procedures for reporting, alleged misconduct by
 308 other educational support employees, instructional personnel,
 309 and school administrators which affects the health, safety, or
 310 welfare of a student; and include an explanation of the
 311 liability protections provided under ss. 39.203 and 768.095. A
 312 charter school, or any of its employees, may not enter into a
 313 confidentiality agreement regarding terminated or dismissed
 314 educational support employees, instructional personnel, or
 315 school administrators, or personnel or administrators who resign
 316 in lieu of termination, based in whole or in part on misconduct
 317 that affects the health, safety, or welfare of a student, and
 318 may not provide educational support employees, instructional
 319 personnel, or school administrators with employment references

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 320 or discuss the employees', personnel's, or administrators'
 321 performance with prospective employers in another educational
 322 setting, without disclosing the employees', personnel's or
 323 administrators' misconduct. Any part of an agreement or contract
 324 that has the purpose or effect of concealing misconduct by
 325 educational support employees, instructional personnel, or
 326 school administrators which affects the health, safety, or
 327 welfare of a student is void, is contrary to public policy, and
 328 may not be enforced.

329 4. Before employing a person ~~instructional personnel or~~
 330 ~~school administrators~~ in any position that requires direct
 331 contact with students, a charter school shall conduct employment
 332 history checks of each of the person's ~~personnel's or~~
 333 ~~administrators'~~ previous employers, screen the person
 334 ~~instructional personnel or school administrators~~ through use of
 335 the ~~educator~~ screening tools described in s. 1001.10(5), and
 336 document the findings. If unable to contact a previous employer,
 337 the charter school must document efforts to contact the
 338 employer.

339 5. The sponsor of a charter school that knowingly fails to
 340 comply with this paragraph shall terminate the charter under
 341 subsection (8).

342 (16) EXEMPTION FROM STATUTES.—

343 (b) ~~Additionally,~~ A charter school also shall be in
 344 compliance with the following statutes:

- 345 1. Section 286.011, relating to public meetings and
 346 records, public inspection, and criminal and civil penalties.
 347 2. Chapter 119, relating to public records.
 348 3. Section 1003.03, relating to the maximum class size,

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349 except that the calculation for compliance pursuant to s.
 350 1003.03 shall be the average at the school level.

351 4. Section 1012.22(1)(c), relating to compensation and
 352 salary schedules.

353 5. Section 1012.33(5), relating to workforce reductions.

354 6. Section 1012.335, relating to contracts with
 355 instructional personnel hired on or after July 1, 2011.

356 7. Section 1012.34, relating to the substantive
 357 requirements for performance evaluations for instructional
 358 personnel and school administrators.

359 8. Section 1006.12, relating to safe-school officers.

360 9. Section 1006.07(7), relating to threat assessment teams.

361 10. Section 1006.07(9), relating to School Environmental
 362 Safety Incident Reporting.

363 11. Section 1006.1493, relating to the Florida Safe Schools
 364 Assessment Tool.

365 12. Section 1006.07(6)(c), relating to adopting an active
 366 assailant response plan.

367 13. Section 943.082(4)(b), relating to the mobile
 368 suspicious activity reporting tool.

369 14. Section 1012.584, relating to youth mental health
 370 awareness and assistance training.

371 15. Section 1012.796, relating to complaints against
 372 educational support employees, teachers, and administrators.

373 (c) For purposes of subparagraphs (b)4.-7. and 15.:
 374 1. The duties assigned to a district school superintendent
 375 apply to charter school administrative personnel, as defined in
 376 s. 1012.01(3)(a) and (b), and the charter school governing board
 377 shall designate at least one administrative person to be

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378 responsible for such duties.

379 2. The duties assigned to a district school board apply to
 380 a charter school governing board.

381 3. A charter school may hire instructional personnel and
 382 other employees on an at-will basis.

383 4. Notwithstanding any provision to the contrary,
 384 instructional personnel and other employees on contract may be
 385 suspended or dismissed any time during the term of the contract
 386 without cause.

387 Section 4. Paragraphs (n) and (o) of subsection (1) and
 388 subsection (3) of section 1002.421, Florida Statutes, are
 389 amended, and paragraph (r) of subsection (1) is added to that
 390 section, to read:

391 1002.421 State school choice scholarship program
 392 accountability and oversight.—

393 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
 394 school participating in an educational scholarship program
 395 established pursuant to this chapter must be a private school as
 396 defined in s. 1002.01(2) in this state, be registered, and be in
 397 compliance with all requirements of this section in addition to
 398 private school requirements outlined in s. 1002.42, specific
 399 requirements identified within respective scholarship program
 400 laws, and other provisions of Florida law that apply to private
 401 schools, and must:

402 (n) Adopt policies establishing standards of ethical
 403 conduct for educational support employees, instructional
 404 personnel, and school administrators. The policies must require
 405 all educational support employees, instructional personnel, and
 406 school administrators, as defined in s. 1012.01, to complete

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 407 training on the standards; establish the duty of educational
 408 support employees, instructional personnel, and school
 409 administrators to report, and procedures for reporting, alleged
 410 misconduct by other educational support employees, instructional
 411 personnel, and school administrators which affects the health,
 412 safety, or welfare of a student; and include an explanation of
 413 the liability protections provided under ss. 39.203 and 768.095.
 414 A private school, or any of its employees, may not enter into a
 415 confidentiality agreement regarding terminated or dismissed
 416 educational support employees, instructional personnel, or
 417 school administrators, or personnel or administrators who resign
 418 in lieu of termination, based in whole or in part on misconduct
 419 that affects the health, safety, or welfare of a student, and
 420 may not provide the employees, instructional personnel, or
 421 school administrators with employment references or discuss the
 422 employees', personnel's, or administrators' performance with
 423 prospective employers in another educational setting, without
 424 disclosing the employees', personnel's, or administrators'
 425 misconduct. Any part of an agreement or contract that has the
 426 purpose or effect of concealing misconduct by educational
 427 support employees, instructional personnel, or school
 428 administrators which affects the health, safety, or welfare of a
 429 student is void, is contrary to public policy, and may not be
 430 enforced.

431 (o) Before employing an individual instructional personnel
 432 ~~or school administrators~~ in any position that requires direct
 433 contact with students, conduct employment history checks of ~~each~~
 434 ~~of the personnel's or administrators'~~ previous employers, screen
 435 the individual using the personnel or administrators through use

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 436 ~~of the educator~~ screening tools described in s. 1001.10(5), and
 437 document the findings. If unable to contact a previous employer,
 438 the private school must document efforts to contact the
 439 employer. The private school must deny employment to any
 440 individual whose educator certificate is revoked, who is barred
 441 from reapplication for an educator certificate, or who is
 442 identified on the disqualification list maintained by the
 443 department pursuant to s. 1001.10(4)(b).

444 (r) Disqualify educational support employees, instructional
 445 personnel, and school administrators from employment in any
 446 position that requires direct contact with students if the
 447 personnel or administrators are ineligible for such employment
 448 pursuant to this section or s. 1012.315, and, if the
 449 disqualifying conduct occurs subsequent to employment, report
 450 the person and the disqualifying circumstances to the department
 451 for inclusion on the disqualification list maintained pursuant
 452 to s. 1001.10(4)(b).

453
 454 The department shall suspend the payment of funds to a private
 455 school that knowingly fails to comply with this subsection, and
 456 shall prohibit the school from enrolling new scholarship
 457 students, for 1 fiscal year and until the school complies. If a
 458 private school fails to meet the requirements of this subsection
 459 or has consecutive years of material exceptions listed in the
 460 report required under paragraph (q), the commissioner may
 461 determine that the private school is ineligible to participate
 462 in a scholarship program.

463 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

464 The Commissioner of Education:

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465 (a) Shall deny, suspend, or revoke a private school's
 466 participation in a scholarship program if it is determined that
 467 the private school has failed to comply with this section or
 468 exhibits a previous pattern of failure to comply. However, if
 469 the noncompliance is correctable within a reasonable amount of
 470 time, not to exceed 45 days, and if the health, safety, or
 471 welfare of the students is not threatened, the commissioner may
 472 issue a notice of noncompliance which provides the private
 473 school with a timeframe within which to provide evidence of
 474 compliance before taking action to suspend or revoke the private
 475 school's participation in the scholarship program.

476 (b) May deny, suspend, or revoke a private school's
 477 participation in a scholarship program if the commissioner
 478 determines that an owner or operator of the private school is
 479 operating or has operated an educational institution in this
 480 state or in another state or jurisdiction in a manner contrary
 481 to the health, safety, or welfare of the public or if the owner
 482 or operator has exhibited a previous pattern of failure to
 483 comply with this section or specific requirements identified
 484 within respective scholarship program laws. For purposes of this
 485 subsection, the term "owner or operator" has the same meaning as
 486 provided in paragraph (1)(p).

487 (c) May permanently deny or revoke the authority of an
 488 owner or operator to establish or operate a private school
 489 participating in an educational scholarship program pursuant to
 490 this chapter if the commissioner decides that the owner or
 491 operator is operating or has operated an educational institution
 492 in this state or another state or jurisdiction in a manner
 493 contrary to the health, safety, or welfare of the public, and

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494 shall include such person on the disqualification list
 495 maintained by the department pursuant to s. 1001.10(4)(b).

496 ~~(d)1.(e)1.~~ In making such a determination, may consider
 497 factors that include, but are not limited to, acts or omissions
 498 by an owner or operator which led to a previous denial,
 499 suspension, or revocation of participation in a state or federal
 500 education scholarship program; an owner's or operator's failure
 501 to reimburse the department or scholarship-funding organization
 502 for scholarship funds improperly received or retained by a
 503 school; the imposition of a prior criminal sanction related to
 504 an owner's or operator's management or operation of an
 505 educational institution; the imposition of a civil fine or
 506 administrative fine, license revocation or suspension, or
 507 program eligibility suspension, termination, or revocation
 508 related to an owner's or operator's management or operation of
 509 an educational institution; or other types of criminal
 510 proceedings in which an owner or operator was found guilty of,
 511 regardless of adjudication, or entered a plea of nolo contendere
 512 or guilty to, any offense involving fraud, deceit, dishonesty,
 513 or moral turpitude.

514 2. The commissioner's determination is subject to the
 515 following:

516 a. If the commissioner intends to deny, suspend, or revoke
 517 a private school's participation in the scholarship program, the
 518 department shall notify the private school of such proposed
 519 action in writing by certified mail and regular mail to the
 520 private school's address of record with the department. The
 521 notification shall include the reasons for the proposed action
 522 and notice of the timelines and procedures set forth in this

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523 paragraph.

524 b. The private school that is adversely affected by the

525 proposed action shall have 15 days after receipt of the notice

526 of proposed action to file with the department's agency clerk a

527 request for a proceeding pursuant to ss. 120.569 and 120.57. If

528 the private school is entitled to a hearing under s. 120.57(1),

529 the department shall forward the request to the Division of

530 Administrative Hearings.

531 c. Upon receipt of a request referred pursuant to this

532 subparagraph, the director of the Division of Administrative

533 Hearings shall expedite the hearing and assign an administrative

534 law judge who shall commence a hearing within 30 days after the

535 receipt of the formal written request by the division and enter

536 a recommended order within 30 days after the hearing or within

537 30 days after receipt of the hearing transcript, whichever is

538 later. Each party shall be allowed 10 days in which to submit

539 written exceptions to the recommended order. A final order shall

540 be entered by the agency within 30 days after the entry of a

541 recommended order. The provisions of this sub-subparagraph may

542 be waived upon stipulation by all parties.

543 (e)~~(d)~~ May immediately suspend payment of scholarship funds

544 if it is determined that there is probable cause to believe that

545 there is:

546 1. An imminent threat to the health, safety, or welfare of

547 the students;

548 2. A previous pattern of failure to comply with this

549 section; or

550 3. Fraudulent activity on the part of the private school.

551 Notwithstanding s. 1002.22, in incidents of alleged fraudulent

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552 activity pursuant to this section, the department's Office of

553 Inspector General is authorized to release personally

554 identifiable records or reports of students to the following

555 persons or organizations:

556 a. A court of competent jurisdiction in compliance with an

557 order of that court or the attorney of record in accordance with

558 a lawfully issued subpoena, consistent with the Family

559 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

560 b. A person or entity authorized by a court of competent

561 jurisdiction in compliance with an order of that court or the

562 attorney of record pursuant to a lawfully issued subpoena,

563 consistent with the Family Educational Rights and Privacy Act,

564 20 U.S.C. s. 1232g.

565 c. Any person, entity, or authority issuing a subpoena for

566 law enforcement purposes when the court or other issuing agency

567 has ordered that the existence or the contents of the subpoena

568 or the information furnished in response to the subpoena not be

569 disclosed, consistent with the Family Educational Rights and

570 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

571

572 The commissioner's order suspending payment pursuant to this

573 paragraph may be appealed pursuant to the same procedures and

574 timelines as the notice of proposed action set forth in

575 subparagraph (d)2. ~~subparagraph (e)2.~~

576 Section 5. Paragraph (a) of subsection (2) of section

577 1002.45, Florida Statutes, is amended to read:

578 1002.45 Virtual instruction programs.—

579 (2) PROVIDER QUALIFICATIONS.—

580 (a) The department shall annually publish online a list of

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581 providers approved to offer virtual instruction programs. To be
 582 approved by the department, a provider must document that it:

583 1. Is nonsectarian in its programs, admission policies,
 584 employment practices, and operations;

585 2. Complies with the antidiscrimination provisions of s.
 586 1000.05;

587 3. Locates an administrative office or offices in this
 588 state, requires its administrative staff to be state residents,
 589 requires all instructional staff to be Florida-certified
 590 teachers under chapter 1012, and conducts background screenings
 591 and receives arrest reports for all employees or contracted
 592 personnel, as required by s. 1012.32, using state and national
 593 criminal history records, and designates at least one
 594 administrator to be responsible for the duties and requirements
 595 related to background screening assigned to a district school
 596 board and superintendent under ss. 1012.465 and 1012.56(10);

597 4. Disqualifies educational support employees,
 598 instructional personnel, and administrative personnel, as
 599 defined in s. 1012.01, from employment in any position that
 600 requires direct contact with students, if the employees or
 601 personnel are ineligible for such employment under s. 1012.315,
 602 and, if the disqualifying conduct occurs subsequent to
 603 employment, reports the disqualified employees or personnel and
 604 the disqualifying circumstances to the department for inclusion
 605 on the disqualification list maintained by the department
 606 pursuant to s. 1001.10(4)(b).

607 ~~5.4~~ Provides to parents and students specific information
 608 posted and accessible online that includes, but is not limited
 609 to, the following teacher-parent and teacher-student contact

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610 information for each course:

611 a. How to contact the instructor via phone, e-mail, or
 612 online messaging tools.

613 b. How to contact technical support via phone, e-mail, or
 614 online messaging tools.

615 c. How to contact the administration office via phone, e-
 616 mail, or online messaging tools.

617 d. Any requirement for regular contact with the instructor
 618 for the course and clear expectations for meeting the
 619 requirement.

620 e. The requirement that the instructor in each course must,
 621 at a minimum, conduct one contact via phone with the parent and
 622 the student each month;

623 ~~6.5~~ Possesses prior, successful experience offering online
 624 courses to elementary, middle, or high school students as
 625 demonstrated by quantified student learning gains in each
 626 subject area and grade level provided for consideration as an
 627 instructional program option. However, for a provider without
 628 sufficient prior, successful experience offering online courses,
 629 the department may conditionally approve the provider to offer
 630 courses measured pursuant to subparagraph (8)(a)2. Conditional
 631 approval shall be valid for 1 school year only and, based on the
 632 provider's experience in offering the courses, the department
 633 shall determine whether to grant approval to offer a virtual
 634 instruction program;

635 ~~7.6~~ Is accredited by a regional accrediting association as
 636 defined by State Board of Education rule;

637 ~~8.7~~ Ensures instructional and curricular quality through a
 638 detailed curriculum and student performance accountability plan

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639 that addresses every subject and grade level it intends to
 640 provide through contract with the school district, including:

641 a. Courses and programs that meet the standards of the
 642 International Association for K-12 Online Learning and the
 643 Southern Regional Education Board.

644 b. Instructional content and services that align with, and
 645 measure student attainment of, student proficiency in the Next
 646 Generation Sunshine State Standards.

647 c. Mechanisms that determine and ensure that a student has
 648 satisfied requirements for grade level promotion and high school
 649 graduation with a standard diploma, as appropriate;

650 ~~9.8-~~ Publishes for the general public, in accordance with
 651 disclosure requirements adopted in rule by the State Board of
 652 Education, as part of its application as a provider and in all
 653 contracts negotiated pursuant to this section:

654 a. Information and data about the curriculum of each full-
 655 time and part-time program.

656 b. School policies and procedures.

657 c. Certification status and physical location of all
 658 administrative and instructional personnel.

659 d. Hours and times of availability of instructional
 660 personnel.

661 e. Student-teacher ratios.

662 f. Student completion and promotion rates.

663 g. Student, educator, and school performance accountability
 664 outcomes;

665 ~~10.9-~~ If the provider is a Florida College System
 666 institution, employs instructors who meet the certification
 667 requirements for instructional staff under chapter 1012; and

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668 ~~11.40-~~ Performs an annual financial audit of its accounts
 669 and records conducted by an independent certified public
 670 accountant which is in accordance with rules adopted by the
 671 Auditor General, is conducted in compliance with generally
 672 accepted auditing standards, and includes a report on financial
 673 statements presented in accordance with generally accepted
 674 accounting principles.

675 12. Complies with s. 1012.796, relating to complaints
 676 against educational support employees, teachers, and
 677 administrators and designates at least one administrator to be
 678 responsible for the duties and requirements assigned to a
 679 district school board and superintendent pursuant to that
 680 section. A virtual instruction provider must inform the district
 681 school board of a complaint regarding misconduct or an arrest of
 682 instructional or noninstructional personnel.

683 Section 6. Subsection (2) of section 1006.061, Florida
 684 Statutes, is amended to read:

685 1006.061 Child abuse, abandonment, and neglect policy.—Each
 686 district school board, charter school, and private school that
 687 accepts scholarship students who participate in a state
 688 scholarship program under chapter 1002 shall:

689 (2) Post in a prominent place at each school site and on
 690 each school's Internet website, if available, the policies and
 691 procedures for reporting alleged misconduct by educational
 692 support employees, instructional personnel, or school
 693 administrators which affects the health, safety, or welfare of a
 694 student; the contact person to whom the report is made; and the
 695 penalties imposed on educational support employees,
 696 instructional personnel, or school administrators who fail to

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 697 report suspected or actual child abuse or alleged misconduct by
 698 other educational support employees, instructional personnel, or
 699 school administrators.

700
 701 The Department of Education shall develop, and publish on the
 702 department's Internet website, sample notices suitable for
 703 posting in accordance with subsections (1), (2), and (4).

704 Section 7. Paragraph (a) of subsection (3) of section
 705 1012.31, Florida Statutes, is amended to read:

706 1012.31 Personnel files.—Public school system employee
 707 personnel files shall be maintained according to the following
 708 provisions:

709 (3) (a) Public school system employee personnel files are
 710 subject to the provisions of s. 119.07(1), except as follows:

711 1. Any complaint and any material relating to the
 712 investigation of a complaint against an employee shall be
 713 confidential and exempt from the provisions of s. 119.07(1)
 714 until the conclusion of the preliminary investigation or until
 715 such time as the preliminary investigation ceases to be active.
 716 If the preliminary investigation is concluded with the finding
 717 that there is no probable cause to proceed further and with no
 718 disciplinary action taken or charges filed, a statement to that
 719 effect signed by the responsible investigating official shall be
 720 attached to the complaint, and the complaint and all such
 721 materials shall be open thereafter to inspection pursuant to s.
 722 119.07(1). If the preliminary investigation is concluded with
 723 the finding that there is probable cause to proceed further or
 724 with disciplinary action taken or charges filed, the complaint
 725 and all such materials shall be open thereafter to inspection

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 726 pursuant to s. 119.07(1). If the preliminary investigation
 727 ceases to be active, the complaint and all such materials shall
 728 be open thereafter to inspection pursuant to s. 119.07(1). For
 729 the purpose of this subsection, a preliminary investigation
 730 shall be considered active as long as it is continuing with a
 731 reasonable, good faith anticipation that an administrative
 732 finding will be made in the foreseeable future. An investigation
 733 shall be presumed to be inactive if no finding relating to
 734 probable cause is made within 60 days after the complaint is
 735 made. This subparagraph does not absolve the school district of
 736 the duty to issue any legally required notifications, including
 737 the its duty to provide any legally sufficient complaint to the
 738 department in accordance with within 30 days after the date on
 739 which the subject matter of the complaint comes to the attention
 740 of the school district pursuant to s. 1012.796(1) (d)1. and 3.,
 741 regardless of the status of the complaint.

742 2. An employee evaluation prepared pursuant to s. 1012.33,
 743 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
 744 Education or district school board under the authority of those
 745 sections shall be confidential and exempt from the provisions of
 746 s. 119.07(1) until the end of the school year immediately
 747 following the school year in which the evaluation was made. No
 748 evaluation prepared before July 1, 1983, shall be made public
 749 pursuant to this section.

750 3. No material derogatory to an employee shall be open to
 751 inspection until 10 days after the employee has been notified
 752 pursuant to paragraph (2) (c).

753 4. The payroll deduction records of an employee shall be
 754 confidential and exempt from the provisions of s. 119.07(1).

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755 5. Employee medical records, including psychiatric and
756 psychological records, shall be confidential and exempt from the
757 provisions of s. 119.07(1); however, at any hearing relative to
758 the competency or performance of an employee, the administrative
759 law judge, hearing officer, or panel shall have access to such
760 records.

761 Section 8. Section 1012.315, Florida Statutes, is amended
762 to read:

763 1012.315 Disqualification from employment.—A person is
764 ineligible for educator certification or employment in any
765 position that requires direct contact with students in a
766 district school system, charter school, or private school that
767 accepts scholarship students who participate in a state
768 scholarship program under chapter 1002 if the person is included
769 in the disqualification list maintained by the department
770 pursuant to s. 1001.10(4)(b) or has been convicted of:

771 (1) Any felony offense prohibited under any of the
772 following statutes:

773 (a) Section 393.135, relating to sexual misconduct with
774 certain developmentally disabled clients and reporting of such
775 sexual misconduct.

776 (b) Section 394.4593, relating to sexual misconduct with
777 certain mental health patients and reporting of such sexual
778 misconduct.

779 (c) Section 415.111, relating to adult abuse, neglect, or
780 exploitation of aged persons or disabled adults.

781 (d) Section 782.04, relating to murder.

782 (e) Section 782.07, relating to manslaughter, aggravated
783 manslaughter of an elderly person or disabled adult, aggravated

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784 manslaughter of a child, or aggravated manslaughter of an
785 officer, a firefighter, an emergency medical technician, or a
786 paramedic.

787 (f) Section 784.021, relating to aggravated assault.

788 (g) Section 784.045, relating to aggravated battery.

789 (h) Section 784.075, relating to battery on a detention or
790 commitment facility staff member or a juvenile probation
791 officer.

792 (i) Section 787.01, relating to kidnapping.

793 (j) Section 787.02, relating to false imprisonment.

794 (k) Section 787.025, relating to luring or enticing a
795 child.

796 (l) Section 787.04(2), relating to leading, taking,
797 enticing, or removing a minor beyond the state limits, or
798 concealing the location of a minor, with criminal intent pending
799 custody proceedings.

800 (m) Section 787.04(3), relating to leading, taking,
801 enticing, or removing a minor beyond the state limits, or
802 concealing the location of a minor, with criminal intent pending
803 dependency proceedings or proceedings concerning alleged abuse
804 or neglect of a minor.

805 (n) Section 790.115(1), relating to exhibiting firearms or
806 weapons at a school-sponsored event, on school property, or
807 within 1,000 feet of a school.

808 (o) Section 790.115(2)(b), relating to possessing an
809 electric weapon or device, destructive device, or other weapon
810 at a school-sponsored event or on school property.

811 (p) Section 794.011, relating to sexual battery.

812 (q) Former s. 794.041, relating to sexual activity with or

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813 solicitation of a child by a person in familial or custodial
814 authority.

815 (r) Section 794.05, relating to unlawful sexual activity
816 with certain minors.

817 (s) Section 794.08, relating to female genital mutilation.

818 (t) Chapter 796, relating to prostitution.

819 (u) Chapter 800, relating to lewdness and indecent
820 exposure.

821 (v) Section 800.101, relating to offenses against students
822 by authority figures.

823 (w) Section 806.01, relating to arson.

824 (x) Section 810.14, relating to voyeurism.

825 (y) Section 810.145, relating to video voyeurism.

826 (z) Section 812.014(6), relating to coordinating the
827 commission of theft in excess of \$3,000.

828 (aa) Section 812.0145, relating to theft from persons 65
829 years of age or older.

830 (bb) Section 812.019, relating to dealing in stolen
831 property.

832 (cc) Section 812.13, relating to robbery.

833 (dd) Section 812.131, relating to robbery by sudden
834 snatching.

835 (ee) Section 812.133, relating to carjacking.

836 (ff) Section 812.135, relating to home-invasion robbery.

837 (gg) Section 817.563, relating to fraudulent sale of
838 controlled substances.

839 (hh) Section 825.102, relating to abuse, aggravated abuse,
840 or neglect of an elderly person or disabled adult.

841 (ii) Section 825.103, relating to exploitation of an

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842 elderly person or disabled adult.

843 (jj) Section 825.1025, relating to lewd or lascivious
844 offenses committed upon or in the presence of an elderly person
845 or disabled person.

846 (kk) Section 826.04, relating to incest.

847 (ll) Section 827.03, relating to child abuse, aggravated
848 child abuse, or neglect of a child.

849 (mm) Section 827.04, relating to contributing to the
850 delinquency or dependency of a child.

851 (nn) Section 827.071, relating to sexual performance by a
852 child.

853 (oo) Section 843.01, relating to resisting arrest with
854 violence.

855 (pp) Chapter 847, relating to obscenity.

856 (qq) Section 874.05, relating to causing, encouraging,
857 soliciting, or recruiting another to join a criminal street
858 gang.

859 (rr) Chapter 893, relating to drug abuse prevention and
860 control, if the offense was a felony of the second degree or
861 greater severity.

862 (ss) Section 916.1075, relating to sexual misconduct with
863 certain forensic clients and reporting of such sexual
864 misconduct.

865 (tt) Section 944.47, relating to introduction, removal, or
866 possession of contraband at a correctional facility.

867 (uu) Section 985.701, relating to sexual misconduct in
868 juvenile justice programs.

869 (vv) Section 985.711, relating to introduction, removal, or
870 possession of contraband at a juvenile detention facility or

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871 commitment program.

872 (2) Any misdemeanor offense prohibited under any of the

873 following statutes:

874 (a) Section 784.03, relating to battery, if the victim of

875 the offense was a minor.

876 (b) Section 787.025, relating to luring or enticing a

877 child.

878 (3) Any criminal act committed in another state or under

879 federal law which, if committed in this state, constitutes an

880 offense prohibited under any statute listed in subsection (1) or

881 subsection (2).

882 (4) Any delinquent act committed in this state or any

883 delinquent or criminal act committed in another state or under

884 federal law which, if committed in this state, qualifies an

885 individual for inclusion on the Registered Juvenile Sex Offender

886 List under s. 943.0435(1)(h)1.d.

887 Section 9. Paragraph (a) of subsection (2) and paragraph

888 (b) of subsection (3) of section 1012.32, Florida Statutes, are

889 amended to read:

890 1012.32 Qualifications of personnel.—

891 (2)(a) Instructional and noninstructional personnel who are

892 hired or contracted to fill positions that require direct

893 contact with students in any district school system, virtual

894 instruction program, or university lab school must, upon

895 employment or engagement to provide services, undergo background

896 screening as required under s. 1012.465 or s. 1012.56, whichever

897 is applicable. A district school board may not require employees

898 or contractual personnel of a virtual instruction provider

899 approved pursuant to s. 1002.45(2) to undergo additional

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900 background screening.

901

902 Fingerprints shall be submitted to the Department of Law

903 Enforcement for statewide criminal and juvenile records checks

904 and to the Federal Bureau of Investigation for federal criminal

905 records checks. A person subject to this subsection who is found

906 ineligible for employment under s. 1012.315, or otherwise found

907 through background screening to have been convicted of any crime

908 involving moral turpitude as defined by rule of the State Board

909 of Education, shall not be employed, engaged to provide

910 services, or serve in any position that requires direct contact

911 with students. Probationary persons subject to this subsection

912 terminated because of their criminal record have the right to

913 appeal such decisions. The cost of the background screening may

914 be borne by the district school board, the charter school, the

915 employee, the contractor, or a person subject to this

916 subsection. A district school board shall reimburse a charter

917 school the cost of background screening if it does not notify

918 the charter school of the eligibility of a governing board

919 member or instructional or noninstructional personnel within the

920 earlier of 14 days after receipt of the background screening

921 results from the Florida Department of Law Enforcement or 30

922 days of submission of fingerprints by the governing board member

923 or instructional or noninstructional personnel.

924 (3)

925 (b) The Department of Law Enforcement shall search all

926 arrest fingerprints received under s. 943.051 against the

927 fingerprints retained in the statewide automated biometric

928 identification system under paragraph (a). Any arrest record

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929 that is identified with the retained fingerprints of a person
 930 subject to the background screening under this section shall be
 931 reported to the employing or contracting school district,
 932 virtual instruction provider approved pursuant to s. 1002.45(2),
 933 or the school district with which the person is affiliated. All
 934 school districts and approved virtual instruction providers are
 935 ~~Each school district is~~ required to participate in this search
 936 process by payment of an annual fee to the Department of Law
 937 Enforcement and by informing the Department of Law Enforcement
 938 of any change in the affiliation, employment, or contractual
 939 status or place of affiliation, employment, or contracting of
 940 its instructional and noninstructional personnel whose
 941 fingerprints are retained under paragraph (a). The Department of
 942 Law Enforcement shall adopt a rule setting the amount of the
 943 annual fee to be imposed upon each school district and approved
 944 virtual instruction provider for performing these searches and
 945 establishing the procedures for the retention of instructional
 946 and noninstructional personnel fingerprints and the
 947 dissemination of search results. The fee may be borne by the
 948 district school board, the approved virtual instruction
 949 provider, the contractor, or the person fingerprinted.

950 Section 10. Subsection (1) of section 1012.795, Florida
 951 Statutes, is amended to read:

952 1012.795 Education Practices Commission; authority to
 953 discipline.—

954 (1) The Education Practices Commission may suspend the
 955 educator certificate of any instructional personnel or school
 956 administrator, as defined in s. 1012.01(2) or (3), for up to 5
 957 years, thereby denying that person the right to teach or

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958 otherwise be employed by a district school board or public
 959 school in any capacity requiring direct contact with students
 960 for that period of time, after which the person may return to
 961 teaching as provided in subsection (4); may revoke the educator
 962 certificate of any person, thereby denying that person the right
 963 to teach or otherwise be employed by a district school board or
 964 public school in any capacity requiring direct contact with
 965 students for up to 10 years, with reinstatement subject to
 966 subsection (4); may permanently revoke the educator certificate
 967 of any person thereby denying that person the right to teach or
 968 otherwise be employed by a district school board or public
 969 school in any capacity requiring direct contact with students;
 970 may suspend a person's educator certificate, upon an order of
 971 the court or notice by the Department of Revenue relating to the
 972 payment of child support; may direct the department to place
 973 employees or contractual personnel of any public school, charter
 974 school, charter school governing board, or private school that
 975 participates in a state scholarship program under chapter 1002
 976 on the disqualification list maintained by the department
 977 pursuant to s. 1001.10(4)(b) for misconduct that would render
 978 the person ineligible pursuant to s. 1012.315; or may impose any
 979 other penalty provided by law, if the person:
 980 (a) Obtained or attempted to obtain an educator certificate
 981 by fraudulent means.
 982 (b) Knowingly failed to report actual or suspected child
 983 abuse as required in s. 1006.061 or report alleged misconduct by
 984 instructional personnel or school administrators which affects
 985 the health, safety, or welfare of a student as required in s.
 986 1012.796.

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987 (c) Has proved to be incompetent to teach or to perform
 988 duties as an employee of the public school system or to teach in
 989 or to operate a private school.

990 (d) Has been guilty of gross immorality or an act involving
 991 moral turpitude as defined by rule of the State Board of
 992 Education, including engaging in or soliciting sexual, romantic,
 993 or lewd conduct with a student or minor.

994 (e) Has had an educator certificate or other professional
 995 license sanctioned by this or any other state or has had the
 996 authority to practice the regulated profession revoked,
 997 suspended, or otherwise acted against, including a denial of
 998 certification or licensure, by the licensing or certifying
 999 authority of any jurisdiction, including its agencies and
 1000 subdivisions. The licensing or certifying authority's acceptance
 1001 of a relinquishment, stipulation, consent order, or other
 1002 settlement offered in response to or in anticipation of the
 1003 filing of charges against the licensee or certificateholder
 1004 shall be construed as action against the license or certificate.
 1005 For purposes of this section, a sanction or action against a
 1006 professional license, a certificate, or an authority to practice
 1007 a regulated profession must relate to being an educator or the
 1008 fitness of or ability to be an educator.

1009 (f) Has been convicted or found guilty of, has had
 1010 adjudication withheld for, or has pled guilty or nolo contendere
 1011 to a misdemeanor, felony, or any other criminal charge, other
 1012 than a minor traffic violation.

1013 (g) Upon investigation, has been found guilty of personal
 1014 conduct that seriously reduces that person's effectiveness as an
 1015 employee of the district school board.

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1016 (h) Has breached a contract, as provided in s. 1012.33(2)
 1017 or s. 1012.335.

1018 (i) Has been the subject of a court order or notice by the
 1019 Department of Revenue pursuant to s. 409.2598 directing the
 1020 Education Practices Commission to suspend the certificate as a
 1021 result of noncompliance with a child support order, a subpoena,
 1022 an order to show cause, or a written agreement with the
 1023 Department of Revenue.

1024 (j) Has violated the Principles of Professional Conduct for
 1025 the Education Profession prescribed by State Board of Education
 1026 rules.

1027 (k) Has otherwise violated the provisions of law, the
 1028 penalty for which is the revocation of the educator certificate.

1029 (l) Has violated any order of the Education Practices
 1030 Commission.

1031 (m) Has been the subject of a court order or plea agreement
 1032 in any jurisdiction which requires the certificateholder to
 1033 surrender or otherwise relinquish his or her educator's
 1034 certificate. A surrender or relinquishment shall be for
 1035 permanent revocation of the certificate. A person may not
 1036 surrender or otherwise relinquish his or her certificate prior
 1037 to a finding of probable cause by the commissioner as provided
 1038 in s. 1012.796.

1039 (n) Has been disqualified from educator certification under
 1040 s. 1012.315.

1041 (o) Has committed a third recruiting offense as determined
 1042 by the Florida High School Athletic Association (FHSAA) pursuant
 1043 to s. 1006.20(2)(b).

1044 (p) Has violated test security as provided in s. 1008.24.

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1045 Section 11. Section 1012.796, Florida Statutes, is amended
 1046 to read:

1047 1012.796 Complaints against educational support employees,
 1048 teachers, and administrators; procedure; penalties.—

1049 (1) (a) The Department of Education shall cause to be
 1050 investigated expeditiously any complaint filed before it or
 1051 otherwise called to its attention which, if legally sufficient,
 1052 contains grounds for the revocation or suspension of a
 1053 certificate or any other appropriate penalty as set forth in
 1054 subsection (7). The complaint is legally sufficient if it
 1055 contains the ultimate facts that ~~which~~ show a violation has
 1056 occurred as provided in s. 1012.795 and defined by rule of the
 1057 State Board of Education. The department shall investigate or
 1058 continue to investigate and take appropriate action on a
 1059 complaint even though the original complainant withdraws the
 1060 complaint or otherwise indicates a desire not to cause it to be
 1061 investigated or prosecuted to completion. The department may
 1062 investigate or continue to investigate and take action on a
 1063 complaint filed against a person whose educator certificate has
 1064 expired if the act or acts that are the basis for the complaint
 1065 were allegedly committed while that person possessed an educator
 1066 certificate and may not issue a new certificate to such person
 1067 unless an investigation has been completed.

1068 (b) The department shall immediately investigate any
 1069 legally sufficient complaint that involves misconduct by any
 1070 certificated personnel which affects the health, safety, or
 1071 welfare of a student, giving the complaint priority over other
 1072 pending complaints. The department must investigate or continue
 1073 to investigate and take action on such a complaint filed against

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1074 a person whose educator certificate has expired if the act or
 1075 acts that are the basis for the complaint were allegedly
 1076 committed while that person possessed an educator certificate.

1077 (c) When an investigation is undertaken, the department
 1078 shall notify the certificateholder or applicant for
 1079 certification and the district school superintendent or the
 1080 university laboratory school, charter school, or private school
 1081 in which the certificateholder or applicant for certification is
 1082 employed or was employed at the time the alleged offense
 1083 occurred. In addition, the department shall inform the
 1084 certificateholder or applicant for certification of the
 1085 substance of any complaint that ~~which~~ has been filed against
 1086 that certificateholder or applicant, unless the department
 1087 determines that such notification would be detrimental to the
 1088 investigation, in which case the department may withhold
 1089 notification.

1090 (d)1. Each school district shall file in writing with the
 1091 department all legally sufficient complaints within 30 days
 1092 after the date on which subject matter of the complaint comes to
 1093 the attention of the school district, regardless of whether the
 1094 subject of the complaint is still an employee of the school
 1095 district. A complaint is legally sufficient if it contains
 1096 ultimate facts that show a violation has occurred as provided in
 1097 s. 1012.795 and defined by rule of the State Board of Education.
 1098 The school district shall include all information relating to
 1099 the complaint which is known to the school district at the time
 1100 of filing.

1101 2. A school district shall immediately notify the
 1102 department if the subject of a legally sufficient complaint of

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1103 misconduct affecting the health, safety, or welfare of a student
 1104 resigns or is terminated before the conclusion of the school
 1105 district's investigation. Upon receipt of the notification, the
 1106 department shall place an alert on the person's certification
 1107 file indicating that he or she resigned or was terminated before
 1108 an investigation involving allegations of misconduct affecting
 1109 the health, safety, or welfare of a student was concluded. In
 1110 such circumstances, the database may not include specific
 1111 information relating to the alleged misconduct until permitted
 1112 by subsection (4). This subparagraph does not limit or restrict
 1113 the duty of the district school board to investigate the
 1114 complaint and misconduct and report the findings and conclusion
 1115 to the department.

1116 3. Each district school board or superintendent, charter
 1117 school governing board, approved virtual instruction provider,
 1118 and private school that participates in a state scholarship
 1119 program under chapter 1002 shall immediately report to the
 1120 Department of Education an arrest or conviction of educational
 1121 support employees, administrative or instructional personnel, or
 1122 school officials for an offense that reflects a risk of harm to
 1123 the health, safety, or welfare of a student or would render the
 1124 person ineligible pursuant to s. 1012.315, as determined by
 1125 state board rule adopted pursuant to this section. The same
 1126 reporting requirements apply to a substantiated allegation of
 1127 such misconduct by educational support employees, administrative
 1128 or instructional personnel, or school officials, regardless of
 1129 whether the accused person has been arrested or convicted in
 1130 relation to the misconduct.

1131 4.3- Each district school board shall develop and adopt

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1132 policies and procedures to comply with this reporting
 1133 requirement. School board policies and procedures must include
 1134 standards for screening, hiring, and terminating educational
 1135 support employees, instructional personnel, and school
 1136 administrators, as defined in s. 1012.01; standards of ethical
 1137 conduct for educational support employees, instructional
 1138 personnel, and school administrators; the duties of educational
 1139 support employees, instructional personnel, and school
 1140 administrators for upholding the standards; detailed procedures
 1141 for reporting alleged misconduct by educational support
 1142 employees, instructional personnel, and school administrators
 1143 which affects the health, safety, or welfare of a student;
 1144 requirements for the reassignment of educational support
 1145 employees, instructional personnel, and ~~or~~ school administrators
 1146 pending the outcome of a misconduct investigation; and penalties
 1147 for failing to comply with s. 1001.51 or s. 1012.795. The
 1148 district school board policies and procedures must ~~shall~~ include
 1149 appropriate penalties for all personnel of the district school
 1150 board for nonreporting and procedures for promptly informing the
 1151 district school superintendent of each legally sufficient
 1152 complaint. The district school superintendent is charged with
 1153 knowledge of these policies and procedures and is accountable
 1154 for the training of all educational support employees,
 1155 instructional personnel, and school administrators of the school
 1156 district on the standards of ethical conduct, policies, and
 1157 procedures.

1158 5.4- If the district school superintendent has knowledge of
 1159 a legally sufficient complaint and does not report the
 1160 complaint, or fails to enforce the policies and procedures of

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1161 the district school board, and fails to comply with the
 1162 requirements of this subsection, in addition to other actions
 1163 against certificateholders authorized by law, the district
 1164 school superintendent is subject to penalties as specified in s.
 1165 1001.51(12).

1166 ~~6.5-~~ If the superintendent determines that misconduct by
 1167 educational support employees, instructional personnel, or
 1168 school administrators who hold an educator certificate affects
 1169 the health, safety, or welfare of a student and the misconduct
 1170 warrants termination, the educational support employees,
 1171 instructional personnel, or school administrators may resign or
 1172 be terminated, and the superintendent must report the misconduct
 1173 to the department in the format prescribed by the department.
 1174 The department shall place such educational support employees,
 1175 instructional personnel, or school administrators on the
 1176 disqualification list maintained by the department pursuant to
 1177 s. 1001.10(4) (b). The department shall maintain each report of
 1178 misconduct as a public record in the educational support
 1179 employees', instructional personnel's, or school administrators'
 1180 certification files. This paragraph does not limit or restrict
 1181 the power and duty of the department to investigate complaints
 1182 regarding certificated personnel, regardless of the school
 1183 district's untimely filing, or failure to file, complaints and
 1184 followup reports. This subparagraph does not create a duty for
 1185 the department to investigate complaints regarding noncertified
 1186 personnel.

1187 (e) If allegations arise against an employee who is
 1188 certified under s. 1012.56 and employed in an educator-
 1189 certificated position in any public school, charter school or

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1190 governing board thereof, or private school that accepts
 1191 scholarship students who participate in a state scholarship
 1192 program under chapter 1002, the school shall file in writing
 1193 with the department a legally sufficient complaint within 30
 1194 days after the date on which the subject matter of the complaint
 1195 came to the attention of the school, regardless of whether the
 1196 subject of the allegations is still an employee of the school. A
 1197 complaint is legally sufficient if it contains ultimate facts
 1198 that show a violation has occurred as provided in s. 1012.795
 1199 and defined by rule of the State Board of Education. The school
 1200 shall include all known information relating to the complaint
 1201 with the filing of the complaint. This paragraph does not limit
 1202 or restrict the power and duty of the department to investigate
 1203 complaints, regardless of the school's untimely filing, or
 1204 failure to file, complaints and followup reports. A school
 1205 described in this paragraph shall immediately notify the
 1206 department if the subject of a legally sufficient complaint of
 1207 misconduct affecting the health, safety, or welfare of a student
 1208 resigns or is terminated before the conclusion of the school's
 1209 investigation. Upon receipt of the notification, the department
 1210 shall place an alert on the person's certification file
 1211 indicating that he or she resigned or was terminated before an
 1212 investigation involving allegations of misconduct affecting the
 1213 health, safety, or welfare of a student was concluded. In such
 1214 circumstances, the database may not include specific information
 1215 relating to the alleged misconduct until permitted by subsection
 1216 (4).

1217 (f) Notwithstanding any other law, all law enforcement
 1218 agencies, state attorneys, social service agencies, district

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 1219 school boards, and the Division of Administrative Hearings shall
 1220 fully cooperate with and, upon request, shall provide unredacted
 1221 documents to the Department of Education to further
 1222 investigations and prosecutions conducted pursuant to this
 1223 section. Any document received may not be redisclosed except as
 1224 authorized by law.

(2) The Commissioner of Education shall develop job
 1225 specifications for investigative personnel employed by the
 1226 department. Such specifications shall be substantially
 1227 equivalent to or greater than those job specifications of
 1228 investigative personnel employed by the Department of Business
 1229 and Professional Regulation. The department may contract with
 1230 the Department of Business and Professional Regulation for
 1231 investigations. No person who is responsible for conducting an
 1232 investigation of a teacher or administrator may prosecute the
 1233 same case. The department general counsel or members of that
 1234 staff may conduct prosecutions under this section.

(3) The department staff shall advise the commissioner
 1235 concerning the findings of the investigation and of all
 1236 referrals by the Florida High School Athletic Association
 1237 (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The
 1238 department general counsel or members of that staff shall review
 1239 the investigation or the referral and advise the commissioner
 1240 concerning probable cause or lack thereof. The determination of
 1241 probable cause shall be made by the commissioner. The
 1242 commissioner shall provide an opportunity for a conference, if
 1243 requested, prior to determining probable cause. The commissioner
 1244 may enter into deferred prosecution agreements in lieu of
 1245 finding probable cause if, in his or her judgment, such
 1246
 1247

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 1248 agreements are in the best interests of the department, the
 1249 certificateholder, and the public. Such deferred prosecution
 1250 agreements shall become effective when filed with the clerk of
 1251 the Education Practices Commission. However, a deferred
 1252 prosecution agreement may not be entered into if there is
 1253 probable cause to believe that a felony or an act of moral
 1254 turpitude, as defined by rule of the State Board of Education,
 1255 has occurred, or for referrals by the FHSAA. Upon finding no
 1256 probable cause, the commissioner shall dismiss the complaint and
 1257 may issue a letter of guidance to the certificateholder.

(4) The complaint and all information obtained pursuant to
 1258 the investigation by the department shall be confidential and
 1259 exempt from the provisions of s. 119.07(1) until the conclusion
 1260 of the preliminary investigation of the complaint, until such
 1261 time as the preliminary investigation ceases to be active, or
 1262 until such time as otherwise provided by s. 1012.798(6).
 1263 However, the complaint and all material assembled during the
 1264 investigation may be inspected and copied by the
 1265 certificateholder under investigation, or the
 1266 certificateholder's designee, after the investigation is
 1267 concluded, but prior to the determination of probable cause by
 1268 the commissioner. If the preliminary investigation is concluded
 1269 with the finding that there is no probable cause to proceed, the
 1270 complaint and information shall be open thereafter to inspection
 1271 pursuant to s. 119.07(1). If the preliminary investigation is
 1272 concluded with the finding that there is probable cause to
 1273 proceed and a complaint is filed pursuant to subsection (6), the
 1274 complaint and information shall be open thereafter to inspection
 1275 pursuant to s. 119.07(1). If the preliminary investigation
 1276

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 1277 ceases to be active, the complaint and all such material shall
 1278 be open thereafter to inspection pursuant to s. 119.07(1),
 1279 except as otherwise provided pursuant to s. 1012.798(6). For the
 1280 purpose of this subsection, a preliminary investigation shall be
 1281 considered active as long as it is continuing with a reasonable,
 1282 good faith anticipation that an administrative finding will be
 1283 made in the foreseeable future.

(5) When an allegation of misconduct by educational support
 1284 employees, instructional personnel, or school administrators, as
 1285 defined in s. 1012.01, is received, if the alleged misconduct
 1286 affects the health, safety, or welfare of a student, the
 1287 district school superintendent in consultation with the school
 1288 principal, or upon the request of the Commissioner of Education,
 1289 must immediately suspend the educational support employees,
 1290 instructional personnel, or school administrators from regularly
 1291 assigned duties, with pay, and reassign the suspended employees,
 1292 personnel, or administrators to positions that do not require
 1293 direct contact with students in the district school system. Such
 1294 suspension shall continue until the completion of the
 1295 proceedings and the determination of sanctions, if any, pursuant
 1296 to this section and s. 1012.795.

(6) Upon the finding of probable cause, the commissioner
 1298 shall file a formal complaint and prosecute the complaint
 1299 pursuant to the provisions of chapter 120. An administrative law
 1300 judge shall be assigned by the Division of Administrative
 1301 Hearings of the Department of Management Services to hear the
 1302 complaint if there are disputed issues of material fact. The
 1303 administrative law judge shall make recommendations in
 1304 accordance with the provisions of subsection (7) to the
 1305

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 1306 appropriate Education Practices Commission panel which shall
 1307 conduct a formal review of such recommendations and other
 1308 pertinent information and issue a final order. The commission
 1309 shall consult with its legal counsel prior to issuance of a
 1310 final order.

(7) A panel of the commission shall enter a final order
 1311 either dismissing the complaint or imposing one or more of the
 1312 following penalties:
 1313

(a) Denial of an application for a certificate or for an
 1314 administrative or supervisory endorsement on a teaching
 1315 certificate. The denial may provide that the applicant may not
 1316 reapply for certification, and that the department may refuse to
 1317 consider that applicant's application, for a specified period of
 1318 time or permanently.
 1319

(b) Revocation or suspension of a certificate.
 1320

(c) Imposition of an administrative fine not to exceed
 1321 \$2,000 for each count or separate offense.
 1322

(d) Placement of the teacher, administrator, or supervisor
 1323 on probation for a period of time and subject to such conditions
 1324 as the commission may specify, including requiring the certified
 1325 teacher, administrator, or supervisor to complete additional
 1326 appropriate college courses or work with another certified
 1327 educator, with the administrative costs of monitoring the
 1328 probation assessed to the educator placed on probation. An
 1329 educator who has been placed on probation shall, at a minimum:
 1330

1. Immediately notify the investigative office in the
 1331 Department of Education upon employment or separation from
 1332 employment in any public or private position requiring a Florida
 1333 educator's certificate.
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1335 2. Have his or her immediate supervisor submit annual
 1336 performance reports to the investigative office in the
 1337 Department of Education.

1338 3. Pay to the commission within the first 6 months of each
 1339 probation year the administrative costs of monitoring probation
 1340 assessed to the educator.

1341 4. Violate no law and fully comply with all district school
 1342 board policies, school rules, and State Board of Education
 1343 rules.

1344 5. Satisfactorily perform his or her assigned duties in a
 1345 competent, professional manner.

1346 6. Bear all costs of complying with the terms of a final
 1347 order entered by the commission.

1348 (e) Restriction of the authorized scope of practice of the
 1349 teacher, administrator, or supervisor.

1350 (f) Reprimand of the teacher, administrator, or supervisor
 1351 in writing, with a copy to be placed in the certification file
 1352 of such person.

1353 (g) Imposition of an administrative sanction, upon a person
 1354 whose teaching certificate has expired, for an act or acts
 1355 committed while that person possessed a teaching certificate or
 1356 an expired certificate subject to late renewal, which sanction
 1357 bars that person from applying for a new certificate for a
 1358 period of 10 years or less, or permanently.

1359 (h) Refer the teacher, administrator, or supervisor to the
 1360 recovery network program provided in s. 1012.798 under such
 1361 terms and conditions as the commission may specify.

1362 (i) Direct the department to place educational support
 1363 employees, instructional personnel, or school administrators on

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1364 the disqualification list maintained by the department pursuant
 1365 to s. 1001.10(4)(b) for conduct that would render the person
 1366 ineligible pursuant to s. 1012.315.

1367

1368 The penalties imposed under this subsection are in addition to,
 1369 and not in lieu of, the penalties required for a third
 1370 recruiting offense pursuant to s. 1006.20(2)(b).

1371 (8) Violations of the provisions of a final order shall
 1372 result in an order to show cause issued by the clerk of the
 1373 Education Practices Commission if requested by the Department of
 1374 Education. Upon failure of the educator, at the time and place
 1375 stated in the order, to show cause satisfactorily to the
 1376 Education Practices Commission why a penalty for violating the
 1377 provisions of a final order should not be imposed, the Education
 1378 Practices Commission shall impose whatever penalty is
 1379 appropriate as established in s. 1012.795(6). The Department of
 1380 Education shall prosecute the individual ordered to show cause
 1381 before the Education Practices Commission. The Department of
 1382 Education and the individual may enter into a settlement
 1383 agreement, which shall be presented to the Education Practices
 1384 Commission for consideration. Any probation period will be
 1385 tolled when an order to show cause has been issued until the
 1386 issue is resolved by the Education Practices Commission;
 1387 however, the other terms and conditions of the final order shall
 1388 be in full force and effect until changed by the Education
 1389 Practices Commission.

1390 (9) All moneys collected by, or awarded to, the commission
 1391 as fees, fines, penalties, or costs shall be deposited into the
 1392 Educational Certification and Service Trust Fund pursuant to s.

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1393 1012.59.
 1394 (10) Persons included on the disqualification list
 1395 maintained by the department pursuant to s. 1001.10(4)(b) may
 1396 not serve or apply to serve as employees or contractual
 1397 personnel at any public school or private school participating
 1398 in a state scholarship program under chapter 1002. A person who
 1399 knowingly violates this subsection, or an employer who knowingly
 1400 hires a person in violation of this subsection, commits a felony
 1401 of the third degree, punishable as provided in s. 775.082 or s.
 1402 775.083.

1403 Section 12. Section 1012.797, Florida Statutes, is amended
 1404 to read:

1405 1012.797 Notification by law enforcement of district school
 1406 ~~superintendent~~ of certain charges against or convictions of
 1407 employees.-

1408 (1) Notwithstanding ~~the provisions of~~ s. 985.04(7) or any
 1409 other ~~provision of~~ law to the contrary, a law enforcement agency
 1410 shall, within 48 hours, notify the appropriate district school
 1411 superintendent, charter school governing board, or private
 1412 school owner or administrator, as applicable, of the name and
 1413 address of any employee or contractor of the school district,
 1414 charter school, or private school, as applicable, who is charged
 1415 with a felony or with a misdemeanor involving the abuse of a
 1416 minor child or the sale or possession of a controlled substance.
 1417 The notification shall include the specific charge for which the
 1418 employee or contractor ~~of the school district~~ was arrested. Such
 1419 notification shall include other education providers such as the
 1420 Florida School for the Deaf and the Blind, university lab
 1421 schools, and private elementary and secondary schools.

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

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1422 (2) Except to the extent necessary to protect the health,
 1423 safety, and welfare of other students, the information obtained
 1424 by the district school superintendent pursuant to this section
 1425 may be released only to appropriate school personnel or as
 1426 otherwise provided by law.

1427 Section 13. This act shall take effect July 1, 2021.

Page 50 of 50

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

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THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

1864

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Florida Advocacy Director

Address 215 S Monroe Street, Suite 420

Phone 850-391-4090

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FL

32301

Email Debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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

A/15/21

Meeting Date

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

SB1804

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Karen Mazzola

Job Title Legislation Committee Chair

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Street Orlando State FL Zip 32809

Email legislation@floridapta.org

City State Zip

Speaking: For Against Information

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

Representing Florida Parent Teacher 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.

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 Appropriations

BILL: SB 1898

INTRODUCER: Senator Rodriguez

SUBJECT: Student Literacy

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 1898 includes requirements to identify student deficiencies in literacy and intervene as early as prekindergarten, support students in transitioning to kindergarten, and monitor student progress. The bill establishes a coordinated screening and progress monitoring system for students enrolled in the Voluntary Prekindergarten Education Program and students enrolled in public schools in kindergarten through grade 8. The bill also requires:

- The Department of Education (DOE) to review the competencies for the reading endorsement and provide a new pathway for teachers to achieve the reading endorsement.
- The DOE to develop a handbook to provide to parents of students with a reading deficiency to support parental engagement in student learning.
- The Just Read, Florida! Office (JRFO) to identify instructional materials that implement evidence-based reading practices and streamlines the process by which school districts may adopt identified and approved instructional materials.
- The JRFO to work with the Office of Early Learning in the development of the emergent literacy training courses and specifies that the courses must be consistent with evidence-based reading instructional and intervention programs.
- Establishes the Reading Achievement Initiative for Scholastic Excellence (RAISE) Program to provide literacy supports statewide through at least 20 regional literacy support teams.
- Establishes a tutoring program that affords high school juniors and seniors the opportunity to satisfy community service requirements and earn a designation as a New Worlds Scholar by providing 500 verified tutoring hours to students with a substantial deficiency in reading in kindergarten through grade 3.
- Voluntary Prekindergarten Program (VPK) instructors to take a required emergent literacy training course every five years.
- VPK providers to be rated based on student performance during the VPK school year.

The bill will have a significant negative fiscal to the state to implement the new coordinated screening and progress monitoring program and to contract with an external entity to implement the new Reading Achievement Initiative for Scholastic Excellence (RAISE) within the department. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Educator Certification Requirements

Florida law specifies certification requirements to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics; adequate pedagogical knowledge; and relevant subject matter competence so as to demonstrate an acceptable level of professional performance.¹

In order to seek educator certification, a person must meet general eligibility requirements, which include receipt of a bachelor's or higher degree from an approved postsecondary institution.² Individuals must also demonstrate mastery of general knowledge, if the person serves as a classroom teacher; mastery of subject area knowledge; and mastery of professional preparation.³

Education Preparation Programs

Present Situation

In Florida, teacher preparation programs are accountable for producing individuals with the competencies and skills necessary to achieve state education goals.⁴ State approved teacher preparation program uniform core curricula must include scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.⁵ Teacher preparation program completers are eligible for a Florida Professional Educator's Certification upon program completion.⁶

¹ Section 1012.54, F.S.

² Section 1012.56(2)(c), F.S., and Rule 6A-4.003, F.A.C.

³ Section 1012.56(2)(g)-(i), F.S.

⁴ Section 1004.04(1)(b), F.S.

⁵ Section 1004.04(2)(b)3., F.S.

⁶ Florida Department of Education (DOE), *Educator Preparation*, <http://www.fldoe.org/teaching/preparation/> (last visited Mar. 12, 2021), and Rule 6A-5.066(1)(p), F.A.C.

Each teacher preparation program must be approved by the Department of Education (DOE) based on criteria specified in law. In order to be admitted into an approved teacher preparation program, a student must, at a minimum:⁷

- Have a grade point average of at least 2.5 on a 4.0 scale for the general education component of undergraduate studies or have completed the requirements for a baccalaureate degree with a minimum grade point average of 2.5 on a 4.0 scale from an approved college or university.⁸
- Demonstrate mastery of general knowledge sufficient for entry into the program, including the ability to read, write, and perform in mathematics, by passing the General Knowledge Test of the Florida Teacher Certification Examination or, for a graduate level program, obtain a baccalaureate degree from an approved institution.⁹

Each teacher preparation program may waive these admissions requirements for up to ten percent of the students admitted. Programs must implement strategies to ensure that students admitted under a waiver receive assistance to demonstrate competencies to successfully meet requirements for certification, and must annually report to the DOE the status of each candidate admitted under such a waiver.¹⁰

Effect of Proposed Changes (Section 11)

The bill modifies s. 1004.04, F.S., to allow students in public postsecondary teacher preparation programs to meet grade point average and General Knowledge Test requirements as a condition to completing the program, instead of as a condition of admission to the program. Accordingly, the bill removes the authority for teacher preparation programs to waive admission requirements. These modifications may enable more people to enter teacher preparation programs and become certified teachers.

Teacher Professional Development

Present Situation

To renew a professional certificate, an applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. Florida provides subject area specialization requirements for college credits or inservice points.¹¹ An applicant for renewal of a professional certificate in any area of certification identified by SBE rule¹² which includes reading instruction or intervention for any students in kindergarten through grade 6 must earn a minimum of two college credits or forty inservice points in the use of explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing

⁷ Section 1004.04(3), F.S.

⁸ An approved institution is one that is accredited by a specified regional accrediting association or an accrediting agency approved by the United States Department of Education. A qualifying non-accredited institution is one that is identified as having a quality program resulting in a bachelor's degree or higher by criteria specified in SBE rule. Rule 6A-4.003, F.A.C.

⁹ Rule 6A-4.003, F.A.C.

¹⁰ Section 1004.04(3), F.S.

¹¹ Section 1012.585(3), F.S.

¹² Rule 6A-4.0051, F.A.C., requires specialized training in reading instruction for certificate covering Elementary Education (K-6), Prekindergarten/Primary Education (age 3 through grade 3), Elementary Education (grades 1-6), Primary Education (grades K-3), English (grades 1-6), Middle Grades English (grades 5-9), Middle Grades Integrated Curriculum (grades 5-9), English (6-12), Reading (K-12), Reading (Endorsement), and English for Speakers of Other Languages (ESOL) (grades K-12).

multisensory intervention strategies. Such training must be provided by teacher preparation programs or school district professional development systems approved by the DOE.¹³

School District Professional Development

Each school district is required to establish a professional development system that provides training to reading coaches, classroom teachers, and school administrators in effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills; incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and using predictive and other data to make instructional decisions based on individual student needs. The training must help teachers integrate phonemic awareness; phonics, word study, and spelling; reading fluency; vocabulary, including academic vocabulary; and text comprehension strategies into an explicit, systematic, and sequential approach to reading instruction, including multisensory intervention strategies.¹⁴

Each district must provide all elementary grades instructional personnel access to training sufficient to meet the requirements for a certificate in an area of certification that includes reading instruction or intervention for students in kindergarten through grade 6.¹⁵

William Cecil Golden Professional Development Program for School Leaders

The William Cecil Golden Professional Development Program for School Leaders provides high standards and sustained support for principals as instructional leaders. The program consists of a collaborative network of state and national professional leadership organizations to respond to instructional leadership needs throughout the state. The goals of the network leadership program include:

- Providing resources to support and enhance the principal's role as the instructional leader.
- Maintaining a clearinghouse and disseminating data-supported information related to enhanced student achievement, based on educational research and best practices.
- Building the capacity to increase the quality of programs for preservice education for aspiring principals and inservice professional development for principals and principal leadership teams.
- Supporting best teaching and research-based instructional practices through dissemination and modeling at the preservice and inservice levels for both teachers and principals.¹⁶

Just Read, Florida! Office

The Just Read, Florida! Office (JRFO) within the DOE is generally directed to perform duties that relate to improving student literacy, and, accordingly, developing training for educational personnel to support student literacy.¹⁷

¹³ Section 1012.585(3)(f), F.S.; Rule 6A-4.0051(7)(a), F.A.C.

¹⁴ Section 1012.98(4)(b)11., F.S.

¹⁵ *Id.*

¹⁶ Section 1012.986(1), F.S.

¹⁷ Section 1001.215, F.S.

The JRFO, in collaboration with the Lastinger Center for Learning at the University of Florida (Lastinger Center), is required to develop training for K-12 teachers, reading coaches, and school principals on effective content-area-specific reading strategies; the integration of content-rich curriculum from other core subject areas into reading instruction; and evidence-based reading strategies to improve student reading performance. For secondary teachers, emphasis must be on technical text. These strategies must be developed for all content areas in the K-12 curriculum.¹⁸

Effect of Proposed Changes (Sections 1, 17, 19, and 20)

The bill modifies s. 1012.98, F.S., to require the DOE to identify professional development opportunities that require a teacher to demonstrate proficiency in a specific classroom practice, with priority given to implementing evidence-based reading instructional and intervention strategies identified by the JRFO. The bill amends s. 1012.585, F.S., to provide that a teacher may earn inservice points only once during each 5-year validity period for any mandatory training topic that is not linked to student learning or professional growth.

The bill modifies s. 1012.986, F.S., to add to the goals of the William Cecil Golden Professional Development Program the support, through training on observation and evaluation practices aligned to the science of reading, the professional growth of instructional personnel who provide reading instruction and interventions.

The bill modifies s. 1001.215, F.S., to require the JRFO to provide evidence-based reading instruction training to school administrators. To fulfill this requirement, the JRFO must work with the Lastinger Center to modify the training that has been developed for K-12 teachers, reading coaches, and school principals. The bill also replaces the requirement to integrate social studies into the reading instruction curriculum with the requirement to integrate civic literacy into the reading instruction curriculum.

The additional opportunities for training in reading instruction for teachers may support teachers delivering reading instruction or interventions to students enrolled in public schools in kindergarten through grade 12.

Reading Certification and Endorsement

Present Situation

Teachers are able to earn a subject area certification or endorsement in reading. A teacher is required to be certified or endorsed in reading to:

- Teach summer reading camps.
- Provide instruction to a third grade student retained for failing the English Language Arts (ELA) assessment.
- Provide reading interventions to students with a substantial deficiency in reading, beginning July 1, 2021.
- Qualify as a literacy coach.¹⁹

¹⁸ Section 1001.215(3), F.S.

¹⁹ Rule 6A-6.053, F.A.C.

A teacher may earn a certification in reading by completing:

- A master's or higher degree with a graduate major in reading.
- A bachelor's or higher degree with thirty semester hours in reading.²⁰

A certified teacher may earn an endorsement to a valid Florida certificate by completing the appropriate subject area testing requirements, the requirements of an approved school district program, or the inservice components for an endorsement.²¹ There are four pathways to earn a reading endorsement:

- Completing 15 semester hours in college-level reading coursework rooted in scientifically based reading research with a focus on both preventions and remediation of reading difficulties.
- Completing the required competencies through a school district's approved reading endorsement add-on program.
- Obtaining a certificate from an approved internationally known organization with a reputation for setting reading standards.²²
- Passing the K-12 Reading Certification Subject Area Exam administered by the DOE.²³

Effect of Proposed Changes (Sections 11 and 18)

The bill modifies s. 1004.04, F.S., to require, beginning with the 2022-2023 school year, that school district personnel be certified or endorsed in reading if they supervise teacher preparation students during internships in kindergarten through grade 3 or during enrollment in a reading certificate program.

The bill also modifies s. 1012.586, F.S., to require the DOE to review the competencies for the reading endorsement for alignment with evidence-based instructional and intervention practices rooted in the science of reading and consistent with training developed by the Lastinger Center and the JRFO, and recommend improvements to the SBE, which must address identification of the characteristics of conditions such as dyslexia, implementation of evidence-based classroom instruction and interventions, and effective progress monitoring. Accordingly, each school district is required to resubmit its reading endorsement add-on program to the DOE for approval by July 1, 2023. The bill provides that, beginning July 1, 2024, instructional personnel may not earn a reading endorsement simply by passing the K-12 reading certification subject area assessment.

The bill requires the DOE to adopt at least one statewide, competency-based pathway, by which instructional personnel may earn a reading endorsement, by the beginning of the 2022-2023 school year. The pathway must be available for a participant to complete in person or remotely. The DOE is required by the bill to place a microcredential on a teacher certificate indicating each competency module the teacher successfully completes.

²⁰ Rule 6A-4.0291, F.A.C.

²¹ Section 1012.586(1), F.S.

²² Section 1012.586(1)(b), F.S. Reading Recovery Teacher of the National Louis University Reading Recovery Center is the only approved program. DOE, *Florida Internationally Recognized Organizations*, available at <http://www.fldoe.org/core/fileparse.php/7539/urlt/FAIRO.pdf> (last visited Mar. 12, 2021).

²³ Rule 6A-4.0292, F.A.C.

The additional pathway for teachers to earn a reading endorsement may assist district school boards in meeting state requirements for teachers delivering reading instruction or interventions to students enrolled in public schools in kindergarten through grade 12.

Student Literacy Supports

Present Situation

Student Progress Monitoring

State board rule provides criteria for determining whether a student has a substantial deficiency in reading. A student is identified as having a substantial deficiency in reading if the student:

- Scores the lowest level or benchmark on any assessment identified in the school district’s reading plan;
- Scores the lowest achievement level during a progress monitoring assessment identified in the school district’s K-12 comprehensive reading plan (reading plan); or
- Demonstrates, through consecutive formative assessments or teacher observation, skills that are below grade-level expectations in one or more areas of phonological awareness; phonics; vocabulary, including oral language skills; reading fluency; and reading comprehension.²⁴

Students in kindergarten through grade 3 who are determined to have a substantial deficiency in reading based on any of these criteria must be given intensive reading interventions immediately following the identification of the deficiency.²⁵ Students who do not achieve a Level 3 or above on the statewide, standardized ELA assessment must be evaluated to determine the nature of the student’s difficulty, the areas of academic need, and strategies for providing academic supports to improve the student’s performance.²⁶ District school boards are required to prioritize remedial and supplemental instructional resources first to students in kindergarten through grade 3 who have a substantial reading deficiency and then to students who fail to meet performance levels required for promotion under the district’s student progression plan.²⁷

School districts have a variety of intervention and progress monitoring options available to help students improve their academic performance. The law requires districts to develop and implement a multi-tiered system of supports, which utilizes a problem-solving process to identify and support student needs based upon available data, including attendance, behavior and discipline, statewide assessment, and progress monitoring data.²⁸ Retention is mandatory for 3rd grade students who score at Level 1 on the statewide, standardized ELA assessment.²⁹ Any student retained in 3rd grade because of his or her statewide, standardized ELA assessment score must receive intensive interventions and be taught by a “highly-effective” teacher with a reading endorsement or certification.³⁰ This intervention process must include parent involvement,

²⁴ Rule 6A-6.053(12), F.A.C.

²⁵ Section 1008.25(5)(a), F.S.

²⁶ Section 1008.25(4)(a), F.S.

²⁷ Section 1008.25(3), F.S.

²⁸ See Rules 6A-6.0331(1) and 6A-1.099811(2)(r), F.A.C.

²⁹ Section 1008.25(5)(b), F.S. A student may be promoted if he or she meets a “good cause” exception as provided in s. 1008.25(6)(b), F.S.

³⁰ See ss. 1008.25(5)(b) and (7) and 1012.34(2)(e), F.S.

student observation, review of data, vision and hearing screening to rule out sensory deficits, and evidence-based interventions implemented in the general education environment.³¹

Research-Based Reading Instruction Allocation

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12. Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including:³²

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.
- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.³³
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the JRFO.
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.

District school boards must develop reading plans that detail the specific uses of the research-based reading instruction allocation. The plans must be annually submitted to the DOE for approval and provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading. The DOE monitors and tracks the implementation of each district plan and collects specific data on expenditures and reading improvement results. By February 1 of each year, the DOE reports its findings to the Legislature.³⁴

Parental Notification and Supports

The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the deficiency and of all available services and proposed interventions, and be provided with a “read at home plan,” which outlines strategies that parents can use to help their children improve in reading.³⁵

Students enrolled in public school in grades 3 through 5 and score below grade level on the statewide, standardized ELA assessment in the prior school year may also be eligible for a reading scholarship account of \$500. A total of 6,763 students received reading scholarship accounts in the 2019-2020 school year. The state appropriated \$7.6 million for reading scholarship accounts for the 2020-2021 school year.

³¹ Rule 6A-6.0331(1), F.A.C.

³² Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, ch. 2020-111, s. 2, Laws of Fla.

³³ All students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment. Section 1011.62(9)(c)5., F.S.

³⁴ Section 1011.62(9)(d)1., F.S.

³⁵ Section 1008.25(5)(c), F.S.

In the 2020-2021 school year, 112,295 students enrolled in public schools in kindergarten through grade 5 were identified as having substantial deficiencies in reading and receiving Tier III supports.³⁶

Federally funded Department of Education Literacy Initiatives

As part of its plan for federal funding provided under the CARES Act,³⁷ the DOE has launched a statewide system of regional reading supports.³⁸ The program allocates \$5 million from the CARES Act funds for the establishment of 20 regions in the state, each with a designated regional reading consultant that will lead a regional literacy support team. The reading consultants and their teams will be trained to monitor district-level, school-level and classroom-level data in order to identify and provide needed professional development and interventions.³⁹ The first year of the program will support implementation of reading plans in the early grades while overall the program focus will be on building capacity of the teams with an emphasis on updated standards, evidence-based⁴⁰ practices, and data-based decision making.⁴¹ Implementation has been set to begin in 2021, during the second half of the 2020-2021 school year.

The DOE allocated \$20 million from the CARES Act funds for progress monitoring and data informed supports.⁴² From October 1, 2020, through February 19, 2021, the DOE made available to all public schools on a voluntary basis a new progress monitoring tool developed by Cambium Assessment, Inc., to serve as a connective support between the foundational skills that students seek to acquire and their progress through early education years and drive informed teaching practices and curriculum decisions. The progress monitoring tool was available for multiple administrations and was aligned to the state standards for grades 3 through 10 ELA Reading and grades 3 through 8 Mathematics.⁴³

The DOE also used funds from the CARES Act to develop several other programs related to improving student literacy. Specifically, the DOE allocated:

- \$5 million to upskill highly effective reading coaches.

³⁶ Email, DOE (Mar. 11, 2021) (on file with the Senate Committee on Education).

³⁷ Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020).

³⁸ DOE, *Reopening Florida's Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> (last visited Mar. 12, 2021).

³⁹ *Id.* at 105. Each regional literacy director retains employment with the district with a salary of \$80,000 plus benefits funded by the DOE.

⁴⁰ Federal law defines the term “evidence-based” as an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on: strong evidence from at least 1 well-designed and well-implemented experimental study; moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes, and includes ongoing efforts to examine the effects of such activity, strategy, or intervention. 20 U.S.C. s. 7801(21)(a)(i).

⁴¹ DOE, *Act with Urgency for Literacy*, available at <https://www.fldoe.org/core/fileparse.php/7506/urlt/Act-with-Urgency-for-Literacy.pdf> at 11, (last visited Mar. 13, 2021).

⁴² DOE, *Reopening Florida's Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 102, (last visited Mar. 13, 2021).

⁴³ DOE, *Free Optional Progress Monitoring Tool Available to Public Schools* (Sept. 2, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/CambiumProgressMonitoring2020-21.pdf> (last visited Mar. 13, 2021).

- \$20 million, in addition to \$4 million of the funds reserved under the CARES Act to the Governor, for strengthening K-3 reading instructional materials.
- \$5 million for deploying professional development for teachers to attain a reading endorsement; training on how to use progress monitoring data to inform instruction; improving existing reading endorsement options; and improved resources for teachers and families.⁴⁴

In addition, the DOE secured a Comprehensive Literacy State Development Grant (CLSD) of \$21 million.⁴⁵ A CLSD is a discretionary federal grant to create a comprehensive literacy program to advance literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, with an emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities.⁴⁶

Effect of Proposed Changes (Sections 2, 12, 14, 15)

Coordinated Screening and Progress Monitoring

The bill modifies s. 1008.25, F.S., to require the DOE, in collaboration with the OEL, to procure and require, and provide training and support for implementing, a statewide, standardized coordinated screening and progress monitoring (CSPM) for VPK program providers and for public schools serving kindergarten through grade 8 students, whom the bill requires to participate in the CSPM. The bill outlines requirements for the CSPM. Specifically, the CSPM must:

- Measure student progress in early literacy, ELA, and mathematics standards.
- Measure student performance in oral language, development, phonemic and phonological awareness, knowledge of print and letters, decoding, fluency, vocabulary, and comprehension.
- Be a valid, reliable and developmentally appropriate computer-adaptive direct instrument that provides screening and diagnostic capabilities for monitoring student progress; identifies students with a substantial deficiency in reading, including students with characteristics of dyslexia; and informs instruction.
- Provide data sufficient for VPK program accountability.
- Provide data and resources to enhance differentiated instruction.
- Provide information to the DOE to aid in the development of educational programs, policies, and supports for providers, districts, and schools.
- Beginning with the 2022-2023 school year, be administered at least three times within a program year or school year, as applicable, with the first administration occurring no later than the first 30 instructional days after the start of the program year or school year.

Results of the CSPM, including the number of students who demonstrate characteristics of dyslexia, must:

- Be reported to the DOE and maintained in the DOE's Educational Data Warehouse.

⁴⁴ DOE, *Act with Urgency for Literacy*, available at <https://www.fldoe.org/core/fileparse.php/7506/urlt/Act-with-Urgency-for-Literacy.pdf> at 15, (last visited Mar. 13, 2021).

⁴⁵ DOE, *Reopening Florida's Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 15, (last visited Mar. 13, 2021).

⁴⁶ 20 U.S.C. s. 6642.

- Be timely provided to a student’s teachers and parents.
- Inform parents annually of their child’s educational progress based on the CSPM.

Evidence-based Reading Instruction Allocation

The bill modifies s. 1011.62, F.S., to rename the “research-based reading instruction allocation” as the “evidence-based reading instruction allocation” to conform the reading instruction allocation to the other evidence-based initiatives. The bill aligns the definition of evidence-based with federal law, to provide that evidence-based means demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.

The bill also modifies the requirements and the authorized uses by school districts of the allocation. Specifically, the bill:

- Provides that funds may be used for supports to assist students identified with a substantial deficiency in early literacy transition from the Voluntary Prekindergarten Education Program (VPK) to kindergarten.
- Replaces the requirement to integrate social studies with the requirement for the coordinated integration of civic literacy in the curriculum for the extra hour of reading instruction for the 300 lowest performing elementary schools.
- Provides that a school district’s reading plan will no longer be deemed approved if it is not approved by June 1 or if 100 percent of the funds are spent.
- Makes mandatory the withholding of funds by the DOE upon a determination that reading instruction allocation funds are not being used to implement the approved plan.
- Requires school district reading plans to include a root-cause analysis of student performance data and reflection tool developed by the DOE to evaluate the effectiveness of interventions implemented in the prior year.

The bill requires the annual report of the DOE to the Legislature on the evidence-based reading instruction allocation to also be submitted to the SBE and include recommendations for improving implementation of evidence-based reading and intervention strategies in classrooms.

Reading Achievement Initiative for Scholastic Excellence Program

The bill creates s. 1008.365, F.S., to establish within the DOE the Reading Achievement Initiative for Scholastic Excellence Program (RAISE Program) to provide instructional supports to school districts and their staff in implementing evidence-based reading instruction and interventions in order to improve student reading achievement. Under the RAISE Program, and similar to current federally funded initiatives of the DOE, the DOE must establish at least 20 literacy support regions and regional support teams, each at the direction of a regional literacy support director appointed by the commissioner, to assist school districts in improving low reading scores. Each regional literacy support director must be an employee of a school district and manage a regional support team. Directors and teams are required by the bill to consist of personnel who have completed the competency-based reading endorsement pathway and meet other specified requirements related to reading instruction and progress monitoring.

The bill requires the DOE to provide progress monitoring data to the regional literacy support teams to assist with providing designated schools with supports, which must include all of the following:

- Professional development aligned with evidence based strategies for reading instruction.
- Evaluating a school's improvement plan for alignment with the school district's reading plan.
- Assistance with implementing:
 - Data-informed instructional decision making.
 - The selection and consistent, coordinated use of high-quality instructional materials.
 - Reading instruction in other core subject area curricula, with an emphasis on civic literacy.
 - A multitiered system of supports in order to provide students effective interventions and identify students who may require an evaluation for special educational services, including identifying characteristics of conditions that affect phonological processing, such as dyslexia.

The bill authorizes the DOE to establish criteria to identify a school that must receive supports from a regional support team. The bill also modifies s. 1001.42, F.S., to require each school district to include in its school improvement plan schools identified for supports under the RAISE Program, but specifies that regardless of a school's grade, a school must receive supports if at least 50 percent of the school's students who take the statewide, standardized ELA assessment score below a Level 3 for any grade level, or, for students in kindergarten through grade 3, if results from the CSPM demonstrate that at least 50 percent of the students are not on track to pass the statewide, standardized grade 3 ELA assessment. If the regional support team determines that the school district's reading plan does not address the school's need to improve student outcomes, the regional literacy support director, the district school superintendent, or his or her designee, and the director of the JRFO are required by the bill to convene a meeting to rectify the deficiencies of the reading plan.

A school identified for supports is not required by the bill to implement a turnaround option or take other corrective action under the state's school improvement program. The bill authorizes a school to stop receiving supports and implementing a school improvement plan when the school's data reflects that it no longer meets the requirements to receive supports and implement a school improvement plan. The school may nevertheless continue to receive supports based on the availability of resources.

RAISE Program Tutors

The RAISE Program also requires the DOE to establish a tutoring program and develop training in effective reading tutoring practices and content, based on evidence-based practices, and aligned to the state ELA standards, to prepare eligible high school students to tutor students with a substantial deficiency in reading in kindergarten through grade 3. The bill requires the SBE to adopt rules to administer the program.

The bill requires school districts that wish to participate to recruit, train, and deploy eligible high school students. Tutoring must occur during the school day on school district property in the presence and under the supervision of instructional personnel who are school district employees. Under the bill, a student must obtain written permission from his or her parent before receiving tutoring services.

The bill prescribes eligibility requirements for tutors. Specifically, a tutor must:

- Be a rising junior or senior.
- Have a cumulative grade point average of 3.0 or higher.
- Have no history of out-of-school suspensions or expulsions.
- Be on track to complete all course requirements for graduation.
- Have written recommendations from at least two of his or her present or former high school teachers of record or extracurricular activity sponsors.

The bill authorizes a district school board to adopt a service-learning⁴⁷ course that includes a tutoring program and authorizes students to:

- Earn up to 3 elective credits for high school graduation based on the verified number of hours the student spends tutoring.
- Count hours devoted to tutoring toward meeting community service requirements for high school graduation⁴⁸ and participation in the Florida Bright Futures Scholarship Program.⁴⁹
- Earn a New Worlds Scholar award from the DOE by providing at least 500 verified hours of tutoring.

The option for a high school student to tutor a K-3 student may support both students in their academic development.

Parental Notification and Supports

The bill requires a school to apprise in writing, at least monthly, the parent of a student who has a substantial deficiency in reading of the student's progress in response to intensive reading interventions and supports. The written appraisal must inform the parent of any additional interventions or supports to be provided to the student if the initial supports do not lead to improvement.

To further encourage parental participation in a student's reading progress, the bill requires the DOE to develop a handbook that schools must provide to the parent of a student who is identified as having a substantial reading deficiency. The handbook must be made available in an electronic format that is accessible online and must include:

- An overview of the types and frequency of assessments used to identify reading deficiencies and the requirements for interventions and supports that districts must provide to students who do not make adequate academic progress.

⁴⁷ The hours that high school students devote to course-based service-learning activities may be counted toward meeting community service requirements for high school graduation and community service requirements for participation in the Florida Bright Futures Scholarship Program. School districts are encouraged to include service learning as part of any course or activity required for high school graduation and to include and accept service-learning activities and hours in requirements for academic awards, especially those awards that currently include community service as a criterion or selection factor. Section 1003.497(3)(b), F.S.

⁴⁸ A student is not specifically required to complete a minimum number of community service hours to earn a standard high school diploma, but school districts are encouraged to include service learning as part of a course or activity required for high school graduation. *See* ss. 1003.4282 and 1003.497(3)(b), F.S.

⁴⁹ Scholarship awards for students under the Florida Bright Futures Scholarship Program have varying minimum service hour requirements, based on the amount of the award. For eligibility requirements, *see* DOE, Office of Student Financial Assistance, *2020-2021 Bright Futures Student Handbook, Chapter 1: Initial Eligibility Requirements*, available at <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf> (last visited Mar. 13, 2021).

- An overview of the process for initiating and conducting evaluations for exceptional education eligibility. The overview must include an explanation that a diagnosis of a medical condition alone is not sufficient to establish exceptional education eligibility but may be used to document how that condition relates to the student's eligibility determination and may be disclosed in an eligible student's individual education plan when necessary to inform school personnel responsible for implementing the plan.
- Characteristics of conditions associated with learning disorders, including dyslexia, dysgraphia, dyscalculia, and developmental aphasia.
- A list of resources that support informed parent involvement in decision making processes for students who have difficulty in learning.

The handbook may support parental awareness and involvement in the progress of a student's education.

Instructional Material Review Process

Present Situation

The DOE is authorized to allocate and distribute to each district an amount as prescribed annually by the Legislature for instructional materials for students in grades K-12.⁵⁰ Each district school superintendent is required to certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs, including verification that training was provided; that the materials are being implemented as designed; and, beginning July 1, 2021, for core reading materials and reading intervention materials used in kindergarten through grade 5, that the materials have been identified by JRFO in collaboration with the Florida Center for Reading Research as scientifically researched and evidence-based reading instructional and intervention programs that incorporate explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and incorporate decodable or phonetic text instructional strategies.⁵¹

The term of adoption of any instructional materials must be a five-year period, beginning on April 1 following the adoption, except that the commissioner may approve terms of adoption of less than five years for materials in content areas that require more frequent revision.⁵²

Prior to the purchase of any instructional material, whether from the state-adopted list or through a district-established instructional materials review process, the district school board must:

- Establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

⁵⁰ Section 1011.67(1), F.S. The state appropriated \$236.6 million to school districts for instructional materials for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, ch. 2020-111, s. 2, Laws of Fla.

⁵¹ Sections 1011.67(2) and 1001.215(8), F.S.

⁵² Section 1006.36(1), F.S.

- Conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials.
- Conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing.
- Provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review.⁵³

Effect of Proposed Changes

The bill modifies s. 1001.215, F.S., to require the JRFO, as part of the adoption cycle for ELA instructional materials, to:

- Assist in evaluating elementary grades instructional materials submitted for adoption consideration.
- Identify those materials that are closely aligned to the content and evidence-based strategies for reading instructional and intervention programs that have been identified in collaboration with the Florida Center for Reading Research.
- Incorporate professional development to implement such strategies.

The bill modifies s. 1011.67, F.S., to authorize instructional materials identified by JRFO to be purchased by a school district without undergoing the comprehensive process for adopting instructional materials at the local level.

The Voluntary Prekindergarten Education Program

Present Situation

The Florida Constitution requires the State of Florida to provide every four-year old child a high quality, pre-kindergarten 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.⁵⁴ In 2004, the State established a free VPK program offered to eligible four-year-old children.⁵⁵ Parents may choose either a school-year or summer program offered by either a public or private school.⁵⁶

VPK Administration

Early Learning Coalitions (ELCs) and district school boards administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and

⁵³ Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S.

⁵⁴ 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.

⁵⁵ Chapter 2004-484, s. 1, Laws of Fla.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

⁵⁶ Section 1002.53(3), F.S.

enrollment in the coalition's county or multi-county service area.⁵⁷ A local ELC must coordinate with the local school district in the ELC's service area to develop procedures for enrolling children in public school VPK programs.⁵⁸

The Office of Early Learning (OEL) adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:

- Child enrollment.
- Attendance reporting.
- Eligibility of VPK program providers.
- Regulating the compliance of VPK program providers.
- Reimbursing VPK program providers for the costs of the VPK program.⁵⁹

VPK Instructor Requirements

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with the following credentials:

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition.
- A credential approved by the Department of Children and Families as being equivalent to or greater than the CDA.
- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.⁶⁰

In lieu of the minimum credentials listed above, a private VPK program instructor may hold:

- An associate's or higher degree in child development;
- An associate's or higher degree in an unrelated field, at least six credit hours in early childhood education or child development, and at least 480 hours of teaching or providing child care services for children any age from birth through eight years of age;
- A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
- A bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current; or
- An educational credential approved by the OEL as being equivalent to or greater than any of these educational credentials.⁶¹

⁵⁷ Section 1002.53(4), F.S. There are currently 30 ELCs. Florida's Office of Early Learning, *Early Learning Coalitions*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-your-early-learning-coalition> (last visited Mar. 13, 2021).

⁵⁸ Section 1002.53(4), F.S.

⁵⁹ Section 1002.75(2), F.S.

⁶⁰ Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2019), incorporated by reference in Rule 65C-22.001(7), F.A.C.

⁶¹ Section 1002.55(4), F.S.

VPK Instructor Training

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent literacy skills, including:

- Oral communication;
- Knowledge of print and letters;
- Phonemic and phonological awareness; and
- Vocabulary and comprehension.⁶²

Each emergent literacy training course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program.⁶³ In addition, the OEL must adopt minimum standards for training courses on the VPK performance standards for students. Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.⁶⁴

OEL outlines a 5-Tier career pathway with certifications that require different levels of foundational training up to a bachelor's degree or higher.⁶⁵

Early Learning Florida, developed in partnership between the OEL and the Lastinger Center, is a statewide professional learning system designed to support the development of early childhood professionals' knowledge and skills in effectively educating and caring for young children.⁶⁶ Since 2015, Early Learning Florida has delivered over 400,000 hours of online and blended training to more than 30,000 early childhood practitioners in Florida, at no cost to educators. All Early Learning Florida courses and trainings provide teachers with Continuing Education Units that articulate to national and state credentials.⁶⁷

The OEL has also developed early learning professional development and career pathways.⁶⁸ Professional development and teacher resources are available online, including courses developed by the OEL in collaboration with the Lastinger Center, to provide opportunities to earn educator credentials.⁶⁹

⁶² Section 1002.59(1), F.S.

⁶³ *Id.*

⁶⁴ Section 1002.59(2), F.S.

⁶⁵ Office of Early Learning, *Florida Early Care and Education Career Pathway*, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Career%20Pathway%20Revised_ADA.pdf.

⁶⁶ Early Learning Florida, *Who We Are*, <https://www.earlylearningflorida.com/about> (last visited Mar. 13, 2021).

⁶⁷ The Lastinger Center at the University of Florida, *Early Learning Florida*, <https://lastinger.center.ufl.edu/early-learning/early-learning-florida/> (last visited Mar. 13, 2021).

⁶⁸ Section 1002.995, F.S., and Rule 6A-4.735, F.A.C.

⁶⁹ See Florida Office of Early Learning, *Professional Development*, <http://www.floridaearlylearning.com/providers/professional-development/professional-development-training-resources> (last visited Mar. 13, 2021). See also Early Learning Florida, *Courses*, <https://www.earlylearningflorida.com/catalog> (last visited Mar. 13, 2021).

VPK Accountability

The DOE developed a statewide kindergarten readiness screening⁷⁰ and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.⁷¹ The screening must measure a child’s readiness for kindergarten in the following eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.⁷²

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.⁷³ The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.⁷⁴ The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK preassessment and postassessment, known as the “Florida VPK Assessment.”⁷⁵ The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.⁷⁶

At least 60 percent of a VPK provider’s students must meet the “ready for kindergarten” score on the screening in order for the provider to avoid probationary status.⁷⁷ Providers that do not meet the minimum readiness rate are placed on probation. An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:

- Submit for approval and implement an improvement plan;
- Place the provider or school on probation; and
- Take certain corrective actions, including the use of an OEL-approved curriculum or an OEL approved staff development plan to strengthen instruction in language development and phonological awareness.⁷⁸

Out of 126,238 students who completed the VPK program, 63 percent were “ready for kindergarten” in the fall of 2019. Of 6,611 rated VPK providers, 2,175 failed to meet the minimum rate.⁷⁹ Of these 2,175 providers, 2,203 remained on probation.⁸⁰

⁷⁰ The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS). Rule 6M-8.601(3)(b)1., F.A.C.; see also DOE, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/> (last visited Mar. 13, 2021).

⁷¹ Sections 1002.69(1)-(3) and 1002.73, F.S.

⁷² See s. 1002.67(1), F.S. See also Florida’s Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, incorporated by reference in rule 6M-8.602, F.A.C.

⁷³ Rule 6M-8.601(3)(b), F.A.C.

⁷⁴ Section 1002.69(5)-(6), F.S.; To be considered “ready for kindergarten,” a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

⁷⁵ Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C.

⁷⁶ Section 1002.69(5), F.S.; Rule 6M-8.601(3)(b), F.A.C.

⁷⁷ *Id.*

⁷⁸ Section 1002.67(4), F.S.

⁷⁹ Email, DOE (Dec. 15, 2020) (on file with the Senate Committee on Education).

⁸⁰ Email, Office of Early Learning (Mar. 29, 2019) (on file with the Senate Committee on Education).

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years, unless the provider receives from the OEL a good cause exemption.⁸¹

The DOE launched a VPK progress monitoring pilot program by permitting, beginning in January 2021 and continuing through the 2021-2022 school year, up to 1900 VPK providers to access the assessment used for the statewide kindergarten screening. The DOE allocated \$2.9 million from the CARES Act funds for the program.⁸²

The DOE allocated \$18 million of the Child Care Development and Block Grant Fund from the CARES Act to implement summer programs for rising kindergarten students identified with limited language and emergent literacy skills as determined by the VPK assessments and teacher recommendations.⁸³

Effect of Proposed Changes

VPK Instructor Requirements

The bill modifies s. 1002.59, to add requirements to the emergent literacy training courses, developed by the OEL, for prekindergarten instructors. The bill requires the JRFO to work with the OEL in the development of the emergent literacy training courses and specifies that the courses must be consistent with the evidence-based reading instructional and intervention programs developed by the JRFO and the Florida Center for Reading Research.

The bill also modifies s. 1002.55, F.S., to revise emergent literacy training to require that the training course be available online and that private prekindergarten instructors complete at least one qualifying emergent literacy training course every 5 years. The additional requirements for VPK instructors may provide instructors with more skills to teach VPK students.

VPK Accountability

The bill modifies s. 1008.25, F.S., to require a VPK student who demonstrates a substantial deficiency in early literacy skills based upon the results of the CSPM to be referred to the school district following completion of the VPK term and prior to the beginning of the next school year. The bill makes the student eligible for intensive reading interventions from the school district, which may be funded from the evidence-based reading instruction allocation. The additional reading interventions may provide additional opportunities for students to improve reading skills.

⁸¹ Section 1002.67(4)(c)3., F.S. A VPK provider must submit a request for a good cause exemption to the OEL for review and approval and include specified data. Section 1002.69(7)(b)-(c), F.S. A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

⁸² Florida Department of Education, *Progress Monitoring: Building Effective, Data-Informed Strategies to Close Achievement Gaps* (Nov. 18, 2020), available at <https://www.fldoe.org/core/fileparse.php/19925/urlt/2-3.pdf> at 6, (last visited Mar. 13, 2021).

⁸³ Florida Department of Education, *Reopening Florida's Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 98, (last visited Mar. 13, 2021).

The CSPM replaces current VPK program progress monitoring and accountability requirements in ss. 1002.67 and 1002.69, F.S. With the implementation of the CSPM beginning with the 2022-2023 school year, the bill:

- Phases out the pre- and post-assessment and the statewide kindergarten readiness screening.
- Requires learning gains and kindergarten readiness rates to be calculated using data from the CSPM.

The VPK accountability metrics provided in the bill may measure student performance more contemporaneously with the instruction provided and support the timely provision of information to parents, school districts, and VPK providers.

Kindergarten Readiness

To assist all parents with the transition from prekindergarten to kindergarten, the bill modifies s. 1002.83, F.S. to require the OEL to provide guidance for successful kindergarten transitions to ELCs, school districts, charter schools, and parents. The bill requires each ELC to develop a best-practices plan for transitioning students into kindergarten, which must include all of the following:

- Opportunities for prekindergarten students and their parents to visit schools in which they may be enrolled in kindergarten.
- Written information for parents on school registration and academic and social expectations for kindergarten.
- Meetings at least annually with school districts and charter schools in the coalition's service area to identify and address areas for improvement in transitioning prekindergarten students into kindergarten.
- Transferring prekindergarten student information for continuity in progress monitoring and the provision of supports.

The additional supports for transitioning students to kindergarten may help prepare students for kindergarten. ELCs may require coordination from school districts regarding kindergarten enrollment, visits, and student data.

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:

Providers may incur costs associated with having private VPK instructors to complete at least one qualifying emergent literacy training course every five years and having to participate in the new coordinated screening and progress monitoring system, beginning in the 2022-2023 school year.

C. Government Sector Impact:

The coordinated screening and progress monitoring required by the bill for students enrolled in the Voluntary Prekindergarten Education Program through grade 8 will require the expenditure of state funds.

The Department of Education estimates that it will cost \$15 million annually to implement the new coordinated screening and progress monitoring program. These costs could be offset, in part, by the elimination of the current VPK assessment and kindergarten screening in fiscal year 2022-2023. To assist with the procurement of the new system and its ongoing management, the department anticipates needing one additional Program Specialist IV position, at a cost of \$87,075 annually. School districts may also incur costs associated with computer equipment needed to administer the new assessments.

The department estimates that it will cost \$5 million annually to contract with an external entity to implement the new Reading Achievement Initiative for Scholastic Excellence (RAISE) within the department. In addition, the department also anticipates needing two additional Program Specialist IVs and one additional administrative assistant at a cost of \$240,014 annually to establish and maintain the literacy support teams and tutoring program. School districts may also incur costs associated with recruiting, training and deploying eligible high school students as part of the tutoring program.

The department anticipates that the addition of microcredentials to teacher certificates will require programming changes to the educator certification system at an indeterminate cost.

VI. Technical Deficiencies:

Section 15 of the bill includes an incorrect cross-reference to federal law. A provision of the bill that defines “evidence-based” to mean demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes as provided in 20 U.S.C. s. 8101(21)(A)(i). The definition of the term “evidence-based” is included in the United States Code at 20 U.S.C. s. 7801(21)(A)(i).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.215, 1001.42, 1002.33, 1002.55, 1002.59, 1002.67, 1002.69, 1002.83, 1002.995, 1003.621, 1004.04, 1008.25, 1008.345, 1011.62, 1011.67, 1012.585, 1012.586, 1012.98, and 1012.986.

This bill creates section 1008.365 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Rodriguez

39-01370-21

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1 A bill to be entitled
 2 An act relating to student literacy; amending s.
 3 1001.215, F.S.; revising and providing duties for the
 4 Just Read, Florida! Office within the Department of
 5 Education; amending s. 1001.42, F.S.; revising a
 6 district school board's duty to implement a school
 7 improvement plan for certain low-performing schools to
 8 conform to changes made by the act; amending s.
 9 1002.33, F.S.; conforming a provision to changes made
 10 by the act; amending s. 1002.55, F.S.; revising
 11 requirements for prekindergarten instructors relating
 12 to completing an emergent literacy training course;
 13 amending s. 1002.59, F.S.; requiring the Office of
 14 Early Learning to adopt minimum standards for such
 15 course in collaboration with the Just Read, Florida!
 16 Office; requiring such course to be consistent with
 17 certain strategies identified by the Just Read,
 18 Florida! Office; amending s. 1002.67, F.S.; requiring
 19 certain private prekindergarten providers and public
 20 schools to use a coordinated screening and progress
 21 monitoring system; amending s. 1002.69, F.S.;
 22 requiring the Department of Education, in consultation
 23 with the Office of Early Learning, to implement a
 24 coordinated screening and progress monitoring system
 25 for students in the Voluntary Prekindergarten
 26 Education Program through grade 8; requiring such
 27 screening and progress monitoring system to be used to
 28 assess kindergarten readiness and to determine student
 29 learning gains; amending s. 1002.83, F.S.; requiring

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30 early learning coalitions to adopt best-practices
 31 plans for transitioning prekindergarten students into
 32 kindergarten; providing requirements for such plans;
 33 requiring the Office of Early Learning to provide
 34 certain guidelines to assist early learning
 35 coalitions, schools districts, charter schools, and
 36 parents; amending ss. 1002.995 and 1003.621, F.S.;
 37 conforming provisions to changes made by the act;
 38 amending s. 1004.04, F.S.; revising provisions
 39 relating to teacher preparation programs; removing
 40 provisions authorizing the waiver of certain admission
 41 requirements for such programs; requiring certain
 42 school district and instructional personnel to have
 43 evidence of being certified or endorsed in reading
 44 beginning in a specified school year; amending s.
 45 1008.25, F.S.; requiring certain students to
 46 participate in a certain coordinated screening and
 47 progress monitoring system; requiring schools to
 48 communicate with parents at least monthly regarding
 49 the progress of certain students; providing
 50 requirements for such communication; requiring the
 51 department to develop a handbook for schools to
 52 provide to parents of certain students; providing
 53 requirements for such handbook; requiring the
 54 department, in collaboration with the Office of Early
 55 Learning, to procure and require the use of a certain
 56 coordinated screening and progress monitoring system;
 57 providing requirements for such system; requiring
 58 private Voluntary Prekindergarten Education Program

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59 providers and public schools to participate in such
 60 system beginning in a specified school year; providing
 61 the frequency with which such system must be
 62 administered during the program year or school year,
 63 as applicable; providing that certain prekindergarten
 64 students may be eligible for intensive reading
 65 interventions; authorizing a school district to pay
 66 for such interventions using certain funds; requiring
 67 screening and progress monitoring system results to be
 68 reported to the department and maintained in a
 69 specified department warehouse; requiring such results
 70 to be provided to a student's teacher and parent;
 71 requiring the department, in collaboration with the
 72 Office of Early Learning, to provide certain training
 73 and support; amending s. 1008.345, F.S.; conforming a
 74 cross-reference; creating s. 1008.365, F.S.; providing
 75 a short title; establishing the Reading Achievement
 76 Initiative for Scholastic Excellence Program within
 77 the department; providing a purpose; requiring the
 78 department to establish a specified number of literacy
 79 support regions and regional support teams for a
 80 certain purpose; requiring a regional literacy support
 81 director to meet certain criteria; providing duties
 82 and requirements for such teams; authorizing the
 83 department to establish criteria for identifying
 84 schools that need supports; requiring such schools to
 85 implement a certain plan; requiring the department to
 86 provide progress monitoring data to such teams
 87 regarding the implementation of supports; providing

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88 requirements for such supports; providing that certain
 89 schools are not required to implement a turnaround
 90 option or take other corrective actions; authorizing a
 91 school to discontinue receiving supports and
 92 implementing a school improvement plan under certain
 93 circumstances; requiring the department to establish a
 94 tutoring program and develop certain training to
 95 prepare high school students to tutor certain
 96 students; providing eligibility criteria for high
 97 school students to participate in a tutoring program;
 98 requiring school districts that wish to participate in
 99 such program to recruit, train, and deploy eligible
 100 high school students; providing requirements for such
 101 program; requiring the department to designate certain
 102 high school students as New Worlds Scholars; requiring
 103 the State Board of Education to adopt rules; amending
 104 s. 1011.62, F.S.; renaming the research-based reading
 105 instruction allocation as the evidence-based reading
 106 instruction allocation; requiring such allocation to
 107 be used to provide comprehensive reading instruction
 108 to certain prekindergarten students; requiring a
 109 school district's K-12 comprehensive reading plan to
 110 be developed with input from certain personnel and
 111 provide for certain interventions delivered by certain
 112 instructional personnel; requiring the department to
 113 annually release to certain school districts their
 114 allocations of appropriated funds by a specified date;
 115 requiring the department to annually report certain
 116 findings and recommendations to the State Board of

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117 Education by a specified date; providing a definition;
 118 amending s. 1011.67, F.S.; authorizing school
 119 districts to purchase certain instructional materials
 120 with specified funds without undergoing certain
 121 adoption procedures; amending s. 1012.585, F.S.;
 122 providing a limitation on earning certain inservice
 123 points; amending s. 1012.586, F.S.; requiring the
 124 department to adopt competency-based pathways for
 125 instructional personnel to earn a reading endorsement
 126 by the beginning of a specified school year; providing
 127 requirements for such pathways; requiring the
 128 department to place microcredentials on participants'
 129 educator certificates; providing requirements for the
 130 department in adopting such pathways; requiring school
 131 districts to resubmit certain programs to the
 132 department for approval by a specified date;
 133 prohibiting instructional personnel from earning a
 134 reading endorsement solely by achieving a passing
 135 score on a specified assessment; amending s. 1012.98,
 136 F.S.; requiring the department to identify certain
 137 professional development opportunities to be
 138 implemented by school districts; amending s. 1012.986,
 139 F.S.; revising the goals of the William Cecil Golden
 140 Professional Development Program for School Leaders to
 141 include support for instructional personnel who
 142 provide reading instruction and interventions;
 143 providing an effective date.

144
 145 Be It Enacted by the Legislature of the State of Florida:

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146
 147 Section 1. Subsections (1) through (6) and subsection (11)
 148 of section 1001.215, Florida Statutes, are amended, and
 149 subsection (8) of that section is republished, to read:
 150 1001.215 Just Read, Florida! Office.—There is created in
 151 the Department of Education the Just Read, Florida! Office. The
 152 office is fully accountable to the Commissioner of Education and
 153 shall:
 154 (1) Provide training to ~~Train~~ reading coaches and school
 155 administrators on the evidence-based strategies identified
 156 pursuant to subsection (8) for purposes of implementation,
 157 modeling, and classroom observations to support professional
 158 growth and inform performance evaluations of instructional
 159 personnel.
 160 (2) Create multiple designations of effective reading
 161 instruction, with accompanying credentials and microcredentials,
 162 to enable all teachers to integrate reading instruction into
 163 their content areas and indicate mastery of specific, evidence-
 164 based strategies.
 165 (3) Work with the Lastinger Center for Learning at the
 166 University of Florida to develop training for K-12 teachers,
 167 reading coaches, and school ~~administrators principals~~ on
 168 effective content-area-specific reading strategies; the
 169 coordinated integration of content-rich curriculum from other
 170 core subject areas into reading instruction, with an emphasis on
 171 civic literacy; and evidence-based reading strategies identified
 172 pursuant to ~~is~~ subsection (8) to improve student reading
 173 performance. For secondary teachers, emphasis shall be on
 174 technical text. These strategies must be developed for all

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175 content areas in the K-12 curriculum.

176 (4) Develop and provide access to sequenced, content-rich
 177 curriculum programming, instructional practices, and resources
 178 that help elementary schools use state-adopted instructional
 179 materials to increase students' background knowledge and
 180 literacy skills, including student attainment of the Next
 181 Generation Sunshine State Standards for social studies, science,
 182 and the arts. The office shall, as part of the adoption cycle
 183 for English Language Arts instructional materials, assist in
 184 evaluating elementary grades instructional materials submitted
 185 for adoption consideration, identify those materials that are
 186 closely aligned to the content and evidence-based strategies
 187 identified pursuant to subsection (8), and incorporate
 188 professional development to implement such strategies.

189 (5) Provide parents with information and evidence-based
 190 strategies for assisting their children in reading, including
 191 reading in content areas.

192 (6) Provide technical assistance to school districts in the
 193 development and implementation of district plans for use of the
 194 evidence-based ~~research-based~~ reading instruction allocation
 195 provided in s. 1011.62(9) and annually review and approve such
 196 plans.

197 (8) Work with the Florida Center for Reading Research to
 198 identify scientifically researched and evidence-based reading
 199 instructional and intervention programs that incorporate
 200 explicit, systematic, and sequential approaches to teaching
 201 phonemic awareness, phonics, vocabulary, fluency, and text
 202 comprehension and incorporate decodable or phonetic text
 203 instructional strategies. Reading intervention includes

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204 evidence-based strategies frequently used to remediate reading
 205 deficiencies and includes, but is not limited to, individual
 206 instruction, multisensory approaches, tutoring, mentoring, or
 207 the use of technology that targets specific reading skills and
 208 abilities.

209 (11) Work with teacher preparation programs approved
 210 pursuant to ss. 1004.04 and 1004.85 to integrate effective,
 211 ~~research-based~~ and evidence-based reading instructional and
 212 intervention strategies, including explicit, systematic, and
 213 sequential reading strategies, multisensory intervention
 214 strategies, and reading in content area instructional strategies
 215 into teacher preparation programs.

216 Section 2. Paragraph (a) of subsection (18) of section
 217 1001.42, Florida Statutes, is amended to read:

218 1001.42 Powers and duties of district school board.—The
 219 district school board, acting as a board, shall exercise all
 220 powers and perform all duties listed below:

221 (18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—
 222 Maintain a system of school improvement and education
 223 accountability as provided by statute and State Board of
 224 Education rule. This system of school improvement and education
 225 accountability shall be consistent with, and implemented
 226 through, the district's continuing system of planning and
 227 budgeting required by this section and ss. 1008.385, 1010.01,
 228 and 1011.01. This system of school improvement and education
 229 accountability shall comply with the provisions of ss. 1008.33,
 230 1008.34, 1008.345, and 1008.385 and include the following:

231 (a) *School improvement plans.*—The district school board
 232 shall annually approve and require implementation of a new,

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233 amended, or continuation school improvement plan for each school
 234 in the district which has a school grade of "D" or "F"; has a
 235 significant gap in achievement on statewide, standardized
 236 assessments administered pursuant to s. 1008.22 by one or more
 237 student subgroups, as defined in the federal Elementary and
 238 Secondary Education Act (ESEA), 20 U.S.C. s.
 239 6311(b)(2)(C)(v)(II); has not significantly increased the
 240 percentage of students passing statewide, standardized
 241 assessments; has not significantly increased the percentage of
 242 students demonstrating Learning Gains, as defined in s. 1008.34
 243 and as calculated under s. 1008.34(3)(b), who passed statewide,
 244 standardized assessments; has been identified as requiring
 245 instructional supports under the Reading Achievement Initiative
 246 for Scholastic Excellence Program established in s. 1008.365; or
 247 has significantly lower graduation rates for a subgroup when
 248 compared to the state's graduation rate. The improvement plan of
 249 a school that meets the requirements of this paragraph shall
 250 include strategies for improving these results. The state board
 251 shall adopt rules establishing thresholds and for determining
 252 compliance with this paragraph.

253 Section 3. Paragraph (b) of subsection (17) of section
 254 1002.33, Florida Statutes, is amended to read:

255 1002.33 Charter schools.—

256 (17) FUNDING.—Students enrolled in a charter school,
 257 regardless of the sponsorship, shall be funded as if they are in
 258 a basic program or a special program, the same as students
 259 enrolled in other public schools in the school district. Funding
 260 for a charter lab school shall be as provided in s. 1002.32.

261 (b) The basis for the agreement for funding students

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262 enrolled in a charter school shall be the sum of the school
 263 district's operating funds from the Florida Education Finance
 264 Program as provided in s. 1011.62 and the General Appropriations
 265 Act, including gross state and local funds, discretionary
 266 lottery funds, and funds from the school district's current
 267 operating discretionary millage levy; divided by total funded
 268 weighted full-time equivalent students in the school district;
 269 multiplied by the weighted full-time equivalent students for the
 270 charter school. Charter schools whose students or programs meet
 271 the eligibility criteria in law are entitled to their
 272 proportionate share of categorical program funds included in the
 273 total funds available in the Florida Education Finance Program
 274 by the Legislature, including transportation, the evidence-based
 275 ~~research-based~~ reading allocation, and the Florida digital
 276 classrooms allocation. Total funding for each charter school
 277 shall be recalculated during the year to reflect the revised
 278 calculations under the Florida Education Finance Program by the
 279 state and the actual weighted full-time equivalent students
 280 reported by the charter school during the full-time equivalent
 281 student survey periods designated by the Commissioner of
 282 Education. For charter schools operated by a not-for-profit or
 283 municipal entity, any unrestricted current and capital assets
 284 identified in the charter school's annual financial audit may be
 285 used for other charter schools operated by the not-for-profit or
 286 municipal entity within the school district. Unrestricted
 287 current assets shall be used in accordance with s. 1011.62, and
 288 any unrestricted capital assets shall be used in accordance with
 289 s. 1013.62(2).

290 Section 4. Paragraph (c) of subsection (3) and subsection

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291 (4) of section 1002.55, Florida Statutes, are amended to read:

292 1002.55 School-year prekindergarten program delivered by
293 private prekindergarten providers.-

294 (3) To be eligible to deliver the prekindergarten program,
295 a private prekindergarten provider must meet each of the
296 following requirements:

297 (c) The private prekindergarten provider must have, for
298 each prekindergarten class of 11 children or fewer, at least one
299 prekindergarten instructor who meets each of the following
300 requirements:

301 1. The prekindergarten instructor must hold, at a minimum,
302 one of the following credentials:

303 a. A child development associate credential issued by the
304 National Credentialing Program of the Council for Professional
305 Recognition; or

306 b. A credential approved by the Department of Children and
307 Families as being equivalent to or greater than the credential
308 described in sub-subparagraph a.

309 The Department of Children and Families may adopt rules under
310 ss. 120.536(1) and 120.54 which provide criteria and procedures
311 for approving equivalent credentials under sub-subparagraph b.

312 2. The prekindergarten instructor must successfully
313 complete an emergent literacy training course and a student
314 performance standards training course approved by the office as
315 meeting or exceeding the minimum standards adopted under s.
316 1002.59. The emergent literacy training course must be completed
317 at least once every 5 years after the prekindergarten instructor
318 initially completes the course. ~~The requirement for completion~~
319

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320 ~~of the standards training course shall take effect July 1, 2014,~~
321 ~~and~~ The ~~courses~~ course shall be made available online.

322 (4) A prekindergarten instructor, in lieu of the minimum
323 credentials ~~and courses~~ required under paragraph (3) (c) 1.

324 ~~(3) (c)~~, may hold one of the following educational credentials:

325 (a) A bachelor's or higher degree in early childhood
326 education, prekindergarten or primary education, preschool
327 education, or family and consumer science;

328 (b) A bachelor's or higher degree in elementary education,
329 if the prekindergarten instructor has been certified to teach
330 children any age from birth through 6th grade, regardless of
331 whether the instructor's educator certificate is current, and if
332 the instructor is not ineligible to teach in a public school
333 because his or her educator certificate is suspended or revoked;

334 (c) An associate's or higher degree in child development;

335 (d) An associate's or higher degree in an unrelated field,
336 at least 6 credit hours in early childhood education or child
337 development, and at least 480 hours of experience in teaching or
338 providing child care services for children any age from birth
339 through 8 years of age; or

340 (e) An educational credential approved by the department as
341 being equivalent to or greater than an educational credential
342 described in this subsection. The department may adopt criteria
343 and procedures for approving equivalent educational credentials
344 under this paragraph.

345 Section 5. Subsection (1) of section 1002.59, Florida
346 Statutes, is amended to read:

347 1002.59 Emergent literacy and performance standards
348 training courses.-

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349 (1) The office, in collaboration with the Just Read,
 350 Florida! Office, shall adopt minimum standards for one or more
 351 training courses in emergent literacy for prekindergarten
 352 instructors. Each course must comprise 5 clock hours and provide
 353 instruction in strategies and techniques to address the age-
 354 appropriate progress of prekindergarten students in developing
 355 emergent literacy skills, including oral communication,
 356 knowledge of print and letters, phonemic and phonological
 357 awareness, and vocabulary and comprehension development,
 358 consistent with the evidence-based content and strategies
 359 identified pursuant to s. 1001.215(8). Each course must also
 360 provide resources containing strategies that allow students with
 361 disabilities and other special needs to derive maximum benefit
 362 from the Voluntary Prekindergarten Education Program. Successful
 363 completion of an emergent literacy training course approved
 364 under this section satisfies requirements for approved training
 365 in early literacy and language development under ss.
 366 402.305(2)(e)5., 402.313(6), and 402.3131(5).

367 Section 6. Paragraph (a) of subsection (3) of section
 368 1002.67, Florida Statutes, is amended to read:

369 1002.67 Performance standards; curricula and
 370 accountability.—

371 (3) (a) Contingent upon legislative appropriation, each
 372 private prekindergarten provider and public school in the
 373 Voluntary Prekindergarten Education Program must implement an
 374 evidence-based pre- and post-assessment that has been approved
 375 by rule of the State Board of Education. However, beginning with
 376 the 2022-2023 school year, such providers and public schools
 377 shall use a coordinated screening and progress monitoring system

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378 pursuant to s. 1008.25(8) to meet the requirements of this
 379 subsection.

380 Section 7. Subsections (1) and (5) of section 1002.69,
 381 Florida Statutes, are amended to read:

382 1002.69 Statewide kindergarten screening; kindergarten
 383 readiness rates; state-approved prekindergarten enrollment
 384 screening; good cause exemption.—

385 (1) The department shall adopt a statewide kindergarten
 386 screening that assesses the readiness of each student for
 387 kindergarten based upon the performance standards adopted by the
 388 department under s. 1002.67(1) for the Voluntary Prekindergarten
 389 Education Program. However, beginning with the 2022-2023 school
 390 year, the department, in consultation with the Office of Early
 391 Learning, shall implement a coordinated screening and progress
 392 monitoring system for the Voluntary Prekindergarten Education
 393 Program through grade 8 pursuant to s. 1008.25(8), which must be
 394 used to assess kindergarten readiness consistent with this
 395 subsection. The department shall require that each school
 396 district administer the statewide kindergarten screening to each
 397 kindergarten student in the school district within the first 30
 398 school days of each school year. Nonpublic schools may
 399 administer the statewide kindergarten screening to each
 400 kindergarten student in a nonpublic school who was enrolled in
 401 the Voluntary Prekindergarten Education Program.

402 (5) The office shall adopt procedures to annually calculate
 403 each private prekindergarten provider's and public school's
 404 kindergarten readiness rate, which must be expressed as the
 405 percentage of the provider's or school's students who are
 406 assessed as ready for kindergarten. The methodology for

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 407 calculating each provider's kindergarten readiness rate must
 408 include student learning gains when available and the percentage
 409 of students who meet all state readiness measures. The rates
 410 must not include students who are not administered the statewide
 411 kindergarten screening. The office shall determine learning
 412 gains using a value-added measure based on growth demonstrated
 413 by the results of the preassessment and postassessment from at
 414 least 2 successive years of administration of the preassessment
 415 and postassessment. However, beginning with the 2022-2023 school
 416 year, a coordinated screening and progress monitoring system
 417 implemented pursuant to s. 1008.25(8) must be used to determine
 418 such learning gains consistent with this subsection.

Section 8. Present subsection (14) of section 1002.83,
 Florida Statutes, is redesignated as subsection (15), and a new
 subsection (14) is added to that section, to read:

1002.83 Early learning coalitions.—

(14) Each early learning coalition shall adopt a best-
practices plan for transitioning prekindergarten students into
kindergarten. The plan must provide for:

(a) Opportunities for prekindergarten students and their
parents to visit schools in which they may be enrolled in
kindergarten.

(b) Written information for parents on school registration
and academic and social expectations for kindergarten.

(c) Meetings at least annually with school districts and
charter schools in the coalition's service area to identify and
address areas for improvement in transitioning prekindergarten
students into kindergarten.

(d) Transferring prekindergarten student information for

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 436 continuity in progress monitoring and the provision of supports.

437
 438 The office shall provide guidelines for successful kindergarten
 439 transitions to early learning coalitions, school districts,
 440 charter schools, and parents to assist with the implementation
 441 of this subsection.

Section 9. Subsection (2) of section 1002.995, Florida
 Statutes, is amended to read:

1002.995 Early learning professional development standards
 and career pathways.—

(2) To the greatest extent possible, the credentials and
 certifications established pursuant to this section shall align
 with the training for K-12 teachers, reading coaches, and school
 administrators ~~principals~~ in s. 1001.215(3).

Section 10. Paragraph (g) of subsection (2) of section
 1003.621, Florida Statutes, is amended to read:

1003.621 Academically high-performing school districts.—It
 is the intent of the Legislature to recognize and reward school
 districts that demonstrate the ability to consistently maintain
 or improve their high-performing status. The purpose of this
 section is to provide high-performing school districts with
 flexibility in meeting the specific requirements in statute and
 rules of the State Board of Education.

(2) COMPLIANCE WITH STATUTES AND RULES.—Each academically
 high-performing school district shall comply with all of the
 provisions in chapters 1000-1013, and rules of the State Board
 of Education which implement these provisions, pertaining to the
 following:

(g) Those statutes pertaining to planning and budgeting,

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465 including chapter 1011, except s. 1011.62(9)(d), relating to the
466 requirement for a comprehensive reading plan. A district that is
467 exempt from submitting this plan shall be deemed approved to
468 receive the evidence-based ~~research-based~~ reading instruction
469 allocation.

470 Section 11. Paragraph (b) of subsection (3) and paragraph
471 (b) of subsection (5) of section 1004.04, Florida Statutes, are
472 amended to read:

473 1004.04 Public accountability and state approval for
474 teacher preparation programs.—

475 (3) INITIAL STATE PROGRAM APPROVAL.—

476 (b) Each teacher preparation program approved by the
477 Department of Education, as provided for by this section, shall
478 require students, at a minimum, to ~~meet, at a minimum, the~~
479 ~~following as prerequisites for admission into the program:~~

480 1. Have a grade point average of at least 2.5 on a 4.0
481 scale for the general education component of undergraduate
482 studies or have completed the requirements for a baccalaureate
483 degree with a minimum grade point average of 2.5 on a 4.0 scale
484 from any college or university accredited by a regional
485 accrediting association as defined by State Board of Education
486 rule or any college or university otherwise approved pursuant to
487 State Board of Education rule.

488 2. Demonstrate mastery of general knowledge ~~sufficient for~~
489 ~~entry into the program~~, including the ability to read, write,
490 and perform in mathematics, by passing the General Knowledge
491 Test of the Florida Teacher Certification Examination or, for a
492 graduate level program, obtain a baccalaureate degree from an
493 institution that is accredited or approved pursuant to the rules

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494 of the State Board of Education.

495
496 ~~Each teacher preparation program may waive these admissions~~
497 ~~requirements for up to 10 percent of the students admitted.~~
498 ~~Programs shall implement strategies to ensure that students~~
499 ~~admitted under a waiver receive assistance to demonstrate~~
500 ~~competencies to successfully meet requirements for certification~~
501 ~~and shall annually report to the Department of Education the~~
502 ~~status of each candidate admitted under such a waiver.~~

503 (5) PRESERVICE FIELD EXPERIENCE.—All postsecondary
504 instructors, school district personnel and instructional
505 personnel, and school sites preparing instructional personnel
506 through preservice field experience courses and internships
507 shall meet special requirements. District school boards may pay
508 student teachers during their internships.

509 (b)1. All school district personnel and instructional
510 personnel who supervise or direct teacher preparation students
511 during field experience courses or internships taking place in
512 this state in which candidates demonstrate an impact on student
513 learning growth must have:

514 a. Evidence of "clinical educator" training;~~;~~

515 b. A valid professional certificate issued pursuant to s.
516 1012.56;~~;~~ ~~and~~

517 c. At least 3 years of teaching experience in
518 prekindergarten through grade 12; ~~and must have~~

519 d. Earned an effective or highly effective rating on the
520 prior year's performance evaluation under s. 1012.34 or be a
521 peer evaluator under the district's evaluation system approved
522 under s. 1012.34; and

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523 e. Beginning with the 2022-2023 school year, for all such
 524 personnel who supervise or direct teacher preparation students
 525 during internships in kindergarten through grade 3 or who are
 526 enrolled in a teacher preparation program for a certificate area
 527 identified pursuant to s. 1012.585(3)(f), evidence of being
 528 certified or endorsed in reading.

529
 530 The State Board of Education shall approve the training
 531 requirements.

532 2. All instructional personnel who supervise or direct
 533 teacher preparation students during field experience courses or
 534 internships in another state, in which a candidate demonstrates
 535 his or her impact on student learning growth, through a Florida
 536 online or distance program must have received "clinical
 537 educator" training or its equivalent in that state, hold a valid
 538 professional certificate issued by the state in which the field
 539 experience takes place, and have at least 3 years of teaching
 540 experience in prekindergarten through grade 12.

541 3. All instructional personnel who supervise or direct
 542 teacher preparation students during field experience courses or
 543 internships, in which a candidate demonstrates his or her impact
 544 on student learning growth, on a United States military base in
 545 another country through a Florida online or distance program
 546 must have received "clinical educator" training or its
 547 equivalent, hold a valid professional certificate issued by the
 548 United States Department of Defense or a state or territory of
 549 the United States, and have at least 3 years teaching experience
 550 in prekindergarten through grade 12.

551 Section 12. Present subsections (8) and (9) of section

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552 1008.25, Florida Statutes, are redesignated as subsections (9)
 553 and (10), respectively, and paragraph (d) of subsection (5) and
 554 a new subsection (8) are added to that section, and paragraph
 555 (a) of subsection (4), paragraph (c) of subsection (5),
 556 paragraph (a) of subsection (7), and present subsection (8) are
 557 amended, to read:

558 1008.25 Public school student progression; student support;
 559 screening and progress monitoring; reporting requirements.—

560 (4) ASSESSMENT AND SUPPORT.—

561 (a) Each student must participate in the statewide,
 562 standardized assessment program required under ~~by~~ s. 1008.22 and
 563 the Voluntary Prekindergarten Education Program through grade 8
 564 coordinated screening and progress monitoring system required
 565 under subsection (8). Each student who does not achieve a Level
 566 3 or above on the statewide, standardized English Language Arts
 567 assessment, the statewide, standardized Mathematics assessment,
 568 or the Algebra I EOC assessment must be evaluated to determine
 569 the nature of the student's difficulty, the areas of academic
 570 need, and strategies for providing academic supports to improve
 571 the student's performance.

572 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

573 (c) The parent of any student who exhibits a substantial
 574 deficiency in reading, as described in paragraph (a), must be
 575 notified in writing of the following:

576 1. That his or her child has been identified as having a
 577 substantial deficiency in reading, including a description and
 578 explanation, in terms understandable to the parent, of the exact
 579 nature of the student's difficulty in learning and lack of
 580 achievement in reading.

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581 2. A description of the current services that are provided
582 to the child.

583 3. A description of the proposed intensive interventions
584 and supports that will be provided to the child that are
585 designed to remediate the identified area of reading deficiency.

586 4. That if the child's reading deficiency is not remediated
587 by the end of grade 3, the child must be retained unless he or
588 she is exempt from mandatory retention for good cause.

589 5. Strategies, including multisensory strategies, through a
590 read-at-home plan the parent can use in helping his or her child
591 succeed in reading.

592 6. That the statewide, standardized English Language Arts
593 assessment is not the sole determiner of promotion and that
594 additional evaluations, portfolio reviews, and assessments are
595 available to the child to assist parents and the school district
596 in knowing when a child is reading at or above grade level and
597 ready for grade promotion.

598 7. The district's specific criteria and policies for a
599 portfolio as provided in subparagraph (6)(b)4. and the evidence
600 required for a student to demonstrate mastery of Florida's
601 academic standards for English Language Arts. A parent of a
602 student in grade 3 who is identified anytime during the year as
603 being at risk of retention may request that the school
604 immediately begin collecting evidence for a portfolio.

605 8. The district's specific criteria and policies for
606 midyear promotion. Midyear promotion means promotion of a
607 retained student at any time during the year of retention once
608 the student has demonstrated ability to read at grade level.

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610 After initial notification, the school shall apprise the parent
611 at least monthly of the student's progress in response to the
612 intensive interventions and supports. Such communications must
613 be in writing and must explain any additional interventions or
614 supports that will be implemented to accelerate the student's
615 progress if the interventions and supports already being
616 implemented have not resulted in improvement.

617 (d) The Department of Education shall develop a handbook
618 that schools must provide to the parent of a student who is
619 identified as having a substantial reading deficiency. The
620 handbook must be made available in an electronic format that is
621 accessible online and must include the following information:

622 1. An overview of the types of assessments used to identify
623 reading deficiencies and what those assessments measure or do
624 not measure, the frequency with which the assessments are
625 administered, and the requirements for interventions and
626 supports that districts must provide to students who do not make
627 adequate academic progress.

628 2. An overview of the process for initiating and conducting
629 evaluations for exceptional education eligibility. The overview
630 must include an explanation that a diagnosis of a medical
631 condition alone is not sufficient to establish exceptional
632 education eligibility but may be used to document how that
633 condition relates to the student's eligibility determination and
634 may be disclosed in an eligible student's individual education
635 plan when necessary to inform school personnel responsible for
636 implementing the plan.

637 3. Characteristics of conditions associated with learning
638 disorders, including dyslexia, dysgraphia, dyscalculia, and

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639 developmental aphasia.

640 4. A list of resources that support informed parent
 641 involvement in decisionmaking processes for students who have
 642 difficulty in learning.

643 (7) SUCCESSFUL PROGRESSION FOR RETAINED THIRD GRADE
 644 STUDENTS.—

645 (a) Students retained under paragraph (5) (b) must be
 646 provided intensive interventions in reading to ameliorate the
 647 student's specific reading deficiency and prepare the student
 648 for promotion to the next grade. These interventions must
 649 include:

650 1. Evidence-based, explicit, systematic, and multisensory
 651 reading instruction in phonemic awareness, phonics, fluency,
 652 vocabulary, and comprehension and other strategies prescribed by
 653 the school district.

654 2. Participation in the school district's summer reading
 655 camp, which must incorporate the instructional and intervention
 656 strategies under subparagraph 1.

657 3. A minimum of 90 minutes of daily, uninterrupted reading
 658 instruction incorporating the instructional and intervention
 659 strategies under subparagraph 1. This instruction may include:

- 660 a. Coordinated integration of content-rich texts in science
 661 and civic literacy ~~social studies~~ within the 90-minute block.
 662 b. Small group instruction.
 663 c. Reduced teacher-student ratios.
 664 d. More frequent progress monitoring.
 665 e. Tutoring or mentoring.
 666 f. Transition classes containing 3rd and 4th grade
 667 students.

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668 g. Extended school day, week, or year.

669 (8) COORDINATED SCREENING AND PROGRESS MONITORING SYSTEM.—

670 (a) The Department of Education, in collaboration with the
 671 Office of Early Learning, shall procure and require the use of a
 672 statewide, standardized coordinated screening and progress
 673 monitoring system for the Voluntary Prekindergarten Education
 674 Program and public schools serving kindergarten through grade 8
 675 students. The system must:

676 1. Measure student progress in the Voluntary
 677 Prekindergarten Education Program through grade 8 in meeting the
 678 appropriate expectations in early literacy and mathematics
 679 skills and in English Language Arts and mathematics standards as
 680 required by ss. 1002.67(1) (a) and 1003.41.

681 2. Measure student performance in oral language
 682 development, phonemic and phonological awareness, knowledge of
 683 print and letters, decoding, fluency, vocabulary, and
 684 comprehension, as applicable by grade level.

685 3. Be a valid, reliable, and developmentally appropriate
 686 computer-adaptive direct instrument that provides screening and
 687 diagnostic capabilities for monitoring student progress and
 688 identifies students who have a substantial deficiency in
 689 reading, including identifying students with characteristics of
 690 dyslexia.

691 4. Provide data for Voluntary Prekindergarten Education
 692 Program accountability as required under s. 1002.67.

693 5. Provide Voluntary Prekindergarten Education Program
 694 providers, school districts, schools, and teachers with data and
 695 resources that enhance differentiated instruction and parent
 696 communication.

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697 6. Provide information to the department to aid in the
 698 development of educational programs, policies, and supports for
 699 providers, districts, and schools.

700 (b) Beginning with the 2022-2023 school year, private
 701 Voluntary Prekindergarten Education Program providers and public
 702 schools must participate in the screening and progress
 703 monitoring system. The screening and progress monitoring system
 704 must be administered at least three times within a program year
 705 or school year, as applicable, with the first administration
 706 occurring no later than the first 30 instructional days after
 707 the start of the program year or school year pursuant to state
 708 board rule.

709 (c) A Voluntary Prekindergarten Education Program student
 710 who exhibits a substantial deficiency in early literacy skills
 711 based upon results under this subsection must be referred to the
 712 school district in which he or she resides and may be eligible
 713 to receive intensive reading interventions after program
 714 completion and before participating in kindergarten. Such
 715 interventions may be paid for using funds from the school
 716 district's evidence-based reading instruction allocation in
 717 accordance with s. 1011.62(9).

718 (d) Screening and progress monitoring system results shall
 719 be reported to the department pursuant to state board rule and
 720 maintained in the department's K-20 data warehouse. Results must
 721 be provided to a student's teacher and parent in a timely manner
 722 as required in paragraph (2) (a).

723 (e) The department, in collaboration with the Office of
 724 Early Learning, shall provide training and support for effective
 725 implementation of the screening and progress monitoring system.

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726 (9)(8) ANNUAL REPORT.-

727 (a) In addition to the requirements in paragraph (5) (b),
 728 each district school board must annually report to the parent of
 729 each student the progress of the student toward achieving state
 730 and district expectations for proficiency in English Language
 731 Arts, science, social studies, and mathematics. The district
 732 school board must report to the parent the student's results on
 733 each statewide, standardized assessment and the screening and
 734 progress monitoring system under subsection (8). The evaluation
 735 of each student's progress must be based upon the student's
 736 classroom work, observations, tests, district and state
 737 assessments, response to intensive interventions provided under
 738 paragraph (5) (a), and other relevant information. Progress
 739 reporting must be provided to the parent in writing in a format
 740 adopted by the district school board.

741 (b) Each district school board must annually publish on the
 742 district website and in the local newspaper the following
 743 information on the prior school year:

744 1. The provisions of this section relating to public school
 745 student progression and the district school board's policies and
 746 procedures on student retention and promotion.

747 2. By grade, the number and percentage of all students in
 748 grades 3 through 10 performing at Levels 1 and 2 on the
 749 statewide, standardized English Language Arts assessment.

750 3. By grade, the number and percentage of all students
 751 retained in kindergarten through grade 10.

752 4. Information on the total number of students who were
 753 promoted for good cause, by each category of good cause as
 754 specified in paragraph (6) (b).

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755 5. Any revisions to the district school board's policies
756 and procedures on student retention and promotion from the prior
757 year.

758 Section 13. Paragraph (a) of subsection (5) of section
759 1008.345, Florida Statutes, is amended to read:

760 1008.345 Implementation of state system of school
761 improvement and education accountability.—

762 (5) The commissioner shall annually report to the State
763 Board of Education and the Legislature and recommend changes in
764 state policy necessary to foster school improvement and
765 education accountability. The report shall include:

766 (a) For each school district:

767 1. The percentage of students, by school and grade level,
768 demonstrating learning growth in English Language Arts and
769 mathematics.

770 2. The percentage of students, by school and grade level,
771 in both the highest and lowest quartiles demonstrating learning
772 growth in English Language Arts and mathematics.

773 3. The information contained in the school district's
774 annual report required pursuant to s. 1008.25(9) ~~s. 1008.25(8)~~.

775
776 School reports shall be distributed pursuant to this subsection
777 and s. 1001.42(18)(c) and according to rules adopted by the
778 State Board of Education.

779 Section 14. Section 1008.365, Florida Statutes, is created
780 to read:

781 1008.365 Reading Achievement Initiative for Scholastic
782 Excellence Act.—

783 (1) This section may be cited as the "Reading Achievement

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784 Initiative for Scholastic Excellence Act."

785 (2) The Reading Achievement Initiative for Scholastic
786 Excellence (RAISE) Program is established within the Department
787 of Education to provide instructional supports to school
788 districts, school administrators, and instructional personnel in
789 implementing evidence-based reading instruction and
790 interventions in order to improve student reading achievement.

791 (3) The department shall establish at least 20 literacy
792 support regions and regional support teams, at the direction of
793 a regional literacy support director appointed by the
794 Commissioner of Education, to assist schools with improving low
795 reading scores as provided in this section.

796 (a) A regional literacy support director must be an
797 employee of a school district, successfully demonstrate
798 competence on the evidence-based strategies identified pursuant
799 to s. 1001.215(8) through a statewide, competency-based reading
800 endorsement pathway under s. 1012.586(2), and have the
801 experience and credentials necessary, as determined by the
802 department, to:

803 1. Effectively monitor student reading growth and
804 achievement data;

805 2. Oversee districtwide and schoolwide professional
806 development and planning to establish evidence-based practices
807 among school administrators and instructional personnel;

808 3. Evaluate implementation of evidence-based practices; and
809 4. Manage a regional support team.

810 (b) A regional support team shall report to its regional
811 literacy support director and must consist of individuals who:

812 1. Successfully demonstrate competence on the evidence-

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813 based strategies identified pursuant to s. 1001.215(8) through a
 814 statewide, competency-based reading endorsement pathway under s.
 815 1012.586(2);

816 2. Have substantial experience in teaching and monitoring
 817 student progress data in reading; and

818 3. Have received training necessary to assist with the
 819 delivery of professional development and site-based supports,
 820 including modeling evidence-based practices and providing
 821 feedback to instructional personnel.

822 (4) The department may establish criteria to identify
 823 schools that must receive supports from a regional support team.
 824 However, regardless of its school grade designated pursuant to
 825 s. 1008.34, a school must be identified for supports if 50
 826 percent of its students who take the statewide, standardized
 827 English Language Arts assessment score below a Level 3 for any
 828 grade level, or, for students in kindergarten through grade 3,
 829 if progress monitoring data collected pursuant to s. 1008.25(8)
 830 shows that 50 percent or more of the students are not on track
 831 to pass the statewide, standardized grade 3 English Language
 832 Arts assessment. A school identified for supports under this
 833 section must implement a school improvement plan pursuant to s.
 834 1001.42(18).

835 (5) The department shall provide progress monitoring data
 836 to regional support teams regarding the implementation of
 837 supports. Such supports must include:

838 (a) Professional development, aligned to evidence-based
 839 strategies identified pursuant to s. 1001.215(8), for
 840 appropriate instructional personnel and school administrators
 841 identified by the regional support team.

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842 (b) Assistance with implementing:

843 1. Data-informed instructional decisionmaking using
 844 progress monitoring and other appropriate data.

845 2. Selection and consistent, coordinated use of high-
 846 quality instructional materials and supplemental materials.

847 3. Reading instruction in other core subject area
 848 curricula, with an emphasis on civic literacy.

849 4. A multitiered system of supports in order to provide
 850 students effective interventions and identify students who may
 851 require an evaluation for special educational services,
 852 including identifying characteristics of conditions that affect
 853 phonological processing, such as dyslexia.

854 (c) Evaluating a school's improvement plan for alignment
 855 with the school district's K-12 comprehensive reading plan under
 856 s. 1011.62(9)(d). If the regional support team determines that
 857 the school district's reading plan does not address the school's
 858 need to improve student outcomes, the regional literacy support
 859 director, the district school superintendent, or his or her
 860 designee, and the director of the Just Read, Florida! Office
 861 shall convene a meeting to rectify the deficiencies of the
 862 reading plan.

863 (6) Identification of a school for supports under this
 864 section does not require a school to implement a turnaround
 865 option or take other corrective actions under s. 1008.33.
 866 However, a regional support team may be used to assist with
 867 providing the differentiated matrix of intervention and support
 868 strategies under s. 1008.33, as appropriate. The department may
 869 direct a regional support team to make other forms of assistance
 870 available to school districts and schools.

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871 (7) Once a school's data shows that it no longer meets the
 872 criteria under subsection (4), the school may discontinue
 873 receiving supports and implementing a school improvement plan.
 874 Such supports may continue subject to available resources.

875 (8) As part of the RAISE Program, the department shall
 876 establish a tutoring program and develop training in effective
 877 reading tutoring practices and content, based on evidence-based
 878 practices and aligned to the English Language Arts standards
 879 under s. 1003.41, which prepares eligible high school students
 880 to tutor students in kindergarten through grade 3 in schools
 881 identified under this section, instilling in those students a
 882 love of reading and improving their literacy skills.

883 (a) To be eligible to participate in the tutoring program,
 884 a high school student must be a rising junior or senior who has
 885 a cumulative grade point average of 3.0 or higher, has no
 886 history of out-of-school suspensions or expulsions, is on track
 887 to complete all core course requirements to graduate, and has
 888 written recommendations from at least two of his or her present
 889 or former high school teachers of record or extracurricular
 890 activity sponsors.

891 (b) School districts that wish to participate in the
 892 tutoring program must recruit, train, and deploy eligible high
 893 school students using the materials developed under this
 894 section. Tutoring must occur during the school day on school
 895 district property in the presence and under the supervision of
 896 instructional personnel who are school district employees. A
 897 parent must give written permission for his or her child to
 898 receive tutoring through the program.

899 (c) Tutoring may be part of a service-learning course

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900 adopted pursuant to s. 1003.497. Students may earn up to 3
 901 elective credits for high school graduation based on the
 902 verified number of hours the student spends tutoring under the
 903 program. The hours of volunteer service must be documented in
 904 writing, and the document must be signed by the student, the
 905 student's parent or guardian, and an administrator or designee
 906 of the school in which the tutoring occurred. The hours that a
 907 high school student devotes to tutoring may be counted toward
 908 meeting community service requirements for high school
 909 graduation and community service requirements for participation
 910 in the Florida Bright Futures Scholarship Program as provided in
 911 s. 1003.497(3)(b). The department shall designate a high school
 912 student who provides at least 500 verified hours of tutoring
 913 under the program as a New Worlds Scholar and award the student
 914 with a pin indicating such designation.

915 (9) The State Board of Education shall adopt rules to
 916 administer this section.

917 Section 15. Paragraphs (b) and (d) of subsection (6) and
 918 subsections (9) and (11) of section 1011.62, Florida Statutes,
 919 are amended to read:

920 1011.62 Funds for operation of schools.—If the annual
 921 allocation from the Florida Education Finance Program to each
 922 district for operation of schools is not determined in the
 923 annual appropriations act or the substantive bill implementing
 924 the annual appropriations act, it shall be determined as
 925 follows:

926 (6) CATEGORICAL FUNDS.—

927 (b) If a district school board finds and declares in a
 928 resolution adopted at a regular meeting of the school board that

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929 the funds received for any of the following categorical
 930 appropriations are urgently needed to maintain school board
 931 specified academic classroom instruction or improve school
 932 safety, the school board may consider and approve an amendment
 933 to the school district operating budget transferring the
 934 identified amount of the categorical funds to the appropriate
 935 account for expenditure:

- 936 1. Funds for student transportation.
- 937 2. Funds for evidence-based ~~research-based~~ reading
 938 instruction if the required additional hour of instruction
 939 beyond the normal school day for each day of the entire school
 940 year has been provided for the students in each low-performing
 941 elementary school in the district pursuant to paragraph (9) (a).
- 942 3. Funds for instructional materials if all instructional
 943 material purchases necessary to provide updated materials that
 944 are aligned with applicable state standards and course
 945 descriptions and that meet statutory requirements of content and
 946 learning have been completed for that fiscal year, but no sooner
 947 than March 1. Funds available after March 1 may be used to
 948 purchase hardware for student instruction.
- 949 4. Funds for the guaranteed allocation as provided in
 950 subparagraph (1) (e)2.
- 951 5. Funds for the supplemental academic instruction
 952 allocation as provided in paragraph (1) (f).
- 953 6. Funds for the Florida digital classrooms allocation as
 954 provided in subsection (12).
- 955 7. Funds for the federally connected student supplement as
 956 provided in subsection (13).
- 957 8. Funds for class size reduction as provided in s.

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958 1011.685.

959 (d) If a district school board transfers funds from its
 960 ~~evidence-based research-based~~ reading instruction allocation,
 961 the board must also submit to the Department of Education an
 962 amendment describing the changes that the district is making to
 963 its reading plan approved pursuant to paragraph (9) (d).

964 (9) EVIDENCE-BASED ~~RESEARCH-BASED~~ READING INSTRUCTION
 965 ALLOCATION.—

966 (a) The ~~evidence-based research-based~~ reading instruction
 967 allocation is created to provide comprehensive reading
 968 instruction to students in kindergarten through grade 12,
 969 including certain students who have completed the Voluntary
 970 Prekindergarten Education Program and who exhibit a substantial
 971 deficiency in early literacy skills under s. 1008.25(8)(c). Each
 972 school district that has one or more of the 300 lowest-
 973 performing elementary schools based on a 3-year average of the
 974 state reading assessment data must use the school's portion of
 975 the allocation to provide an additional hour per day of
 976 intensive reading instruction for the students in each school.
 977 The additional hour may be provided within the school day.
 978 Students enrolled in these schools who earned a level 4 or level
 979 5 score on the statewide, standardized English Language Arts
 980 assessment for the previous school year may participate in the
 981 additional hour of instruction. Exceptional student education
 982 centers may not be included in the 300 schools. The intensive
 983 reading instruction delivered in this additional hour shall
 984 include: ~~evidence-based research-based~~ reading instruction that
 985 has been proven to accelerate progress of students exhibiting a
 986 reading deficiency; differentiated instruction based on

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987 screening, diagnostic, progress monitoring, or student
 988 assessment data to meet students' specific reading needs;
 989 explicit and systematic reading strategies to develop phonemic
 990 awareness, phonics, fluency, vocabulary, and comprehension, with
 991 more extensive opportunities for guided practice, error
 992 correction, and feedback; and the coordinated integration of
 993 civic literacy ~~social studies~~, science, and mathematics-text
 994 reading, text discussion, and writing in response to reading.

995 (b) Funds for comprehensive, evidence-based ~~research-based~~
 996 reading instruction shall be allocated annually to each school
 997 district in the amount provided in the General Appropriations
 998 Act. Each eligible school district shall receive the same
 999 minimum amount as specified in the General Appropriations Act,
 1000 and any remaining funds shall be distributed to eligible school
 1001 districts based on each school district's proportionate share of
 1002 K-12 base funding.

1003 (c) Funds allocated under this subsection must be used to
 1004 provide a system of comprehensive reading instruction to
 1005 students enrolled in the K-12 programs, which may include the
 1006 following:

1007 1. An additional hour per day of evidence-based intensive
 1008 reading instruction to students in the 300 lowest-performing
 1009 elementary schools by teachers and reading specialists who have
 1010 demonstrated effectiveness in teaching reading as required in
 1011 paragraph (a).

1012 2. Kindergarten through grade 5 evidence-based reading
 1013 ~~intervention~~ teachers to provide intensive reading interventions
 1014 provided by reading intervention teachers ~~intervention~~ during
 1015 the school day and in the required extra hour for students

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1016 identified as having a substantial reading deficiency.

1017 3. Highly qualified reading coaches to specifically support
 1018 teachers in making instructional decisions based on student
 1019 data, and improve teacher delivery of effective reading
 1020 instruction, intervention, and reading in the content areas
 1021 based on student need.

1022 4. Professional development for school district teachers in
 1023 scientifically researched and evidence-based ~~based~~ reading
 1024 instruction, including strategies to teach reading in content
 1025 areas and with an emphasis on technical and informational text,
 1026 to help school district teachers earn a certification or an
 1027 endorsement in reading.

1028 5. Summer reading camps, using only teachers or other
 1029 district personnel who are certified or endorsed in reading
 1030 consistent with s. 1008.25(7)(b)3., for all students in
 1031 kindergarten through grade 2 who demonstrate a reading
 1032 deficiency as determined by district and state assessments, and
 1033 students in grades 3 through 5 who score at Level 1 on the
 1034 statewide, standardized English Language Arts assessment.

1035 6. Scientifically researched and evidence-based
 1036 supplemental instructional materials ~~that are grounded in~~
 1037 ~~scientifically based reading research~~ as identified by the Just
 1038 Read, Florida! Office pursuant to s. 1001.215(8).

1039 7. Evidence-based intensive reading interventions for
 1040 students in kindergarten through grade 12 who have been
 1041 identified as having a substantial reading deficiency or who are
 1042 reading below grade level as determined by the statewide,
 1043 standardized English Language Arts assessment.

1044 (d)1. Annually, by a date determined by the Department of

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 1045 Education but before May 1, school districts shall submit a K-12
 1046 comprehensive reading plan for the specific use of the evidence-
 1047 ~~based research-based~~ reading instruction allocation in the
 1048 format prescribed by the department for review and approval by
 1049 the Just Read, Florida! Office created pursuant to s. 1001.215.
 1050 The plan format shall be developed with input from school
 1051 district personnel, including teachers and principals, and shall
 1052 provide for intensive reading interventions identified through a
 1053 root-cause analysis of student performance data and reflection
 1054 tool developed by the department to evaluate the effectiveness
 1055 of interventions implemented in the prior year. Intensive
 1056 reading interventions must be delivered by instructional
 1057 personnel who are certified or endorsed in reading and must
 1058 incorporate evidence-based strategies identified by the Just
 1059 Read, Florida! Office pursuant to s. 1001.215(8).

1060 2. By July 1 of each year, the department shall release to
 1061 each school district with an approved plan its allocation of
 1062 appropriated funds. The plan annually submitted by school
 1063 ~~districts shall be deemed approved unless the department rejects~~
 1064 ~~the plan on or before June 1.~~ If a school district and the Just
 1065 Read, Florida! Office cannot reach agreement on the contents of
 1066 the plan, the school district may appeal to the State Board of
 1067 Education for resolution. School districts shall be allowed
 1068 reasonable flexibility in designing their plans and shall be
 1069 encouraged to offer reading intervention through innovative
 1070 methods, including career academies. ~~The plan format shall be~~
 1071 ~~developed with input from school district personnel, including~~
 1072 ~~teachers and principals, and shall provide for intensive reading~~
 1073 ~~interventions through integrated curricula, provided that,~~

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 1074 ~~beginning with the 2020-2021 school year, the interventions are~~
 1075 ~~delivered by a teacher who is certified or endorsed in reading.~~
 1076 ~~Such interventions must incorporate strategies identified by the~~
 1077 ~~Just Read, Florida! Office pursuant to s. 1001.215(8). No later~~
 1078 ~~than July 1 annually, the department shall release the school~~
 1079 ~~district's allocation of appropriated funds to those districts~~
 1080 ~~having approved plans. A school district that spends 100 percent~~
 1081 ~~of this allocation on its approved plan shall be deemed to have~~
 1082 ~~been in compliance with the plan. The department shall may~~
 1083 withhold funds upon a determination that reading instruction
 1084 allocation funds are not being used to implement the approved
 1085 plan. The department shall evaluate monitor and track the
 1086 implementation of each district plan, including conducting site
 1087 visits and collecting specific data on expenditures and reading
 1088 improvement results. By February 1 of each year, the department
 1089 shall report its findings to the Legislature and the State Board
 1090 of Education, including any recommendations for improving
 1091 implementation of evidence-based reading and intervention
 1092 strategies in classrooms.

1093 3.2- Each school district that has a school designated as
 1094 one of the 300 lowest-performing elementary schools as specified
 1095 in paragraph (a) shall specifically delineate in the
 1096 comprehensive reading plan, or in an addendum to the
 1097 comprehensive reading plan, the implementation design and
 1098 reading intervention strategies that will be used for the
 1099 required additional hour of reading instruction. The term
 1100 "reading intervention" includes evidence-based strategies
 1101 frequently used to remediate reading deficiencies and also
 1102 includes individual instruction, tutoring, mentoring, or the use

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1103 of technology that targets specific reading skills and
1104 abilities.

1105
1106 For purposes of this subsection, the term "evidence-based" means
1107 demonstrating a statistically significant effect on improving
1108 student outcomes or other relevant outcomes as provided in 20
1109 U.S.C. s. 8101(21)(A)(i).

1110 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
1111 annually provide in the Florida Education Finance Program a
1112 virtual education contribution. The amount of the virtual
1113 education contribution shall be the difference between the
1114 amount per FTE established in the General Appropriations Act for
1115 virtual education and the amount per FTE for each district and
1116 the Florida Virtual School, which may be calculated by taking
1117 the sum of the base FEEP allocation, the discretionary local
1118 effort, the state-funded discretionary contribution, the
1119 discretionary millage compression supplement, the evidence-based
1120 ~~research-based~~ reading instruction allocation, the teacher
1121 salary increase allocation, and the instructional materials
1122 allocation, and then dividing by the total unweighted FTE. This
1123 difference shall be multiplied by the virtual education
1124 unweighted FTE for programs and options identified in s.
1125 1002.455 and the Florida Virtual School and its franchises to
1126 equal the virtual education contribution and shall be included
1127 as a separate allocation in the funding formula.

1128 Section 16. Subsection (2) of section 1011.67, Florida
1129 Statutes, is amended to read:

1130 1011.67 Funds for instructional materials.—

1131 (2) Annually by July 1 and before the release of

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1132 instructional materials funds, each district school
1133 superintendent shall certify to the Commissioner of Education
1134 that the district school board has approved a comprehensive
1135 staff development plan that supports fidelity of implementation
1136 of instructional materials programs, including verification that
1137 training was provided; that the materials are being implemented
1138 as designed; and, beginning July 1, 2021, for core reading
1139 materials and reading intervention materials used in
1140 kindergarten through grade 5, that the materials meet the
1141 requirements of s. 1001.215(8). Such instructional materials, as
1142 evaluated and identified pursuant to s. 1001.215(4), may be
1143 purchased by the school district with funds under this section
1144 without undergoing the adoption procedures under s.
1145 1006.40(4)(b). This subsection does not preclude school
1146 districts from purchasing or using other materials to supplement
1147 reading instruction and provide additional skills practice.

1148 Section 17. Paragraph (g) is added to subsection (3) of
1149 section 1012.585, Florida Statutes, to read:

1150 1012.585 Process for renewal of professional certificates.—

1151 (3) For the renewal of a professional certificate, the
1152 following requirements must be met:

1153 (g) A teacher may earn inservice points only once during
1154 each 5-year validity period for any mandatory training topic
1155 that is not linked to student learning or professional growth.

1156 Section 18. Section 1012.586, Florida Statutes, is amended
1157 to read:

1158 1012.586 Additions or changes to certificates; duplicate
1159 certificates; reading endorsement pathways.—

1160 (1) A school district may process via a Department of

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1161 Education website certificates for the following applications of
1162 public school employees:

1163 ~~(a)(1)~~ Addition of a subject coverage or endorsement to a
1164 valid Florida certificate on the basis of the completion of the
1165 appropriate subject area testing requirements of s.
1166 1012.56(5) (a) or the completion of the requirements of an
1167 approved school district program or the inservice components for
1168 an endorsement.

1169 ~~1.(a)~~ To reduce duplication, the department may recommend
1170 the consolidation of endorsement areas and requirements to the
1171 State Board of Education.

1172 ~~2.(b)~~ By July 1, 2018, and At least once every 5 years
1173 thereafter, the department shall conduct a review of existing
1174 subject coverage or endorsement requirements in the elementary,
1175 reading, and exceptional student educational areas. The review
1176 must include reciprocity requirements for out-of-state
1177 certificates and requirements for demonstrating competency in
1178 the reading instruction professional development topics listed
1179 in s. 1012.98(4) (b)11. The review must also consider the award
1180 of an endorsement to an individual who holds a certificate
1181 issued by an internationally recognized organization that
1182 establishes standards for providing evidence-based interventions
1183 to struggling readers or who completes a postsecondary program
1184 that is accredited by such organization. Any such certificate or
1185 program must require an individual who completes the certificate
1186 or program to demonstrate competence in reading intervention
1187 strategies through clinical experience. At the conclusion of
1188 each review, the department shall recommend to the state board
1189 changes to the subject coverage or endorsement requirements

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1190 based upon any identified instruction or intervention strategies
1191 proven to improve student reading performance. This subparagraph
1192 ~~paragraph~~ does not authorize the state board to establish any
1193 new certification subject coverage.

1194 ~~(b)(2)~~ A reissued certificate to reflect a name change.

1195 ~~(c)(3)~~ A duplicate certificate to replace a lost or damaged
1196 certificate.

1197

1198 The employing school district shall charge the employee a fee
1199 not to exceed the amount charged by the Department of Education
1200 for such services. Each district school board shall retain a
1201 portion of the fee as defined in the rules of the State Board of
1202 Education. The portion sent to the department shall be used for
1203 maintenance of the technology system, the web application, and
1204 posting and mailing of the certificate.

1205 (2) (a) By the beginning of the 2022-2023 school year, the
1206 department shall adopt one or more statewide, competency-based
1207 pathways by which instructional personnel may earn a reading
1208 endorsement. A pathway adopted by the department must allow a
1209 candidate to complete coursework online and demonstrate mastery
1210 of each endorsement competency either in person or remotely. The
1211 department shall place on each participant's educator
1212 certificate a microcredential for each competency module the
1213 candidate successfully completes.

1214 (b) As part of adopting a pathway pursuant to paragraph
1215 (a), the department shall review the competencies for the
1216 reading endorsement for alignment with evidence-based
1217 instructional and intervention practices rooted in the science
1218 of reading, consistent with s. 1001.215(3), and recommend

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

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1219 changes to the State Board of Education. Recommended changes
 1220 must address identification of the characteristics of conditions
 1221 such as dyslexia, implementation of evidence-based classroom
 1222 instruction and interventions, and effective progress
 1223 monitoring. By July 1, 2023, each school district reading
 1224 endorsement add-on program must be resubmitted for approval by
 1225 the department consistent with this paragraph.

1226 (c) Beginning July 1, 2024, instructional personnel may not
 1227 earn a reading endorsement solely by achieving a passing score
 1228 on the K-12 reading certification subject area assessment.

1229 Section 19. Subsection (5) of section 1012.98, Florida
 1230 Statutes, is amended to read:

1231 1012.98 School Community Professional Development Act.—

1232 (5) Each district school board shall provide funding for
 1233 the professional development system as required by s. 1011.62
 1234 and the General Appropriations Act, and shall direct
 1235 expenditures from other funding sources to continuously
 1236 strengthen the system in order to increase student achievement
 1237 and support instructional staff in enhancing rigor and relevance
 1238 in the classroom. The department shall identify professional
 1239 development opportunities that require the teacher to
 1240 demonstrate proficiency in a specific classroom practice, with
 1241 priority given to implementing evidence-based reading
 1242 instructional and intervention strategies identified pursuant to
 1243 s. 1001.215(8). A school district may coordinate its
 1244 professional development program with that of another district,
 1245 with an educational consortium, or with a Florida College System
 1246 institution or university, especially in preparing and educating
 1247 personnel. Each district school board shall make available

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1248 inservice activities to instructional personnel of nonpublic
 1249 schools in the district and the state certified teachers who are
 1250 not employed by the district school board on a fee basis not to
 1251 exceed the cost of the activity per all participants.

1252 Section 20. Paragraph (e) is added to subsection (1) of
 1253 section 1012.986, Florida Statutes, to read:

1254 1012.986 William Cecil Golden Professional Development
 1255 Program for School Leaders.—

1256 (1) There is established the William Cecil Golden
 1257 Professional Development Program for School Leaders to provide
 1258 high standards and sustained support for principals as
 1259 instructional leaders. The program shall consist of a
 1260 collaborative network of state and national professional
 1261 leadership organizations to respond to instructional leadership
 1262 needs throughout the state. The network shall support the human-
 1263 resource development needs of principals, principal leadership
 1264 teams, and candidates for principal leadership positions using
 1265 the framework of leadership standards adopted by the State Board
 1266 of Education, the Southern Regional Education Board, and the
 1267 National Staff Development Council. The goal of the network
 1268 leadership program is to:

1269 (e) Support, through training on observation and evaluation
 1270 practices aligned to the science of reading, the professional
 1271 growth of instructional personnel who provide reading
 1272 instruction and interventions.

1273 Section 21. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 24, 2021

I respectfully request that **Senate Bill #1898**, relating to Student Literacy , be placed on the:

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

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

Senator Ana Maria Rodriguez
Florida Senate, District 39

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/2021

Meeting Date

1898

Bill Number (if applicable)

Topic Student Literacy

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Florida Advocacy Director

Address 215 S Monroe Street, Suite 420

Phone 850-391-4090

Street

Tallahassee

FL

32301

Email Debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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

4/15/2021

Meeting Date

1898

Bill Number (if applicable)

Topic Student Literacy

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Director

Address 136 South Bronough St

Phone 5613863451

Street

Tallahassee

FL

32301

Email matthewk.choy@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing The Florida Chamber of Commerce

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

4/15/21

Meeting Date

1898

Bill Number (if applicable)

Topic Student Literacy

Amendment Barcode (if applicable)

Name Karen Mazzola

Job Title Legislation Committee Chair

Address 1747 Orlando Central Parkway

Phone 407-855-7604

Orlando FL 32809
City State Zip

Email legislation@floridapta.org

Speaking: For Against Information

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

Representing Florida PTA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1906

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Brodeur and others

SUBJECT: Reemployment Assistance

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1906 changes the state's reemployment assistance weekly benefit amount from a range of \$32 to \$275 per week to \$100 to \$375 per week. The bill also allows the application of an alternative base period, consisting of the four most recent calendar quarters, if an individual cannot qualify under the current base period. The bill increases the number of available weeks by two weeks, for a range of a maximum of 14 weeks at an unemployment rate of 5 percent up to 25 weeks at an unemployment rate of 10.5 percent. Under the bill, the number of available weeks is calculated monthly instead of annually.

The bill removes the requirement that a claimant must include the telephone number of each prospective employer contacted for each week of unemployment claimed; clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted; reduces the number of prospective employers that each reemployment assistance claimants must contact each week from five to three, or from three to two for individuals in small counties; and allows submittal of a resume to an employer through an online job search service to count as a contact. The bill clarifies that pregnancy cannot be the basis of a denial of a claim.

The Revenue Estimating Conference has not yet estimated the impact of the bill.

The bill takes effect July 1, 2021.

II. Present Situation:

Unemployment Compensation Overview

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.¹ The program is administered as a partnership of the federal government and the states.² The individual states collect unemployment compensation payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).³ FUTA collections go to the states for costs of administering state unemployment compensation and job service programs. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.⁴

States are permitted to set benefit eligibility requirements, the amount and duration of benefits, and the state tax structure, as long as state law does not conflict with FUTA or Social Security Act requirements. Florida's program was created by the Legislature in 1937.⁵ The Department of Economic Opportunity (DEO) is the current agency responsible for administering Florida's laws, primarily through its Division of Workforce Services. DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collections services.⁶

State Reemployment Assistance Benefits

In Florida, which rebranded the unemployment compensation program as the reemployment assistance program in 2012,⁷ a qualified claimant may receive benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.⁸ Benefits range from a minimum of \$32 per week to a maximum weekly benefit amount⁹ of \$275, for a maximum of between 12 weeks and 23

¹ USDOL, *State Unemployment Insurance Benefits*, available at: <https://oui.doleta.gov/unemploy/uifactsheet.asp> (last visited Apr. 8, 2021).

² There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia. USDOL, *Unemployment Compensation, Federal – State Partnership*, available at: <https://oui.doleta.gov/unemploy/pdf/partnership.pdf> (last visited Apr. 8, 2021).

³ FUTA is codified at 26 U.S.C. § 3301-3309.

⁴ USDOL, *Unemployment Insurance Tax Topic*, available at: <https://oui.doleta.gov/unemploy/uitaxtopic.asp#:~:text=FUTA%20taxes%20are%20calculated%20by,times%20the%20employer's%20taxable%20wages.&text=Employers%20who%20pay%20their%20state,tax%20paid%20to%20the%20state> (last visited Mar. 30, 2021).

⁵ Chapter 18402, Laws of Fla.

⁶ Section 443.1316, F.S.

⁷ Chapter 2012-30, Laws of Fla.

⁸ Section 443.111(5), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

⁹ Pursuant to s. 443.111(3), F.S., the "weekly benefit amount," is an amount equal to one twenty-sixth of the total wages for insured work paid during the quarter of the base period where the wages paid were highest.

weeks,¹⁰ depending on the claimant's length of prior employment and wages earned and the unemployment rate.¹¹

The maximum available weeks is set at the beginning of the year and applies for the entire calendar year. The maximum available weeks is based upon the average seasonally adjusted statewide unemployment rate for the months of July, August, and September.¹² If the average rate for that most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12 weeks. For each 0.5 percent step about 5 percent, an additional week of benefits is added to the maximum duration, up to 23 weeks of benefits if that average third quarter unemployment rate is 10.5 percent. On January 1, 2021, the maximum weeks of benefits increased from 12 weeks to 19 weeks based on the three month average of July, August, and September of 2020, which was 8.6 percent.¹³

To receive benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.¹⁴

Earnings Requirements

The "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.¹⁵ A claimant must have earned wages in at least two quarters of the claimant's base period. The minimum total base period wages must be at least 1.5 times the wages earned in the individual's highest quarter, but at least \$3,400 in the base period.¹⁶ For example, the minimum amount a person could earn could be \$850 in all four quarters or \$1,700 in two of the base period quarters. A claimant's weekly benefit amount is calculated taking the quarter in the base period with the highest amount of wages and multiplying that amount by one twenty-sixth. The minimum weekly benefit amount is \$32 and the maximum is \$275. For example, a person whose highest quarter earnings were \$850, would be eligible for a weekly benefit amount of about \$32; a person whose highest quarter earnings were \$7,150, would be eligible for a weekly benefit amount of about \$275; a person whose

¹⁰ Section 443.111(5)(c), F.S. If the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available up to 23 weeks at an unemployment rate of 10.5 percent. On January 1, 2021, the maximum weeks of benefits increased from 12 weeks to 19 weeks based on the three month average of July, August, and September of 2020, which was 8.7 percent.

¹¹ The average weekly benefit amount for each quarter in 2020 was: first quarter – \$254; second quarter – \$236; third quarter – \$227; and fourth quarter – \$228. USDOL, *Unemployment Insurance Data*, run report for Florida, available at: https://oui.doleta.gov/unemploy/data_summary/DataSum.asp (last visited Apr. 9, 2021).

¹² Section 443.111(5)(c), F.S. Typically in the calculation of monthly unemployment rates, a rate is published about midway through the following month and the revised rate is published about midway through the next month. See DEO, *Unemployment – Local Area Unemployment Statistics (LAUS) – Release Schedule*, 2021, available at: <http://lmsresources.labormarketinfo.com/library/DataReleaseSchedule.pdf> (last visited Apr. 15, 2021).

¹³ DEO, *Florida Department of Economic Opportunity Announces Florida Achieves Six Consecutive Months of Month-Over-Month Job Growth*, (Nov. 20, 2020) available at: <https://floridajobs.org/news-center/DEO-Press/2020/11/20/florida-department-of-economic-opportunity-announces-florida-achieves-six-consecutive-months-of-month-over-month-job-growth> (last visited Apr. 16, 2021).

¹⁴ See s. 443.101, F.S.

¹⁵ Section 443.036(7), F.S.

¹⁶ Section 443.091(1)(g), F.S.

highest quarter earnings were \$9,750, would be eligible for a weekly benefit amount of about \$275; and a person whose highest quarter earnings were \$12,936,¹⁷ would be eligible for a weekly benefit amount of about \$275.

Able and Available for Work

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. Generally, these include efforts related to finding new employment, such as:¹⁸

- Registering with Employ Florida;¹⁹
- Reporting to the One-Stop Career Center when directed to do so by the local CareerSource board;
- Being able to and available for work;²⁰
- Contacting at least 5 prospective employers each week or going to the One-Stop Career Center for reemployment services; and
- Participating in reemployment services.

For each week of benefits claimed, a claimant must submit to the DEO the name, address, and telephone number of each prospective employer contacted.²¹ A claimant must be actively seeking work to be considered available for work. “This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed” or three prospective employers for individuals who live in small counties.²² Proof of work search efforts cannot include the same prospective employer at the same location in three consecutive weeks, unless in the meantime the employer has indicated that it is hiring. The DEO conducts random audits of the submitted information to verify that claimants are meeting these requirements.

The requirement to be available for work and able to work applies to an individual during the major portion of the individual’s customary work week. Consequently, individuals whose benefits are not based on full-time work are not required to seek or be available to accept full-time work.²³

An individual must make a thorough and continued effort to obtain work and take positive actions to become reemployed. To aid unemployed individuals, free reemployment services and assistance are available.²⁴

¹⁷ The statewide average annual wage is \$51,744 (2019).

¹⁸ Section 443.091(1), F.S.

¹⁹ See s. 443.091(1)(b), F.S., and Employ Florida, available at: <https://www.employflorida.com/vosnet/Default.aspx> (last visited Apr. 8, 2021). Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and the DEO. It provides job-matching and workforce resources.

²⁰ “Able to work” means physically and mentally capable of performing the duties of the occupation in which work is being sought. “Available for work” means actively seeking and being ready and willing to accept suitable work. See s. 443.036(1) and (6), F.S. See also Rule 73B-11.021(2), F.A.C.

²¹ Section 449.091(1)(c)1., F.S.

²² Section 443.091(1)(d), F.S. A “small county” is a county that has an unincarcerated population of 75,000 or less. Section 120.52(19), F.S.

²³ Rule 73B-11.021(2), F.A.C.

²⁴ Rule 73B-11.011(12), F.A.C. “Reemployment services” is defined as job search assistance, job and vocational training referrals, employment counseling and testing, labor market information, employability skills enhancement, needs assessment, orientation, and other related services provided by One-Stop Career Centers operated by local regional workforce boards.

The DEO’s website provides links to local, state, and national employment databases and to resources for job training or further educational opportunities. The One-Stop Career Centers provide job search counseling and workshops, occupational and labor market information, referral to potential employers, and job training assistance. Claimants may also receive an e-mail from the Employ Florida Marketplace with information about employment services or available jobs. Additionally, a claimant may be selected to participate in reemployment assistance services, such as the Reemployment Services and Eligibility Assessment (RESEA) program, designed to address the reemployment needs of claimants.²⁵

Disqualification for Unemployment Compensation

Section 443.101, F.S., specifies the circumstances under which an individual would be disqualified from receiving benefits. These circumstances include:

- Voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct connected with the work;²⁶
- Failing to apply for available suitable work when directed by the DEO or the One-Stop Career Center, to accept suitable work when offered, or to return to suitable self-employment when directed to do so;²⁷
- Making false or fraudulent representations in filing for benefits;
- Being discharged from employment due to drug use or rejection from a job offer for failing a drug test; and
- Becoming unavailable for work due to incarceration or imprisonment.

The statute specifies the duration of the disqualification and the requirements for requalification for an individual’s next benefit claim, depending on the reason for the disqualification.

Financing Unemployment Compensation

State Unemployment Compensation Contributions

Florida sets its own taxable wage base and rate. The funds collected are paid into the Unemployment Compensation Trust Fund, which is maintained at the U.S. Treasury.²⁸ The trust fund is primarily financed through the contributory method—by employers who pay taxes on employee wages.²⁹ Employers’ state taxes are used solely to pay benefits to unemployed Floridians.

²⁵ RESEA services may include an orientation, initial assessment, labor market information, employability development plan, and work search services. DEO, *Program Description*, available at: <https://floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/reemployment-services-and-eligibility-assessment-program> (last visited Apr. 8, 2021). Rule 73B-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

²⁶ An individual is not disqualified for voluntarily leaving temporary work to return to full time work, or to relocate with his or her military spouse due to relocation orders, or due to circumstances related to domestic violence.

²⁷ Section 443.101(2), F.S., sets forth the requirements to determine “suitable work.”

²⁸ Section 443.191, F.S.

²⁹ Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust

Currently, an employer pays taxes on the first \$7,000 of an employee's wages.³⁰ An employer's initial state tax rate is 2.7 percent.³¹ After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but it may be adjusted down to a low of 0.1 percent.³² The adjustment in the tax rate is determined by calculating several factors, including benefit charges associated with the employer, socialized costs,³³ and the balance of the Unemployment Compensation Trust Fund.

Employer contributions are due in the month following the end of the quarter (April 30, July 31, October 31, and January 31). Most employers will have paid the \$7,000 wage base to their employees in the first or second quarter of the year, making their total payments due early in the year.

Florida's tax calculation method, especially due to the benefit ratio, is closer to a "pay as you go" approach, in which taxes increase rapidly after a surge in benefit costs. Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges can cause a severe drain on the Unemployment Compensation Trust Fund.

Other Unemployment Compensation Programs³⁴

The maximum weekly benefit amount (WBA) and maximum weeks of assistance for unemployment compensation vary by program. The average maximum WBA of all 53 programs is \$473. Sixteen programs offer a maximum WBA under \$400; seven programs offer a maximum WBA amount of \$275 or less. The average *minimum* WBA of all 53 programs is \$63. Sixteen programs offer a *minimum* WBA of \$32 or less; 44 programs offer a *minimum* WBA amount of \$100 or less.

A majority of states have variable weeks of assistance. Some are based on the base period wages, while others are based on the base period wages and the state's unemployment rate. There are 10 programs that offer a uniform number of weeks (generally 26). Most states offer up to a maximum of 26 based on a person's base period wages. Seven states offer up to a maximum of between 20 and 30 weeks, based on the claimant's base period wages and the state's unemployment rate.

Some examples of other states include:

fund. *See* s. 443.1312, F.S. The state and local governments are reimbursing employers. Most employers are contributory employers.

³⁰ Section 443.1217(2)(a)2., F.S.

³¹ Section 443.131(2)(a), F.S.

³² Section 443.131(2)(b) and (3)(d), F.S.

³³ Socialized costs include the noncharge ratio (benefits not attributable to any employer over the last 3 years, also called "overpayments"), the excess payments ratio (that portion of benefit charges which exceed the maximum rate of 5.4 percent), and the fund size factor (requires the trust fund maintain a certain balance). *See also* DOR, *Reemployment Tax rate Information: How Rates are Calculated*, available at: https://floridarevenue.com/taxes/taxesfees/Pages/rt_rate.aspx (last visited Apr. 8, 2021).

³⁴ Information from USDOL, *Comparison of State Unemployment Laws 2020, Chapter 3 Monetary Entitlement*, Table 3-5: Weekly Benefit Amounts and Table 3-12: Duration of Benefits, available at: <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/monetary.pdf> (last visited Apr. 9, 2021).

- California offers unemployment insurance applicants a maximum WBA of \$450 for up to 26 weeks;
- New York offers a maximum WBA of \$504 for a total of 26 weeks;
- Texas offers a maximum WBA of \$521 for up to 26 weeks;
- Georgia offers a maximum WBA of \$365 for up to 14-20 weeks, depending on the state's unemployment rate;
- North Carolina offers a maximum WBA of \$365 for a total of 12-20 weeks, depending on the state's unemployment rate; and
- Alabama offers a maximum WBA of \$275 for up to 20 weeks, depending on the state's unemployment rate.

Federal Unemployment Assistance Related to COVID-19

In March 2020, Congress enacted several programs to assist workers who were impacted by the effects of COVID-19 on the economy. Programs took time to implement, as states waited on guidance from USDOL and worked to change the systems to enact the changes. The programs have been extended several times.³⁵

The programs provide additional weekly payments to eligible individuals. Payments to workers not typically eligible for benefits or those who had previously exhausted their states' programs; and payments for additional weeks of benefits beyond states' programs. While program durations and amounts have started and expired or been changed in each extension, the currently available programs are:³⁶

- State reemployment assistance – up to 19 weeks, for claims filed after January 1, 2021
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (Federal Pandemic Unemployment Compensation (FPUC))
 - Additional \$100 per week up to the week ending September 4, 2021, for claimants eligible for state benefits who were also self-employed and earned at least \$5,000 in net earnings from their self-employment (Mixed Earners Unemployment Compensation (MEUC))
- Pandemic Emergency Unemployment Compensation (PEUC) – up to 53 weeks, for those who exhaust their state reemployment assistance benefits (through September 4, 2021)
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (FPUC)
 - Additional \$100 per week up to the week ending September 4, 2021 (MEUC)

³⁵ See USDOL, *Unemployment Insurance Relief During COVID-19 Outbreak*, available at: <https://www.dol.gov/coronavirus/unemployment-insurance> (last visited Mar. 30, 2021). The Families First Coronavirus Response Act (Pub. L. No. 116-127, Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISSA)); the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. No. 116-136, Title II, Subtitle A); the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. No. 117-X, Consolidated Appropriations Act, 2021, Division N, Title II, Subtitle A); and the American Rescue Plan Act of 2021 (Pub. L. No. 114-2, Title IX, Subtitle A, Crisis Support for Unemployed Workers).

³⁶ DEO, *Florida Reemployment Assistance Benefit Programs*, updated Apr. 6, 2021, available at: https://floridajobs.org/docs/default-source/reemployment-assistance-center/cares-act/ra-benefit-programs.pdf?sfvrsn=d9d24bb0_12 (last visited Apr. 9, 2021).

- Pandemic Unemployment Assistance (PUA) – up to 79 weeks, for those who are not otherwise eligible for state reemployment assistance, including independent contractors, self-employed workers, and some who may have exhausted their state benefits (through September 4, 2021)
 - Maximum weekly benefit amount up to \$275
 - Additional \$300 per week up to the week ending September 4, 2021 (FPUC)

III. Effect of Proposed Changes:

Alternative Base Period

The bill allows the application of an alternative base period, which is defined by the bill in s. 443.036(3), F.S., (**Section 1**) as the four most recently completed calendar quarters before an individual's benefit year. If an individual is not eligible for benefits based on the individual's base period wages, then the alternative base period can be used to qualify an individual for benefits, provided none of the quarters have been used to establish a previous reemployment assistance claim. The alternative base period eliminates the "gap" of the most recently completed quarter in the current base period.

The bill amends ss. 443.091(g) and 443.111(2), F.S., (**Sections 2 and 3**) to allow a claimant to establish a claim using wages calculated under the alternative base period. If the quarterly wage report is not available, the DEO must contact the claimant's employers to obtain wage information. The DEO is authorized to adopt rules necessary to administer the alternative wage base.

The bill makes corresponding changes and corrects cross references in ss. 443.036(24), 443.1216, and 443.131, F.S., (**Sections 1, 6, and 7**) related to these changes.

Weekly Benefit Amount

The bill amends s. 443.111, F.S., (**Section 3**) to change the state's reemployment assistance weekly benefit amount from a range of \$32 to \$275 per week to \$100 to \$375 per week. The weekly benefit amount is based on either the claimant's eligible base period wages or alternative base period wages, as applicable.

For example, a person whose highest quarter earnings were \$850, would be eligible for a weekly benefit amount of about \$100; a person whose highest quarter earnings were \$7,150, would be eligible for a weekly benefit amount of about \$275; a person whose highest quarter earnings were \$9,750, would be eligible for a weekly benefit amount of about \$375; and a person whose highest quarter earnings were \$12,936, would be eligible for a weekly benefit amount of about \$375.

Available Weeks

The bill amends s. 443.111(5)(c), F.S., (**Section 3**) to increase the scale for the maximum number of available weeks by two weeks. The bill also amends s. 443.111(5), F.S., to set the maximum duration of benefits based upon the most recently available seasonally adjusted

monthly unemployment rate. When a seasonally adjusted monthly unemployment rate is adopted, then the following month the maximum number of available weeks for initial claims submitted during the month will be set based on that rate. Thus under the bill, at a seasonally adjusted monthly unemployment rate of 5 percent, the maximum number of available weeks is 14 weeks, up to a maximum number of available weeks of 25 weeks at a seasonally adjusted monthly unemployment rate of 10.5 percent. As the unemployment rate rises or falls, the scale for the number of available weeks will be more reactive to changing economic conditions.

Maximum Benefits

In accordance with the changes to the number of available weeks and the maximum weekly benefit amount, the bill amends s. 443.111(5)(b), F.S., (**Section 3**) to increase the maximum amount of state benefits that an individual may receive in the individual's benefit year from \$6,325 to \$9,375 to correspond to the changes.

Able and Available for Work

The bill amends s. 443.091(1)(c), F.S., (**Section 2**) to remove the requirement that a claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed. The bill also clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

The bill amends s. 443.091(1)(d), F.S., (**Section 2**) to reduce the number of prospective employers that reemployment assistance claimants must contact each week from five to three, or from three to two for claimants in small counties.

The bill also allows a claimant to meet the requirement to contact an employer by submitting a resume to an employer through an online job search service.

Pregnancy

The bill creates s. 443.092, F.S., to specifically prohibit the DEO from denying a claimant for reemployment assistance solely on the basis of pregnancy.

Miscellaneous

The bill reenacts related provisions in ss. 443.041 and 443.1116, F.S., (**Sections 8 and 9**) to incorporate the amendments made by the bill.

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 identified.

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

To the extent that the increase in the weekly benefit amount increases the amount of funds paid out to claimants from the Unemployment Compensation Trust Fund, the bill may indirectly cause increases in employer contributions. Employer contributions are based upon employer experience with the system and other factors, including the balance of the trust fund.

The Revenue Estimating Conference has not yet estimated the impact of the bill.

B. Private Sector Impact:

Eligible reemployment assistance claimants could receive higher benefits.

Reimbursable employers, such as charities, could experience an increase in costs consistent with the amount of increased reemployment assistance claims paid.

C. Government Sector Impact:

Governmental employers could experience an increase in costs consistent with the amount of increased reemployment assistance claims paid.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The revised seasonally adjusted unemployment rate for February 2021 is 4.7 percent and the initial unemployment rate for March 2021 is 4.7 percent.³⁷

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.425, 443.036, 443.091, 443.111, 443.1116, 443.1216, and 443.131.

The bill creates section 443.092 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 443.041 and 443.1116.

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 April 15, 2021:**

The committee substitute:

- Creates an alternative base period for the qualification and calculation of reemployment assistance benefits.
- Reduces the number of employers that a claimant in a small county must contact from three to two.
- Increases the number of available weeks by two weeks (as applied to the scaled weeks, at an unemployment rate of 5 percent, the number of available weeks would be 14 weeks and at an unemployment rate of 10.5 percent, the number of available weeks would be 25 weeks). The committee substitute also changes when the number of available weeks is calculated based on the unemployment rate from annually to monthly.
- Increases the maximum benefit year amount to correspond to the increase in the maximum number of available weeks.
- Clarifies that a claimant who is pregnant cannot be denied benefits solely on the basis of the pregnancy.
- Corrects cross-references and reenacts additional provisions.

CS by Commerce and Tourism on March 29, 2021:

The committee substitute removes the requirement that a claimant must include the telephone number of each prospective employer contacted for each week of unemployment claimed, and clarifies that “address” means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

³⁷ DEO, *Florida’s March Employment Figures Released*, (Apr. 16, 2021) available at: <https://www.floridajobs.org/workforce-statistics/workforce-statistics-data-releases/latest-statistics> (last visited Apr. 16, 2021).

The committee substitute reduces the number of prospective employers that reemployment assistance claimants must contact each week from five to three, and provides that a claimant may meet this work search requirement by submitting a resume through an online job search service.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 172

and insert:

Section 1. Present subsections (3) through (46) of section 443.036, Florida Statutes, are redesignated as subsections (4) through (47), respectively, a new subsection (3) is added to that section, and present subsection (24) of that section is amended, to read:

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



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11 (3) "Alternative base period" means the four most recently
12 completed calendar quarters before an individual's benefit year,
13 if such quarters qualify the individual for benefits and were
14 not previously used to establish a prior valid benefit year.

15 ~~(25)-(24)~~ "High quarter" means the quarter in an
16 individual's base period, or in the individual's alternative
17 base period if an alternative base period is used for
18 determining benefits eligibility, in which the individual has
19 the greatest amount of wages paid, regardless of the number of
20 employers paying wages in that quarter.

21 Section 2. Paragraphs (c), (d), and (g) of subsection (1)
22 of section 443.091, Florida Statutes, are amended to read:

23 443.091 Benefit eligibility conditions.—

24 (1) An unemployed individual is eligible to receive
25 benefits for any week only if the Department of Economic
26 Opportunity finds that:

27 (c) To make continued claims for benefits, she or he is
28 reporting to the department in accordance with this paragraph
29 and department rules. Department rules may not conflict with s.
30 443.111(1)(b), which requires that each claimant continue to
31 report regardless of any pending appeal relating to her or his
32 eligibility or disqualification for benefits.

33 1. For each week of unemployment claimed, each report must,
34 at a minimum, include the name and, ~~address, and telephone~~
35 ~~number~~ of each prospective employer contacted, or the date the
36 claimant reported to a one-stop career center, pursuant to
37 paragraph (d). For the purposes of this subparagraph, the term
38 "address" means a website address, a physical address, or an e-
39 mail address.



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40 2. The department shall offer an online assessment aimed at
41 identifying an individual's skills, abilities, and career
42 aptitude. The skills assessment must be voluntary, and the
43 department shall allow a claimant to choose whether to take the
44 skills assessment. The online assessment shall be made available
45 to any person seeking services from a local workforce
46 development board or a one-stop career center.

47 a. If the claimant chooses to take the online assessment,
48 the outcome of the assessment shall be made available to the
49 claimant, local workforce development board, and one-stop career
50 center. The department, local workforce development board, or
51 one-stop career center shall use the assessment to develop a
52 plan for referring individuals to training and employment
53 opportunities. Aggregate data on assessment outcomes may be made
54 available to CareerSource Florida, Inc., and Enterprise Florida,
55 Inc., for use in the development of policies related to
56 education and training programs that will ensure that businesses
57 in this state have access to a skilled and competent workforce.

58 b. Individuals shall be informed of and offered services
59 through the one-stop delivery system, including career
60 counseling, the provision of skill match and job market
61 information, and skills upgrade and other training
62 opportunities, and shall be encouraged to participate in such
63 services at no cost to the individuals. The department shall
64 coordinate with CareerSource Florida, Inc., the local workforce
65 development boards, and the one-stop career centers to identify,
66 develop, and use best practices for improving the skills of
67 individuals who choose to participate in skills upgrade and
68 other training opportunities. The department may contract with



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69 an entity to create the online assessment in accordance with the
70 competitive bidding requirements in s. 287.057. The online
71 assessment must work seamlessly with the Reemployment Assistance
72 Claims and Benefits Information System.

73 (d) She or he is able to work and is available for work. In
74 order to assess eligibility for a claimed week of unemployment,
75 the department shall develop criteria to determine a claimant's
76 ability to work and availability for work. A claimant must be
77 actively seeking work in order to be considered available for
78 work. This means engaging in systematic and sustained efforts to
79 find work, including contacting at least three ~~five~~ prospective
80 employers for each week of unemployment claimed. For the
81 purposes of meeting the requirements of this paragraph, a
82 claimant may contact a prospective employer by submitting a
83 resume to an employer through an online job search service. A
84 claimant who submits a resume to at least three employers
85 through an online job search service satisfies the work search
86 requirements of this paragraph. The department may require the
87 claimant to provide proof of such efforts to the one-stop career
88 center as part of reemployment services. A claimant's proof of
89 work search efforts may not include the same prospective
90 employer at the same location in 3 consecutive weeks, unless the
91 employer has indicated since the time of the initial contact
92 that the employer is hiring. The department shall conduct random
93 reviews of work search information provided by claimants. As an
94 alternative to contacting at least three ~~five~~ prospective
95 employers for any week of unemployment claimed, a claimant may,
96 for that same week, report in person to a one-stop career center
97 to meet with a representative of the center and access



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98 reemployment services of the center. The center shall keep a
99 record of the services or information provided to the claimant
100 and shall provide the records to the department upon request by
101 the department. However:

102 1. Notwithstanding any other provision of this paragraph or
103 paragraphs (b) and (e), an otherwise eligible individual may not
104 be denied benefits for any week because she or he is in training
105 with the approval of the department, or by reason of s.
106 443.101(2) relating to failure to apply for, or refusal to
107 accept, suitable work. Training may be approved by the
108 department in accordance with criteria prescribed by rule. A
109 claimant's eligibility during approved training is contingent
110 upon satisfying eligibility conditions prescribed by rule.

111 2. Notwithstanding any other provision of this chapter, an
112 otherwise eligible individual who is in training approved under
113 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
114 determined ineligible or disqualified for benefits due to
115 enrollment in such training or because of leaving work that is
116 not suitable employment to enter such training. As used in this
117 subparagraph, the term "suitable employment" means work of a
118 substantially equal or higher skill level than the worker's past
119 adversely affected employment, as defined for purposes of the
120 Trade Act of 1974, as amended, the wages for which are at least
121 80 percent of the worker's average weekly wage as determined for
122 purposes of the Trade Act of 1974, as amended.

123 3. Notwithstanding any other provision of this section, an
124 otherwise eligible individual may not be denied benefits for any
125 week because she or he is before any state or federal court
126 pursuant to a lawfully issued summons to appear for jury duty.



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127 4. Union members who customarily obtain employment through
128 a union hiring hall may satisfy the work search requirements of
129 this paragraph by reporting daily to their union hall.

130 5. The work search requirements of this paragraph do not
131 apply to persons who are unemployed as a result of a temporary
132 layoff or who are claiming benefits under an approved short-time
133 compensation plan as provided in s. 443.1116.

134 6. In small counties as defined in s. 120.52(19), a
135 claimant engaging in systematic and sustained efforts to find
136 work must contact at least three prospective employers for each
137 week of unemployment claimed.

138 7. The work search requirements of this paragraph do not
139 apply to persons required to participate in reemployment
140 services under paragraph (e).

141 (g) She or he has been paid wages for insured work equal to
142 1.5 times her or his high quarter wages during her or his base
143 period, except that an unemployed individual is not eligible to
144 receive benefits if the base period wages are less than \$3,400.
145 If an unemployed individual is ineligible for benefits based on
146 base period wages, his or her wages shall be calculated using
147 the alternative base period, and his or her claim shall be
148 established using such wages.

149 Section 3. Subsections (2) and (3) and paragraph (b) of
150 subsection (5) of section 443.111, Florida Statutes, are
151 amended, and paragraph (b) of subsection (1) is republished, to
152 read:

153 443.111 Payment of benefits.—

154 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
155 in accordance with rules adopted by the Department of Economic



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156 Opportunity, subject to the following requirements:

157 (b) As required under s. 443.091(1), each claimant must
158 report at least biweekly to receive reemployment assistance
159 benefits and to attest to the fact that she or he is able and
160 available for work, has not refused suitable work, is seeking
161 work and has met the requirements of s. 443.091(1)(d), and, if
162 she or he has worked, to report earnings from that work. Each
163 claimant must continue to report regardless of any appeal or
164 pending appeal relating to her or his eligibility or
165 disqualification for benefits.

166 (2) QUALIFYING REQUIREMENTS.—

167 (a) To establish a benefit year for reemployment assistance
168 benefits, an individual must have:

169 1. ~~(a)~~ Wage credits in two or more calendar quarters of the
170 individual's base period or alternative base period.

171 2. ~~(b)~~ Minimum total base period wage credits equal to the
172 high quarter wages multiplied by 1.5, but at least \$3,400 in the
173 base period, or in the alternative base period if the
174 alternative base period is used for benefits eligibility.

175 (b)1. If a worker is ineligible for benefits based on base
176 period wages, wages for that worker must be calculated using an
177 alternative base period and the claim shall be established using
178 such wages.

179 2. If the wage information for an individual's most
180 recently completed calendar quarter is unavailable to the
181 department from regular quarterly reports of systematically
182 accessible wage information, the department must promptly
183 contact the individual's employer to obtain the wage
184 information.



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185 3. Wages that fall within the alternative base period of
186 claims established under this paragraph are not available for
187 reuse in qualifying for any subsequent benefit years.

188 4. The department shall adopt rules to administer this
189 paragraph.

190 (3) WEEKLY BENEFIT AMOUNT.—

191 (a) An individual's "weekly benefit amount" is an amount
192 equal to one twenty-sixth of the total wages for insured work
193 paid during that quarter of the base period in which the total
194 wages paid were the highest, but not less than \$100 ~~\$32~~ or more
195 than \$375 ~~\$275~~. The weekly benefit amount, if not a multiple of
196 \$1, is rounded downward to the nearest full dollar amount. The
197 maximum weekly benefit amount in effect at the time the claimant
198 establishes an individual weekly benefit amount is the maximum
199 benefit amount applicable throughout the claimant's benefit
200 year.

201 (b) The weekly benefit amount shall be based on either the
202 claimant's base period wages or alternative base period wages,
203 whichever period results in the greater benefit amount.

204 (5) DURATION OF BENEFITS.—

205 (b) Each otherwise eligible individual is entitled during
206 any benefit year to a total amount of benefits equal to 25
207 percent of the total wages in his or her base period, not to
208 exceed \$8,625 ~~\$6,325~~ or the product arrived at by multiplying
209 the weekly benefit amount with the number of weeks determined in
210 paragraph (c), whichever is less. However, the total amount of
211 benefits, if not a multiple of \$1, is rounded downward to the
212 nearest full dollar amount. These benefits are payable at a
213 weekly rate no greater than the weekly benefit amount.



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214 Section 4. Paragraph (a) of subsection (4) of section
215 215.425, Florida Statutes, is amended to read:

216 215.425 Extra compensation claims prohibited; bonuses;
217 severance pay.—

218 (4) (a) On or after July 1, 2011, a unit of government that
219 enters into a contract or employment agreement, or renewal or
220 renegotiation of an existing contract or employment agreement,
221 that contains a provision for severance pay with an officer,
222 agent, employee, or contractor must include the following
223 provisions in the contract:

224 1. A requirement that severance pay provided may not exceed
225 an amount greater than 20 weeks of compensation.

226 2. A prohibition of provision of severance pay when the
227 officer, agent, employee, or contractor has been fired for
228 misconduct, as defined in s. 443.036(30) ~~s. 443.036(29)~~, by the
229 unit of government.

230 Section 5. Paragraph (a) of subsection (1) and paragraph
231 (f) of subsection (13) of section 443.1216, Florida Statutes,
232 are amended to read:

233 443.1216 Employment.—Employment, as defined in s. 443.036,
234 is subject to this chapter under the following conditions:

235 (1) (a) The employment subject to this chapter includes a
236 service performed, including a service performed in interstate
237 commerce, by:

238 1. An officer of a corporation.

239 2. An individual who, under the usual common-law rules
240 applicable in determining the employer-employee relationship, is
241 an employee. However, whenever a client, as defined in s.
242 443.036(19) ~~s. 443.036(18)~~, which would otherwise be designated



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243 as an employing unit has contracted with an employee leasing
244 company to supply it with workers, those workers are considered
245 employees of the employee leasing company. An employee leasing
246 company may lease corporate officers of the client to the client
247 and other workers to the client, except as prohibited by
248 regulations of the Internal Revenue Service. Employees of an
249 employee leasing company must be reported under the employee
250 leasing company's tax identification number and contribution
251 rate for work performed for the employee leasing company.

252 a. However, except for the internal employees of an
253 employee leasing company, each employee leasing company may make
254 a separate one-time election to report and pay contributions
255 under the tax identification number and contribution rate for
256 each client of the employee leasing company. Under the client
257 method, an employee leasing company choosing this option must
258 assign leased employees to the client company that is leasing
259 the employees. The client method is solely a method to report
260 and pay unemployment contributions, and, whichever method is
261 chosen, such election may not impact any other aspect of state
262 law. An employee leasing company that elects the client method
263 must pay contributions at the rates assigned to each client
264 company.

265 (I) The election applies to all of the employee leasing
266 company's current and future clients.

267 (II) The employee leasing company must notify the
268 Department of Revenue of its election by July 1, 2012, and such
269 election applies to reports and contributions for the first
270 quarter of the following calendar year. The notification must
271 include:



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272 (A) A list of each client company and the unemployment
273 account number or, if one has not yet been issued, the federal
274 employment identification number, as established by the employee
275 leasing company upon the election to file by client method;

276 (B) A list of each client company's current and previous
277 employees and their respective social security numbers for the
278 prior 3 state fiscal years or, if the client company has not
279 been a client for the prior 3 state fiscal years, such portion
280 of the prior 3 state fiscal years that the client company has
281 been a client must be supplied;

282 (C) The wage data and benefit charges associated with each
283 client company for the prior 3 state fiscal years or, if the
284 client company has not been a client for the prior 3 state
285 fiscal years, such portion of the prior 3 state fiscal years
286 that the client company has been a client must be supplied. If
287 the client company's employment record is chargeable with
288 benefits for less than 8 calendar quarters while being a client
289 of the employee leasing company, the client company must pay
290 contributions at the initial rate of 2.7 percent; and

291 (D) The wage data and benefit charges for the prior 3 state
292 fiscal years that cannot be associated with a client company
293 must be reported and charged to the employee leasing company.

294 (III) Subsequent to choosing the client method, the
295 employee leasing company may not change its reporting method.

296 (IV) The employee leasing company shall file a Florida
297 Department of Revenue Employer's Quarterly Report for each
298 client company by approved electronic means, and pay all
299 contributions by approved electronic means.

300 (V) For the purposes of calculating experience rates when



301 the client method is chosen, each client's own benefit charges
302 and wage data experience while with the employee leasing company
303 determines each client's tax rate where the client has been a
304 client of the employee leasing company for at least 8 calendar
305 quarters before the election. The client company shall continue
306 to report the nonleased employees under its tax rate.

307 (VI) The election is binding on each client of the employee
308 leasing company for as long as a written agreement is in effect
309 between the client and the employee leasing company pursuant to
310 s. 468.525(3)(a). If the relationship between the employee
311 leasing company and the client terminates, the client retains
312 the wage and benefit history experienced under the employee
313 leasing company.

314 (VII) Notwithstanding which election method the employee
315 leasing company chooses, the applicable client company is an
316 employing unit for purposes of s. 443.071. The employee leasing
317 company or any of its officers or agents are liable for any
318 violation of s. 443.071 engaged in by such persons or entities.
319 The applicable client company or any of its officers or agents
320 are liable for any violation of s. 443.071 engaged in by such
321 persons or entities. The employee leasing company or its
322 applicable client company is not liable for any violation of s.
323 443.071 engaged in by the other party or by the other party's
324 officers or agents.

325 (VIII) If an employee leasing company fails to select the
326 client method of reporting not later than July 1, 2012, the
327 entity is required to report under the employee leasing
328 company's tax identification number and contribution rate.

329 (IX) After an employee leasing company is licensed pursuant



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330 to part XI of chapter 468, each newly licensed entity has 30
331 days after the date the license is granted to notify the tax
332 collection service provider in writing of their selection of the
333 client method. A newly licensed employee leasing company that
334 fails to timely select reporting pursuant to the client method
335 of reporting must report under the employee leasing company's
336 tax identification number and contribution rate.

337 (X) Irrespective of the election, each transfer of trade or
338 business, including workforce, or a portion thereof, between
339 employee leasing companies is subject to the provisions of s.
340 443.131(3)(g) if, at the time of the transfer, there is common
341 ownership, management, or control between the entities.

342 b. In addition to any other report required to be filed by
343 law, an employee leasing company shall submit a report to the
344 Labor Market Statistics Center within the Department of Economic
345 Opportunity which includes each client establishment and each
346 establishment of the leasing company, or as otherwise directed
347 by the department. The report must include the following
348 information for each establishment:

349 (I) The trade or establishment name;

350 (II) The former reemployment assistance account number, if
351 available;

352 (III) The former federal employer's identification number,
353 if available;

354 (IV) The industry code recognized and published by the
355 United States Office of Management and Budget, if available;

356 (V) A description of the client's primary business activity
357 in order to verify or assign an industry code;

358 (VI) The address of the physical location;



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359 (VII) The number of full-time and part-time employees who
360 worked during, or received pay that was subject to reemployment
361 assistance taxes for, the pay period including the 12th of the
362 month for each month of the quarter;

363 (VIII) The total wages subject to reemployment assistance
364 taxes paid during the calendar quarter;

365 (IX) An internal identification code to uniquely identify
366 each establishment of each client;

367 (X) The month and year that the client entered into the
368 contract for services; and

369 (XI) The month and year that the client terminated the
370 contract for services.

371 c. The report must be submitted electronically or in a
372 manner otherwise prescribed by the Department of Economic
373 Opportunity in the format specified by the Bureau of Labor
374 Statistics of the United States Department of Labor for its
375 Multiple Worksite Report for Professional Employer
376 Organizations. The report must be provided quarterly to the
377 Labor Market Statistics Center within the department, or as
378 otherwise directed by the department, and must be filed by the
379 last day of the month immediately after the end of the calendar
380 quarter. The information required in sub-sub-paragraphs b.(X)
381 and (XI) need be provided only in the quarter in which the
382 contract to which it relates was entered into or terminated. The
383 sum of the employment data and the sum of the wage data in this
384 report must match the employment and wages reported in the
385 reemployment assistance quarterly tax and wage report.

386 d. The department shall adopt rules as necessary to
387 administer this subparagraph, and may administer, collect,



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388 enforce, and waive the penalty imposed by s. 443.141(1)(b) for
389 the report required by this subparagraph.

390 e. For the purposes of this subparagraph, the term
391 "establishment" means any location where business is conducted
392 or where services or industrial operations are performed.

393 3. An individual other than an individual who is an
394 employee under subparagraph 1. or subparagraph 2., who performs
395 services for remuneration for any person:

396 a. As an agent-driver or commission-driver engaged in
397 distributing meat products, vegetable products, fruit products,
398 bakery products, beverages other than milk, or laundry or
399 drycleaning services for his or her principal.

400 b. As a traveling or city salesperson engaged on a full-
401 time basis in the solicitation on behalf of, and the
402 transmission to, his or her principal of orders from
403 wholesalers, retailers, contractors, or operators of hotels,
404 restaurants, or other similar establishments for merchandise for
405 resale or supplies for use in the business operations. This sub-
406 subparagraph does not apply to an agent-driver or a commission-
407 driver and does not apply to sideline sales activities performed
408 on behalf of a person other than the salesperson's principal.

409 4. The services described in subparagraph 3. are employment
410 subject to this chapter only if:

411 a. The contract of service contemplates that substantially
412 all of the services are to be performed personally by the
413 individual;

414 b. The individual does not have a substantial investment in
415 facilities used in connection with the services, other than
416 facilities used for transportation; and



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417 c. The services are not in the nature of a single
418 transaction that is not part of a continuing relationship with
419 the person for whom the services are performed.

420 (13) The following are exempt from coverage under this
421 chapter:

422 (f) Service performed in the employ of a public employer as
423 defined in s. 443.036, except as provided in subsection (2), and
424 service performed in the employ of an instrumentality of a
425 public employer as described in s. 443.036(36)(b) or (c) ~~or~~
426 ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is
427 immune under the United States Constitution from the tax imposed
428 by s. 3301 of the Internal Revenue Code for that service.

429 Section 6. Paragraph (f) of subsection (3) of section
430 443.131, Florida Statutes, is amended to read:

431 443.131 Contributions.—

432 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
433 EXPERIENCE.—

434 (f) *Transfer of employment records.*—

435 1. For the purposes of this subsection, two or more
436 employers who are parties to a transfer of business or the
437 subject of a merger, consolidation, or other form of
438 reorganization, effecting a change in legal identity or form,
439 are deemed a single employer and are considered to be one
440 employer with a continuous employment record if the tax
441 collection service provider finds that the successor employer
442 continues to carry on the employing enterprises of all of the
443 predecessor employers and that the successor employer has paid
444 all contributions required of and due from all of the
445 predecessor employers and has assumed liability for all



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446 contributions that may become due from all of the predecessor
447 employers. In addition, an employer may not be considered a
448 successor under this subparagraph if the employer purchases a
449 company with a lower rate into which employees with job
450 functions unrelated to the business endeavors of the predecessor
451 are transferred for the purpose of acquiring the low rate and
452 avoiding payment of contributions. As used in this paragraph,
453 notwithstanding s. 443.036(15) ~~s. 443.036(14)~~, the term
454 "contributions" means all indebtedness to the tax collection
455 service provider, including, but not limited to, interest,
456 penalty, collection fee, and service fee. A successor employer
457 must accept the transfer of all of the predecessor employers'
458 employment records within 30 days after the date of the official
459 notification of liability by succession. If a predecessor
460 employer has unpaid contributions or outstanding quarterly
461 reports, the successor employer must pay the total amount with
462 certified funds within 30 days after the date of the notice
463 listing the total amount due. After the total indebtedness is
464 paid, the tax collection service provider shall transfer the
465 employment records of all of the predecessor employers to the
466 successor employer's employment record. The tax collection
467 service provider shall determine the contribution rate of the
468 combined successor and predecessor employers upon the transfer
469 of the employment records, as prescribed by rule, in order to
470 calculate any change in the contribution rate resulting from the
471 transfer of the employment records.

472 2. Regardless of whether a predecessor employer's
473 employment record is transferred to a successor employer under
474 this paragraph, the tax collection service provider shall treat



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475 the predecessor employer, if he or she subsequently employs
476 individuals, as an employer without a previous employment record
477 or, if his or her coverage is terminated under s. 443.121, as a
478 new employing unit.

479 3. The state agency providing reemployment assistance tax
480 collection services may adopt rules governing the partial
481 transfer of experience rating when an employer transfers an
482 identifiable and segregable portion of his or her payrolls and
483 business to a successor employing unit. As a condition of each
484 partial transfer, these rules must require the following to be
485 filed with the tax collection service provider: an application
486 by the successor employing unit, an agreement by the predecessor
487 employer, and the evidence required by the tax collection
488 service provider to show the benefit experience and payrolls
489 attributable to the transferred portion through the date of the
490 transfer. These rules must provide that the successor employing
491 unit, if not an employer subject to this chapter, becomes an
492 employer as of the date of the transfer and that the transferred
493 portion of the predecessor employer's employment record is
494 removed from the employment record of the predecessor employer.
495 For each calendar year after the date of the transfer of the
496 employment record in the records of the tax collection service
497 provider, the service provider shall compute the contribution
498 rate payable by the successor employer or employing unit based
499 on his or her employment record, combined with the transferred
500 portion of the predecessor employer's employment record. These
501 rules may also prescribe what contribution rates are payable by
502 the predecessor and successor employers for the period between
503 the date of the transfer of the transferred portion of the



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504 predecessor employer's employment record in the records of the
505 tax collection service provider and the first day of the next
506 calendar year.

507 4. This paragraph does not apply to an employee leasing
508 company and client contractual agreement as defined in s.
509 443.036, except as provided in s. 443.1216(1)(a)2.a. The tax
510 collection service provider shall, if the contractual agreement
511 is terminated or the employee leasing company fails to submit
512 reports or pay contributions as required by the service
513 provider, treat the client as a new employer without previous
514 employment record unless the client is otherwise eligible for a
515 variation from the standard rate.

516
517 ===== T I T L E A M E N D M E N T =====

518 And the title is amended as follows:

519 Delete lines 3 - 8

520 and insert:

521 s. 443.036, F.S.; defining and revising terms for
522 purposes of the Reemployment Assistance Program Law;
523 amending s. 443.091, F.S.; revising requirements for
524 reemployment assistance benefits eligibility; amending
525 s. 443.111, F.S.; requiring an alternative base period
526 to be used under certain circumstances when
527 calculating wages in determining qualification for
528 reemployment assistance benefits; requiring the
529 Department of Economic Opportunity to contact an
530 individual's employer if certain wage information is
531 unavailable through specified means; specifying that
532 wages that fall within an alternative base period are



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533 not available for reuse in subsequent benefit years;
534 requiring the department to adopt rules; increasing
535 the weekly benefit amounts an individual may receive;
536 providing that weekly benefit amounts be determined
537 based on the greater of the base period or alternative
538 base period; increasing the cap on the total benefit
539 amount an individual is entitled to receive during a
540 benefit year; amending ss. 215.425, 443.1216, and
541 443.131, F.S.; conforming cross-references; reenacting
542 ss.



196634

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 130 - 172

and insert:

6. In small counties as defined in s. 120.52(19), a claimant engaging in systematic and sustained efforts to find work must contact at least two ~~three~~ prospective employers for each week of unemployment claimed.

7. The work search requirements of this paragraph do not



196634

10 apply to persons required to participate in reemployment
11 services under paragraph (e).

12 Section 2. Subsection (3) and paragraphs (b) and (c) of
13 subsection (5) of section 443.111, Florida Statutes, are
14 amended, and paragraph (b) of subsection (1) is republished, to
15 read:

16 443.111 Payment of benefits.—

17 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
18 in accordance with rules adopted by the Department of Economic
19 Opportunity, subject to the following requirements:

20 (b) As required under s. 443.091(1), each claimant must
21 report at least biweekly to receive reemployment assistance
22 benefits and to attest to the fact that she or he is able and
23 available for work, has not refused suitable work, is seeking
24 work and has met the requirements of s. 443.091(1)(d), and, if
25 she or he has worked, to report earnings from that work. Each
26 claimant must continue to report regardless of any appeal or
27 pending appeal relating to her or his eligibility or
28 disqualification for benefits.

29 (3) WEEKLY BENEFIT AMOUNT.—An individual's "weekly benefit
30 amount" is an amount equal to one twenty-sixth of the total
31 wages for insured work paid during that quarter of the base
32 period in which the total wages paid were the highest, but not
33 less than \$100 ~~\$32~~ or more than \$375 ~~\$275~~. The weekly benefit
34 amount, if not a multiple of \$1, is rounded downward to the
35 nearest full dollar amount. The maximum weekly benefit amount in
36 effect at the time the claimant establishes an individual weekly
37 benefit amount is the maximum benefit amount applicable
38 throughout the claimant's benefit year.



196634

39 (5) DURATION OF BENEFITS.—

40 (b) Each otherwise eligible individual is entitled during
41 any benefit year to a total amount of benefits equal to 25
42 percent of the total wages in his or her base period, not to
43 exceed \$8,625 ~~\$6,325~~ or the product arrived at by multiplying
44 the weekly benefit amount with the number of weeks determined in
45 paragraph (c), whichever is less. However, the total amount of
46 benefits, if not a multiple of \$1, is rounded downward to the
47 nearest full dollar amount. These benefits are payable at a
48 weekly rate no greater than the weekly benefit amount.

49 (c) For claims submitted during a calendar year, the
50 duration of benefits is limited to:

51 1. Fourteen ~~Twelve~~ weeks if this state's average
52 unemployment rate is at or below 5 percent.

53 2. An additional week in addition to the 12 weeks for each
54 0.5 percent increment in this state's average unemployment rate
55 above 5 percent.

56 3. Up to a maximum of 25 ~~23~~ weeks if this state's average
57 unemployment rate equals or exceeds 10.5 percent.

58
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete line 8

62 and insert:

63 to receive during a benefit year; increasing the
64 duration of benefits based upon the state's
65 unemployment rate; reenacting ss.



267314

LEGISLATIVE ACTION

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

The Committee on Appropriations (Brodeur) recommended the following:

1 **Senate Amendment to Amendment (196634) (with title**
2 **amendment)**

3
4 Between lines 11 and 12
5 insert:

6 Section 2. Section 443.092, Florida Statutes, is created to
7 read:

8 443.092 Denial of reemployment assistance solely on the
9 basis of pregnancy prohibited.—The department may not deny a
10 person reemployment assistance solely on the basis of pregnancy.



267314

11
12
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15
16
17
18
19

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

And the title is amended as follows:

Delete line 65

and insert:

unemployment rate; creating s. 443.092, F.S.;
prohibiting the Department of Economic Opportunity
from denying a person reemployment assistance solely
on the basis of pregnancy; reenacting ss.



973418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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	.	
	.	

The Committee on Appropriations (Brodeur, Pizzo, and Powell) recommended the following:

1 **Senate Substitute for Amendment (196634) (with title**
2 **amendment)**

3
4 Delete lines 130 - 172
5 and insert:

6 6. In small counties as defined in s. 120.52(19), a
7 claimant engaging in systematic and sustained efforts to find
8 work must contact at least two ~~three~~ prospective employers for
9 each week of unemployment claimed.

10 7. The work search requirements of this paragraph do not



973418

11 apply to persons required to participate in reemployment
12 services under paragraph (e).

13 Section 2. Section 443.092, Florida Statutes, is created to
14 read:

15 443.092 Denial of reemployment assistance solely on the
16 basis of pregnancy prohibited.—The department may not deny a
17 person reemployment assistance solely on the basis of pregnancy.

18 Section 3. Subsection (3) and paragraphs (a), (b), and (c)
19 of subsection (5) of section 443.111, Florida Statutes, are
20 amended, and paragraph (b) of subsection (1) is republished, to
21 read:

22 443.111 Payment of benefits.—

23 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
24 in accordance with rules adopted by the Department of Economic
25 Opportunity, subject to the following requirements:

26 (b) As required under s. 443.091(1), each claimant must
27 report at least biweekly to receive reemployment assistance
28 benefits and to attest to the fact that she or he is able and
29 available for work, has not refused suitable work, is seeking
30 work and has met the requirements of s. 443.091(1)(d), and, if
31 she or he has worked, to report earnings from that work. Each
32 claimant must continue to report regardless of any appeal or
33 pending appeal relating to her or his eligibility or
34 disqualification for benefits.

35 (3) WEEKLY BENEFIT AMOUNT.—An individual's "weekly benefit
36 amount" is an amount equal to one twenty-sixth of the total
37 wages for insured work paid during that quarter of the base
38 period in which the total wages paid were the highest, but not
39 less than \$100 ~~\$32~~ or more than \$375 ~~\$275~~. The weekly benefit



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40 amount, if not a multiple of \$1, is rounded downward to the
41 nearest full dollar amount. The maximum weekly benefit amount in
42 effect at the time the claimant establishes an individual weekly
43 benefit amount is the maximum benefit amount applicable
44 throughout the claimant's benefit year.

45 (5) DURATION OF BENEFITS.—

46 (a) As used in this section, the term "most recent monthly
47 ~~Florida average~~ unemployment rate" means the most recently
48 available month's average of the 3 months for the most recent
49 ~~third calendar year quarter of the~~ seasonally adjusted statewide
50 unemployment rate ~~rates~~ as published by the Department of
51 Economic Opportunity.

52 (b) Each otherwise eligible individual is entitled during
53 any benefit year to a total amount of benefits equal to 25
54 percent of the total wages in his or her base period, not to
55 exceed \$9,375 ~~\$6,325~~ or the product arrived at by multiplying
56 the weekly benefit amount with the number of weeks determined in
57 paragraph (c), whichever is less. However, the total amount of
58 benefits, if not a multiple of \$1, is rounded downward to the
59 nearest full dollar amount. These benefits are payable at a
60 weekly rate no greater than the weekly benefit amount.

61 (c) For claims submitted during a calendar year, the
62 duration of benefits is limited to:

63 1. Fourteen ~~Twelve~~ weeks if this state's most recent
64 monthly average unemployment rate is at or below 5 percent.

65 2. An additional week in addition to the 14 ~~12~~ weeks for
66 each 0.5 percent increment in this state's most recent monthly
67 average unemployment rate above 5 percent.

68 3. Up to a maximum of 25 ~~23~~ weeks if this state's most



973418

69 recent monthly ~~average~~ unemployment rate equals or exceeds 10.5
70 percent.

71
72 ===== T I T L E A M E N D M E N T =====

73 And the title is amended as follows:

74 Delete line 8

75 and insert:

76 to receive during a benefit year; revising the
77 definition of the term "Florida average unemployment
78 rate" to "most recent monthly unemployment rate;
79 increasing the duration of benefits based upon the
80 state's unemployment rate; creating s. 443.092, F.S.;
81 prohibiting the Department of Economic Opportunity
82 from denying a person reemployment assistance solely
83 on the basis of pregnancy; reenacting ss.



609816

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/17/2021	.	
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	.	
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The Committee on Appropriations (Farmer) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 137 - 152

and insert:

(g) She or he has been paid wages for insured work equal to 1.5 times her or his high quarter wages during her or his base period, except that an unemployed individual is not eligible to receive benefits if the base period wages are less than \$1,200 ~~\$3,400~~.

Section 2. Paragraph (b) of subsection (2), subsection (3),



609816

11 and paragraph (b) of subsection (5) of section 443.111, Florida
12 Statutes, are amended, and paragraph (b) of subsection (1) is
13 republished, to read:

14 443.111 Payment of benefits.—

15 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
16 in accordance with rules adopted by the Department of Economic
17 Opportunity, subject to the following requirements:

18 (b) As required under s. 443.091(1), each claimant must
19 report at least biweekly to receive reemployment assistance
20 benefits and to attest to the fact that she or he is able and
21 available for work, has not refused suitable work, is seeking
22 work and has met the requirements of s. 443.091(1)(d), and, if
23 she or he has worked, to report earnings from that work. Each
24 claimant must continue to report regardless of any appeal or
25 pending appeal relating to her or his eligibility or
26 disqualification for benefits.

27 (2) QUALIFYING REQUIREMENTS.—To establish a benefit year
28 for reemployment assistance benefits, an individual must have:

29 (b) Minimum total base period wage credits equal to the
30 high quarter wages multiplied by 1.5, but at least \$1,200 ~~\$3,400~~
31 in the base period.

32

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

34 And the directory clause is amended as follows:

35 Delete line 17

36 and insert:

37 Section 1. Paragraphs (c), (d), and (g) of subsection (1)
38 of

39



609816

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

41 And the title is amended as follows:

42 Delete line 5

43 and insert:

44 s. 443.111, F.S.; revising a qualifying requirement
45 for individuals seeking to establish a benefit year
46 for reemployment assistance; increasing the weekly
47 benefit

By the Committee on Commerce and Tourism; and Senators Brodeur, Taddeo, Stewart, Garcia, and Gruters

577-03547-21

20211906c1

1 A bill to be entitled
 2 An act relating to reemployment assistance; amending
 3 s. 443.091, F.S.; revising requirements for
 4 reemployment assistance benefits eligibility; amending
 5 s. 443.111, F.S.; increasing the weekly benefit
 6 amounts an individual may receive; increasing the cap
 7 on the total benefit amount an individual is entitled
 8 to receive during a benefit year; reenacting ss.
 9 443.041(2)(b) and 443.1116(6) and (8)(a), F.S.,
 10 relating to fees and short-time compensation,
 11 respectively, to incorporate the amendments made to s.
 12 443.111, F.S., in references thereto; providing an
 13 effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraphs (c) and (d) of subsection (1) of
 18 section 443.091, Florida Statutes, are amended to read:
 19 443.091 Benefit eligibility conditions.-
 20 (1) An unemployed individual is eligible to receive
 21 benefits for any week only if the Department of Economic
 22 Opportunity finds that:
 23 (c) To make continued claims for benefits, she or he is
 24 reporting to the department in accordance with this paragraph
 25 and department rules. Department rules may not conflict with s.
 26 443.111(1)(b), which requires that each claimant continue to
 27 report regardless of any pending appeal relating to her or his
 28 eligibility or disqualification for benefits.
 29 1. For each week of unemployment claimed, each report must,

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577-03547-21

20211906c1

30 at a minimum, include the name and, address, ~~and telephone~~
 31 ~~number~~ of each prospective employer contacted, or the date the
 32 claimant reported to a one-stop career center, pursuant to
 33 paragraph (d). For the purposes of this subparagraph, the term
 34 "address" means a website address, a physical address, or an e-
 35 mail address.
 36 2. The department shall offer an online assessment aimed at
 37 identifying an individual's skills, abilities, and career
 38 aptitude. The skills assessment must be voluntary, and the
 39 department shall allow a claimant to choose whether to take the
 40 skills assessment. The online assessment shall be made available
 41 to any person seeking services from a local workforce
 42 development board or a one-stop career center.
 43 a. If the claimant chooses to take the online assessment,
 44 the outcome of the assessment shall be made available to the
 45 claimant, local workforce development board, and one-stop career
 46 center. The department, local workforce development board, or
 47 one-stop career center shall use the assessment to develop a
 48 plan for referring individuals to training and employment
 49 opportunities. Aggregate data on assessment outcomes may be made
 50 available to CareerSource Florida, Inc., and Enterprise Florida,
 51 Inc., for use in the development of policies related to
 52 education and training programs that will ensure that businesses
 53 in this state have access to a skilled and competent workforce.
 54 b. Individuals shall be informed of and offered services
 55 through the one-stop delivery system, including career
 56 counseling, the provision of skill match and job market
 57 information, and skills upgrade and other training
 58 opportunities, and shall be encouraged to participate in such

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59 services at no cost to the individuals. The department shall
 60 coordinate with CareerSource Florida, Inc., the local workforce
 61 development boards, and the one-stop career centers to identify,
 62 develop, and use best practices for improving the skills of
 63 individuals who choose to participate in skills upgrade and
 64 other training opportunities. The department may contract with
 65 an entity to create the online assessment in accordance with the
 66 competitive bidding requirements in s. 287.057. The online
 67 assessment must work seamlessly with the Reemployment Assistance
 68 Claims and Benefits Information System.

69 (d) She or he is able to work and is available for work. In
 70 order to assess eligibility for a claimed week of unemployment,
 71 the department shall develop criteria to determine a claimant's
 72 ability to work and availability for work. A claimant must be
 73 actively seeking work in order to be considered available for
 74 work. This means engaging in systematic and sustained efforts to
 75 find work, including contacting at least three five prospective
 76 employers for each week of unemployment claimed. For the
 77 purposes of meeting the requirements of this paragraph, a
 78 claimant may contact a prospective employer by submitting a
 79 resume to an employer through an online job search service. A
 80 claimant who submits a resume to at least three employers
 81 through an online job search service satisfies the work search
 82 requirements of this paragraph. The department may require the
 83 claimant to provide proof of such efforts to the one-stop career
 84 center as part of reemployment services. A claimant's proof of
 85 work search efforts may not include the same prospective
 86 employer at the same location in 3 consecutive weeks, unless the
 87 employer has indicated since the time of the initial contact

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20211906c1

88 that the employer is hiring. The department shall conduct random
 89 reviews of work search information provided by claimants. As an
 90 alternative to contacting at least ~~three~~ five prospective
 91 employers for any week of unemployment claimed, a claimant may,
 92 for that same week, report in person to a one-stop career center
 93 to meet with a representative of the center and access
 94 reemployment services of the center. The center shall keep a
 95 record of the services or information provided to the claimant
 96 and shall provide the records to the department upon request by
 97 the department. However:

98 1. Notwithstanding any other provision of this paragraph or
 99 paragraphs (b) and (e), an otherwise eligible individual may not
 100 be denied benefits for any week because she or he is in training
 101 with the approval of the department, or by reason of s.
 102 443.101(2) relating to failure to apply for, or refusal to
 103 accept, suitable work. Training may be approved by the
 104 department in accordance with criteria prescribed by rule. A
 105 claimant's eligibility during approved training is contingent
 106 upon satisfying eligibility conditions prescribed by rule.

107 2. Notwithstanding any other provision of this chapter, an
 108 otherwise eligible individual who is in training approved under
 109 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 110 determined ineligible or disqualified for benefits due to
 111 enrollment in such training or because of leaving work that is
 112 not suitable employment to enter such training. As used in this
 113 subparagraph, the term "suitable employment" means work of a
 114 substantially equal or higher skill level than the worker's past
 115 adversely affected employment, as defined for purposes of the
 116 Trade Act of 1974, as amended, the wages for which are at least

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117 80 percent of the worker's average weekly wage as determined for
118 purposes of the Trade Act of 1974, as amended.

119 3. Notwithstanding any other provision of this section, an
120 otherwise eligible individual may not be denied benefits for any
121 week because she or he is before any state or federal court
122 pursuant to a lawfully issued summons to appear for jury duty.

123 4. Union members who customarily obtain employment through
124 a union hiring hall may satisfy the work search requirements of
125 this paragraph by reporting daily to their union hall.

126 5. The work search requirements of this paragraph do not
127 apply to persons who are unemployed as a result of a temporary
128 layoff or who are claiming benefits under an approved short-time
129 compensation plan as provided in s. 443.1116.

130 6. In small counties as defined in s. 120.52(19), a
131 claimant engaging in systematic and sustained efforts to find
132 work must contact at least three prospective employers for each
133 week of unemployment claimed.

134 7. The work search requirements of this paragraph do not
135 apply to persons required to participate in reemployment
136 services under paragraph (e).

137 Section 2. Subsection (3) and paragraph (b) of subsection
138 (5) of section 443.111, Florida Statutes, are amended, and
139 paragraph (b) of subsection (1) is republished, to read:

140 443.111 Payment of benefits.—

141 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
142 in accordance with rules adopted by the Department of Economic
143 Opportunity, subject to the following requirements:

144 (b) As required under s. 443.091(1), each claimant must
145 report at least biweekly to receive reemployment assistance

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146 benefits and to attest to the fact that she or he is able and
147 available for work, has not refused suitable work, is seeking
148 work and has met the requirements of s. 443.091(1)(d), and, if
149 she or he has worked, to report earnings from that work. Each
150 claimant must continue to report regardless of any appeal or
151 pending appeal relating to her or his eligibility or
152 disqualification for benefits.

153 (3) WEEKLY BENEFIT AMOUNT.—An individual's "weekly benefit
154 amount" is an amount equal to one twenty-sixth of the total
155 wages for insured work paid during that quarter of the base
156 period in which the total wages paid were the highest, but not
157 less than \$100 ~~\$32~~ or more than \$375 ~~\$275~~. The weekly benefit
158 amount, if not a multiple of \$1, is rounded downward to the
159 nearest full dollar amount. The maximum weekly benefit amount in
160 effect at the time the claimant establishes an individual weekly
161 benefit amount is the maximum benefit amount applicable
162 throughout the claimant's benefit year.

163 (5) DURATION OF BENEFITS.—

164 (b) Each otherwise eligible individual is entitled during
165 any benefit year to a total amount of benefits equal to 25
166 percent of the total wages in his or her base period, not to
167 exceed \$8,625 ~~\$6,325~~ or the product arrived at by multiplying
168 the weekly benefit amount with the number of weeks determined in
169 paragraph (c), whichever is less. However, the total amount of
170 benefits, if not a multiple of \$1, is rounded downward to the
171 nearest full dollar amount. These benefits are payable at a
172 weekly rate no greater than the weekly benefit amount.

173 Section 3. For the purpose of incorporating the amendment
174 made by this act to section 443.111, Florida Statutes, in a

577-03547-21 20211906c1

175 reference thereto, paragraph (b) of subsection (2) of section
176 443.041, Florida Statutes, is reenacted to read:

177 443.041 Waiver of rights; fees; privileged communications.-

178 (2) FEES.-

179 (b) An attorney at law representing a claimant for benefits
180 in any district court of appeal of this state or in the Supreme
181 Court of Florida is entitled to counsel fees payable by the
182 department as set by the court if the petition for review or
183 appeal is initiated by the claimant and results in a decision
184 awarding more benefits than provided in the decision from which
185 appeal was taken. The amount of the fee may not exceed 50
186 percent of the total amount of regular benefits permitted under
187 s. 443.111(5) (b) during the benefit year.

188 Section 4. For the purpose of incorporating the amendment
189 made by this act to section 443.111, Florida Statutes, in a
190 reference thereto, subsection (6) and paragraph (a) of
191 subsection (8) of section 443.1116, Florida Statutes, are
192 reenacted to read:

193 443.1116 Short-time compensation.-

194 (6) WEEKLY SHORT-TIME COMPENSATION BENEFIT AMOUNT.-The
195 weekly short-time compensation benefit amount payable to an
196 individual is equal to the product of her or his weekly benefit
197 amount as provided in s. 443.111(3) and the ratio of the number
198 of normal weekly hours of work for which the employer would not
199 compensate the individual to the individual's normal weekly
200 hours of work. The benefit amount, if not a multiple of \$1, is
201 rounded downward to the next lower multiple of \$1.

202 (8) EFFECT OF SHORT-TIME COMPENSATION BENEFITS RELATING TO
203 THE PAYMENT OF REGULAR AND EXTENDED BENEFITS.-

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204 (a) The short-time compensation benefits paid to an
205 individual shall be deducted from the total benefit amount
206 established for that individual in s. 443.111(5).

207 Section 5. This act shall take effect July 1, 2021.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 31, 2021

I respectfully request that **Senate Bill 1906**, relating to **Reemployment Assistance**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1906

Bill Number (if applicable)

Topic Reemployment

196634
Amendment Barcode (if applicable)

Name Ida J. Eskaman

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 Florida Rising

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)

4/15/21

Meeting Date

1906

Bill Number (if applicable)

609816

Amendment Barcode (if applicable)

Topic Reemployment

Name Ida V. Eskamani

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 Florida Rising

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1906

Bill Number (if applicable)

Topic Reemployment

Amendment Barcode (if applicable)

Name Ida V. ESKamani

Job Title _____

Address _____

Phone _____

Street

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

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

4/15/2021

Meeting Date

1906

Bill Number (if applicable)

Topic Reemployment Assistance

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee, FL

32301

Email fcfep@yahoo.com

City

State

Zip

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

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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)

4/15
Meeting Date

1906
Bill Number (if applicable)
609816
Amendment Barcode (if applicable)

Topic Unemployment

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Phone _____

Street

Tallahassee
City

FL
State

32303
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

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APPEARANCE RECORD

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4/15

Meeting Date

1906

Bill Number (if applicable)

3609816

Amendment Barcode (if applicable)

Topic Reemployment

Name Karen Woodell

Job Title Director

Address 579 E. Call St.

Street

Phone 850-321-9386

Tallahassee, FL 32301

City

State

Zip

Email fcfep@johannes.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

4/15

Meeting Date

1906

Bill Number (if applicable)

636278

Amendment Barcode (if applicable)

Topic Reemployment

Name Karen Woodall

Job Title Director

Address 579 E. Call St.

Street

Phone 850-321-9386

Tallahassee FL 32301

City

State

Zip

Email fcfep@yahoo.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

4/15

Meeting Date

1906

Bill Number (if applicable)

973418

Amendment Barcode (if applicable)

Topic Reemployment

Name Karen Woodell

Job Title Director

Address 579 E. Call St.

Street

Phone 850-321-9386

Tallahassee, FL 32301

City

State

Zip

Email kfep@jdoe.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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)

4/15

Meeting Date

SB 1906

Bill Number (if applicable)

#

973418

Amendment Barcode (if applicable)

Topic Unemployment

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Street

Phone _____

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

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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)

4/15
Meeting Date

1906
Bill Number (if applicable)
636278
Amendment Barcode (if applicable)

Topic Unemployment

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Phone 224-6926

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

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1948

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Bean and others

SUBJECT: Department of Economic Opportunity

DATE: April 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1948 modifies provisions related to the Department of Economic Opportunity (DEO), including:

- Changing the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity;”
- Creating the Office of Economic Accountability and Transparency within the DEO;
- Adding the Secretary of Economic Opportunity or his or her designee to the Enterprise Florida Board of Directors and the CareerSource Board of Directors;
- Authorizing additional grant categories under the Community Development Block Grant (CDBG) program;
- Increasing the percentage of CDBG funding that the DEO may set aside annually for use in local government jurisdictions when an emergency or natural disaster has been declared by executive order;
- Repealing provisions that limit the number of grant applications a local government may submit during each CDBG application cycle;
- Requiring local governments to expedite the approval of building permits applied for by contractors on behalf of a property owner participating in the CDBG-Disaster Recovery program;
- Allowing regional workforce boards to conduct level 2 background screenings;

- Repealing a provision making a domestic violence claimant ineligible for reemployment assistance benefits if the claimant refuses an employer’s reasonable accommodation;
- Revising the requirements for the reemployment assistance computer system and requiring the DEO, for Fiscal Year 2021-2022, to modernize the reemployment assistance system as provided in the General Appropriations Act;
- Requiring employers to respond to a notice of claim within 14 days, instead of 20 days;
- Clarifying when monetary determinations are final;
- Imposing a 5-year statute of limitations on RA appeals;
- Removing the requirement that reemployment assistance appeals referees be Florida attorneys;
- Expands the definition of “temporary layoff” to include an employer-initiated furlough; and
- Creates a process to allow employer-assisted claims.

The bill takes effect upon becoming a law.

II. Present Situation:

The Department of Economic Opportunity

The DEO was created in 2011 by combining the Agency for Workforce Innovation, the Department of Community Affairs, and the Governor’s Office of Tourism, Trade, and Economic Development.¹ The head of the DEO is the executive director, who is appointed by the Governor and confirmed by the Senate.² The purpose of the DEO is to formulate and implement policies designed to promote economic opportunities for Floridians.³ Formally in the statute, the DEO has five divisions: Strategic Business Development; Community Development; Workforce Services; Finance and Administration; and Information Technology.⁴

The Community Development Block Grant Program

The Community Development Block Grant (CDBG) Program was created by Title I of the federal Housing and Community Development Act of 1974. The CDBG program works to ensure the availability of decent affordable housing, to provide services to the most vulnerable in Florida communities, and to create jobs through the expansion and retention of businesses.⁵

Florida Small Cities Community Development Block Grant Program

The DEO administers the Small Cities CDBG program and distributes funds to eligible non-entitlement communities. To be eligible, a city must have a population under 50,000 or a county must have a population under 200,000. The program awards subgrants to communities in four funding categories: economic development, neighborhood revitalization, housing

¹ See ch. 2011-142, Laws of Fla.

² Section 20.60(2), F.S.

³ See s. 20.60(4), F.S.

⁴ Section 20.60(3), F.S.

⁵ The Department of Economic Opportunity, *Community Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/community-development-block-grant-program> (last visited April 10, 2021).

rehabilitation, and commercial revitalization.⁶ Currently, the DEO may annually set aside 5 percent of CDBG funds for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order.⁷

Except for applications for economic development, an eligible local government may only submit one application for a grant during each application cycle.⁸ Additionally, if economic development funds remain available after the application cycle closes, the remaining funds must be awarded to eligible projects on a first-come, first served basis.⁹

Disaster Recovery

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program is a federally funded program administered by the U.S. Department of Housing and Urban Development that is designed to address housing, infrastructure, economic development, and mitigation needs that remain after other assistance, such as federal assistance or private insurance, has been exhausted.¹⁰

The DEO administers the CDBG-DR program through its Division of Community Development's Office of Long-Term Resiliency. Currently, single-family residential housing repair and replacement projects are underway for Florida residents whose homes still have unrepaired damage from Hurricanes Hermine, Matthew, Irma, and Michael.¹¹ These projects must comply with the Florida Building Code Act by applying for and receiving Florida building permits. A building permit for a single-family residential home must be issued within 30 days of application.¹²

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) serves as the principle economic development organization for the state. Among its numerous duties, EFI markets the state for business creation, expansion, and retention.¹³ EFI's is governed by a board of directors, of which the Governor is the chairperson, made up of 19 appointed members, a number of at-large members, and ex officio members of the Legislature. Appointed members include the agency heads from the Department of Education, Department of Financial Services, Department of Legal Affairs, Department of Agriculture,

⁶ The Department of Economic Opportunity, *Florida Small Cities Development Block Grant Program*, available at <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited April 10, 2021).

⁷ Section 290.044(5), F.S.

⁸ See s. 290.046(2)(a), F.S. An eligible local government may apply up to three times in any one annual funding cycle for an economic development grant but may not receive more than one such grant per annual funding cycle. A local government may have more than one open economic development grant.

⁹ Section 290.046(3)(b), F.S.

¹⁰ The Department of Economic Opportunity, *Office of Disaster Recovery*, available at <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited April 10, 2021).

¹¹ See *id.*

¹² See s. 553.79(14), F.S.

¹³ Section 288.901(2), F.S.

Department of State, and CareerSource and 12 members from the private sector appointed by the Governor and the Legislature.¹⁴

Space Florida

Space Florida is an independent special district, created to foster the growth and development of the aerospace industry in Florida. The entity promotes aerospace business development by facilitating financing, research and development, spaceport operations, workforce development, and other programs.¹⁵ Space Florida's 13-member board of directors is the same 12 private sector members appointed by the Governor and the Legislature and the Governor, who serves ex officio as the chair and a voting member of the board.¹⁶

CareerSource Florida, Inc.

CareerSource is the state's principal organization to set the workforce policy for the state. The state board works to design and implement strategies to help Floridians enter the workforce, stay employed, and advance in their employment. Members of the board are appointed by the Governor pursuant to federal law; however, there are several members of state agencies appointed to the board by state law. These include the vice chair of EFI, the director of DEO, and the Commissioner of Education.¹⁷

Workforce Development Boards

Twenty-four local workforce development boards (local boards) deliver Florida's workforce development services through over 100 one-stop service providers.¹⁸ The one-stop service providers give Floridians access to available workforce services, including job placement, career counseling, and skills training.¹⁹ Each local board formulates a local budget and oversees the one-stop delivery system within its local area.²⁰

Background Screening

An employer²¹ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person²² that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the

¹⁴ Section 288.901(4), (5), (6), and (7), F.S.

¹⁵ Section 331.302, F.S.

¹⁶ Section 331.3081, F.S.

¹⁷ Section 445.004, F.S.

¹⁸ The Department of Economic Opportunity, *CareerSource Florida Network Directory*, available at <http://lcd.floridajobs.org/> (last visited April 10, 2021).

¹⁹ See s. 445.009, F.S.

²⁰ Section 445.007(12), F.S.

²¹ Section 435.02(3), F.S., defines "employer" as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

²² A vulnerable person is a minor or a vulnerable adult. Section 435.02(6), F.S., Section 415.102(28), F.S., defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

denial or termination of employment.²³ If any grounds for the denial or termination of employment arise during the screening process, then the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency.^{24, 25}

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening.

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website²⁶ and may include criminal records checks through local law enforcement agencies.²⁷
- Level 2 screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation and may include local criminal records checks through local law enforcement agencies.²⁸

Reemployment Assistance

Florida's unemployment insurance program was created by the Legislature in 1937.²⁹ The program was rebranded as the "reemployment assistance program" in 2012.³⁰ The DEO is responsible for administering the program, and the DEO contracts with the Florida Department of Revenue, as the tax collection service provider, for the collection of unemployment taxes.³¹

Work Search Requirement

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.³²

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. For example, each week an individual is required to contact at least five

²³ Section 435.06(2)(a), F.S.

²⁴ Section 435.02(1), F.S., defines "agency" as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the Department of Children and Families.

²⁵ Section 435.06(2)(a), F.S. See s. 435.07, F.S., for the exemptions for disqualification.

²⁶ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited April 10, 2021).

²⁷ Section 435.03(1), F.S.

²⁸ Section 435.04(1)(a), F.S.

²⁹ Chapter 18402, Laws of Fla.

³⁰ Chapter 2012-30, Laws of Fla.

³¹ Section 443.1316, F.S.

³² See s. 443.091, F.S.

prospective employers (three prospective employers if the individual resides in a small county) or report to a one-stop career center for reemployment services.³³

Domestic Violence³⁴ Victims

Sometimes victims of domestic violence must leave their jobs due to the impact that the violence has had on their lives. Employers are required to permit an employee to request and take up to 3 working days of leave from work in any 12-month period if the employee or a family or household member of an employee is the victim of domestic violence or sexual violence.³⁵

Except in cases of imminent danger to the health or safety of the employee, or a family or household member, an employee seeking leave from work must provide his or her employer with appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation of the act of domestic violence or sexual violence as required by the employer.³⁶ An employer must keep all information relating to an employee's leave confidential.³⁷ Additionally, an employer may not fire, demote, suspend, retaliate, or otherwise discriminate against an individual for taking leave.³⁸

Employees who voluntarily leave their job are not typically qualified to receive reemployment assistance benefits.³⁹ However, an individual will not be disqualified for voluntarily leaving work due to circumstances directly related to domestic violence.⁴⁰

An individual who voluntarily leaves work due to domestic violence must:

- Make reasonable efforts to preserve employment, unless the individual establishes that such efforts are likely to be futile or increase the risk of future incidents of domestic violence;⁴¹
- Provide evidence such as an injunction, a protective order, or other documentation authorized by state law, which reasonably proves that domestic violence has occurred; and
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.

An individual who is otherwise eligible for benefits is ineligible for each week that he or she no longer meets the qualifying criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

³³ *Id.* A "small county" is defined in s. 120.52(19), F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census. The DEO has been waiving the requirement to contact employers since March 15, 2020, through DEO emergency orders. The most recent is Emergency Order 21-005 (March 2, 2021), which waives the requirement through April 24, 2021.

³⁴ "'Domestic violence' means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." Section 741.28, F.S.

³⁵ Section 741.313, F.S.

³⁶ Section 741.313(4)(a), F.S.

³⁷ Section 741.313(4)(c), F.S.

³⁸ Section 741.313(5)(b), F.S.

³⁹ *See* s. 443.101(1)(a), F.S.

⁴⁰ *See* s. 443.101(1)(a)2.c., F.S.

⁴¹ Efforts to preserve employment may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment. *See id.*

Temporary Layoff

Individuals who have temporarily separated from their employment due to a lack of work are exempt from certain requirements of the reemployment assistance system. The job separation must be due to a lack of work and cannot last longer than 8 consecutive weeks, and the individual must have a fixed or approximate date to return to work.⁴²

An individual on a temporary layoff is not required to:

- Complete the DEO's online work registration (Employ Florida Marketplace);
- Report to the local one-stop career center for reemployment services if directed by the local workforce development board; or
- Complete the work search requirements, such as contacting at least five prospective employers each week.⁴³

The CONNECT System

Florida's unemployment system is administered by the DEO using the CONNECT system, which was deployed in 2013 to replace a mainframe system with a modernized, Internet-based system.⁴⁴ According to ISF, an information technology and strategy firm that completed an assessment of the CONNECT system between November 2020 and February 2021, the CONNECT system was not designed to process the volume of claims received during the COVID-19 pandemic. ISF analyzed ways to improve the delivery of benefits, including a phased approach to ensure the DEO can meet current and future demands. ISF's assessment provides an overview of the current state of the CONNECT system, and recommends the modernization of the current system, which includes cloud migration.⁴⁵

On May 4, 2020, at the request of Governor DeSantis, the Office of the Chief Inspector General initiated a review of the CONNECT system. The scope of the inspector general's review considered available documentation and testimony about the CONNECT system from the period of 2007 to 2020.⁴⁶ The draft report offered recommendations for agencies considering information technology (IT) projects, which include:

- Documenting future IT system capacity requirements and expected utilization in system testing plans and test results;
- Assessing the proposed level of maturity of any state transfer or commercial off-the-shelf system relied upon for risk and properly documenting the risk;
- Monitoring what is being provided by the vendor and building in an escape plan and financial penalties for noncompliance;

⁴² Section 443.036(43), F.S.

⁴³ See s. 443.091(1)(b)2. and (d)5., F.S.

⁴⁴ The Florida Department of Economic Opportunity, *Improved Delivery of Reemployment Assistance Benefits – Final Report*, at 1 (Feb. 26, 2021), available at <http://floridajobs.org/docs/default-source/communicationsfiles/2021-improved-delivery-of-reemployment-assistance-benefits-final-report-and-cost-benefit-analysis.pdf> (last visited April 10, 2021). See also s. 443.1113, F.S.

⁴⁵ *Id.* at 2.

⁴⁶ Office of the Chief Inspector General, *Review of the Department of Economic Opportunity Florida CONNECT System*, at iii (March 4, 2021), available at https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf (last visited April 10, 2021).

- Ensuring that independent verification and validation services are truly independent from the project management team and rigorous;
- Requiring project management to be flat and agile, which may include considering more modular IT projects to accommodate future and rapid technological changes; and
- Strengthening administrative and physical infrastructure needs, which may include tracking, reviewing, and resolving audit related findings and moving the future CONNECT system to the cloud to allow for greater scalability.⁴⁷

In 2020, the Florida Digital Service was established to better leverage technology and support a data-driven government with a customer focus. The service's objectives include cyber-security, cloud-ready architecture, data interoperability, and agile methodologies that would help ensure successful outcomes of large-scale IT projects.⁴⁸

Appeals Process

The DEO issues determinations and redeterminations on the monetary and non-monetary eligibility requirements of reemployment assistance benefits.⁴⁹ Determinations and redeterminations are statements by the DEO regarding the application of law to an individual's eligibility for benefits or the effect of the benefits on an employer's tax account. A party who believes a determination is inaccurate may request reconsideration within 20 days of mailing or delivery of the notice and the DEO must review the information on which the request is based and issue a redetermination.⁵⁰

If a party disagrees with either the determination or redetermination, the applicant or employer may request an administrative hearing before an appeals referee within 20 days of mailing or delivery of the notice. An appeals referee must be an attorney in good standing with the Florida Bar.⁵¹ Appeals referees in the DEO's Office of Appeals hold hearings and issue decisions to resolve disputes related to eligibility for RA benefits and the payment and collection of RA taxes.⁵²

A decision by an appeals referee can be appealed to the RA Appeals Commission if done within 20 days of mailing or delivery of the notice of the referee's decision. The commission may affirm, modify, remand with instructions, or reverse the determination made by the appeals referee based on evidence previously submitted in the case or additional evidence taken at the direction of the commission. However, the commission may also assume jurisdiction of a case prior to completion of proceedings by an appeals referee.⁵³

A party to an appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal. The notice of appeal should be filed either in the district

⁴⁷ *Id.* at vii.

⁴⁸ *Id.*

⁴⁹ Section 443.151(3), F.S. The Social Security Act requires states to offer "an opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 U.S.C. 503(a)(3).

⁵⁰ *See* s. 443.151, F.S.

⁵¹ The DEO has been waiving this requirement since March 15, 2020, through DEO emergency orders. The most recent is Emergency Order 21-005 (March 2, 2021), which waives the requirement through April 24, 2021.

⁵² *See* s. 443.151(4)(b), F.S.

⁵³ *See* s. 443.151(4)(c), F.S.

court of appeal in the appellate district in which a claimant resides or the job separation arose or in the appellate district where the order was issued. If the notice of appeal is filed with the commission, then the appeal will be filed in the district court of appeal in the appellate district where the order was issued.⁵⁴

III. Effect of Proposed Changes:

The Department of Economic Opportunity

Section 1 amends s. 20.60, F.S., to change the title for the head of the DEO from “Executive Director” to the “Secretary of Economic Opportunity.”

The bill authorizes the secretary to appoint deputy and assistant secretaries as necessary. The bill establishes the Office of the Secretary and authorizes the secretary to create offices within the Office of the Secretary and within the DEO’s divisions to promote efficient and effective operation of the DEO. The secretary is required to appoint directors for each division.

The bill also creates the Office of Economic Accountability and Transparency and require assigns it the following duties:

- Oversee the DEO’s critical objectives and make sure the DEO’s key objectives are clearly communicated to the public;
- Organize the DEO’s resources, expertise, data, and research to focus on and solve the complex economic challenges facing the state;
- Provide leadership for the DEO’s priority issues that require integration of policy, management, and critical objectives from multiple programs and organizations internal and external to the DEO;
- Promote and facilitate key DEO initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues; and
- Promote strategic planning for the DEO.

Sections 17, 18, and 20 through 55 amend ss. 14.20195, 16.615, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, and 1004.015, F.S., respectively, to make conforming changes to references to the executive director.

Section 19 amends s. 20.04, F.S., to exempt the DEO from the requirements for all departments under the executive branch related to internal structure and standard terms and to limit the creation of additional divisions or offices in the DEO to only as allowed by statute.

⁵⁴ See s. 443.151(4)(e), F.S.

Enterprise Florida

Section 2 amends s. 288.901, F.S., to add the secretary or his or her designee to the EFI board of directors.

Section 6 amends s. 331.3081, F.S., to update a cross reference.

Florida Small Cities Community Development Block Grant Program

Section 3 amends s. 290.042, F.S., to provide that the definition of “administrative costs” has the same meaning as defined in the Housing and Community Development Act of 1974 and applicable federal regulations.⁵⁵

Section 4 amends s. 290.044, F.S., to broaden the grant categories that applicants may compete for funding under. Currently grants are limited to housing rehabilitation, economic development, neighborhood revitalization, and commercial revitalization. The bill allows categories for any other activity authorized by federal law.

The bill increases the percentage of CDBG funds that the DEO may set aside annually for use in local government jurisdictions for which an emergency or natural disaster has been declared by executive order from 5 percent to 15 percent.

Currently, in the last quarter of the state fiscal year, the DEO must distribute any funds not allocated under the emergency-related set-aside to unfunded applications from the most recent funding cycle. The bill removes this limitation, allowing distribution to any unfunded application regardless of when the application was made.

Section 5 amends s. 290.046, F.S., to repeal provisions that limit the number of grant applications a local government may submit during each CDBG application or funding cycle. The bill also repeals the requirement that unused economic development grant funds be awarded on a first come, first serve basis.

The bill authorizes the DEO to prohibit an applicant from receiving a grant or to penalize an applicant in the rating of a current application if the DEO determines that the applicant has failed to substantially accomplish the results it proposed in previously funded applications. Currently the prohibition or penalty is only allowed if the applicant failed to accomplish its proposed results from its last funded application.

Section 16 amends s. 553.79, F.S., to require local governments to issue a building permit for a single-family residential home within 15 working days after receipt of the application when the permit is applied for by a contractor licensed in Florida on behalf of a property owner who participates in a CDBG-DR program. However, if the permit application fails to meet the

⁵⁵ See 42 U.S.C. 5305(a)(13) and 24 C.F.R. 570.206 (2015). Rule 73C-23.0030, F.A.C., incorporates the Housing and Community Development Act of 1974 and the relevant chapters of the Code of Federal Regulations by reference. See also s. 290.047, F.S., which provides that the maximum percentage of block grant funds that can be spent on administrative costs by an eligible local government is 15 percent for the housing rehabilitation program, 8 percent for both the neighborhood and the commercial revitalization program categories, and 8 percent for the economic development program category.

requirements of the Florida Building Code or the enforcing agency's laws or ordinances, then this timeframe does not apply.

Workforce Development Boards and CareerSource

Section 7 amends s. 435.02, F.S., to change the definition of "specified agency" to include regional workforce boards providing services defined in s. 445.002(3), F.S.,⁵⁶ which will allow regional workforce development boards to conduct level 2 background screenings.

Section 15 amends s. 445.004, F.S., to specifically add the secretary of the DEO or his or her designee to the CareerSource Florida, Inc., board of directors.

Reemployment Assistance

Section 8 amends s. 443.036, F.S., to expand the definition of temporary layoff to include an individual's employer-initiated furlough that causes a mandatory complete stoppage of work. The furlough must be temporary, and the individual must still be considered to be "job attached" and be expected to return to work with the employer. There is no time limit on the length of the furlough like there is for a job separation due to lack of work as provided in current law.

Section 9 amends s. 443.091, F.S., to repeal the requirement that a claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed. The bill also clarifies that "address" means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted.

Section 10 amends s. 443.101, F.S., to repeal the provision that provides that a domestic violence claimant is ineligible to receive benefits for each week that the claimant no longer meets the criteria under s.443.101(1)(a)2.c., F.S., discussed above in the Present Situation, or if the claimant refuses an employer's reasonable accommodation.

Section 11 amends s. 443.1113, F.S., to update the statutory requirements for the state's reemployment assistance computer system. The DEO is required to implement a system for the "efficient distribution of benefits and the effective operation and management of the reemployment assistance program." The system must be "an integrated, modular system hosted in a cloud computing service...that provides for rapid provisioning of additional data processing when necessary."⁵⁷

⁵⁶ Section 445.002(3), F.S., defines "services and one-time payments" or "services," when used in reference to individuals who are not receiving temporary cash assistance, as meaning nonrecurrent, short-term benefits designed to deal with a specific crisis situation or episode of need and other services; work subsidies; supportive services such as child care information referral; transitional services, job retention, job advancement, and other employment-related services; nonmedical treatment for substance abuse or mental health problems; teen pregnancy prevention; two-parent family support, including noncustodial parent employment; court-ordered supervised visitation, and responsible fatherhood services; and any other services that are reasonably calculated to further the purposes of the welfare transition program.

⁵⁷ The National Institute of Standard and Technology's (NIST) Special Publication 800-145 sets forth the definition of cloud computing service. See NIST, *The NIST Definition of Cloud Computing*, SP 800-145 (September 2011), available at <https://csrc.nist.gov/publications/detail/sp/800-145/final> (last visited April 15, 2021). See also s. 282.0041(5), F.S.

The bill requires the system to:

- Be accessible through the Internet and on mobile devices and personal computers;
- Process reemployment assistance claims and benefit payments;
- Process and manage overpayments;
- Perform adjudication functions;
- Process appeals and manage appeal hearings; and
- Manage and process employer charging.

The bill retains current system objects, whenever cost effective and operational feasible, and requires the system to enable and *enhance* online, self-service *capabilities*. The system must also maintain interoperability with other DEO workforce systems and allow for employer-assisted claims (see **section 13**, discussed below). The bill also repeals obsolete language related to previous requirements for system development.

Annually, the DEO is required to review the system and identify enhancements or modernization efforts to improve the delivery of services to both claimants and employers and the reporting of information to state and federal entities. These improvements are required to include infrastructure upgrades through cloud services, software improvements, enhanced data analytics and reporting, and increased cybersecurity.⁵⁸ The DEO must seek input from the following entities:

- The Florida Digital Service with the Department of Management Services;
- The General Tax Administration Program Office with the Department of Revenue; and
- The Division of Accounting and Auditing within the Department of Financial Services.

The bill requires that by October 1, 2023, the DEO must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which must include a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended enhancements or modernization efforts that includes projected costs and timeframes for completion.

Section 12 requires the DEO, for Fiscal Year 2021-2022, to modernize the system as provided in the General Appropriations Act.

In April 2020, the DEO adopted Emergency Rule 73BER20-1, Florida Administrative Code, to create a process for employer assisted claims. The purpose of the rule was to “provide a process for employers to notify the DEO of a mass separation...and make a group filing on behalf of the employer’s similarly situated employees.” **Section 13** creates s. 443.1118, F.S., to allow for a process for employer-assisted claims. An employer-assisted claim is an initial claim filed by an employer on behalf of its employees who are part of a mass separation from the employer. A mass separation is a full, partial, permanent or temporary separation, including a temporary layoff, of full-time employees. For all employees affected, the separations must occur around the

⁵⁸ The Information Technology Security Act under s. 282.318, F.S., sets forth requirements for security of data and information technology. The Department of Management Services is required to establish standards and processes consistent with generally accepted best practices for information technology security, including cybersecurity, and adopt rules that safeguard an agency’s data, information, and information technology resources. The act also state agencies to take certain actions to meet security standards and mitigate risks.

same time, be for the same reason, and must be due to no fault of the employees. At a minimum, a mass separation involves 1,000 employees.

To initiate an employer-assisted claim, the employer that commences a mass separation must submit employee information to the DEO within 10 days after the date of the separation and through a secure means approved by the DEO. The employer must give notice and instructions to each employee that the employer submits a claim on behalf of and direct the employee to complete further steps to complete the claim as required by the DEO. The employer must submit an affidavit to the DEO attesting to meeting the requirements of such process.

The effective date of the initial claims submitted by the employer is the Sunday immediately following the date that the employer-assisted claim was received by the DEO. Claimants must continue to meet other requirements to receive benefits, including biweekly reporting, and are subject to the same rights to request redeterminations and appeals.

The DEO is authorized to adopt rules, as necessary, to implement this claims process and must adopt rules setting forth:

- The claim initiation process;
- The form of submission;
- The form and format of the required attestation; and
- Additional procedures for filing of the employer-assisted claim.

The provisions of the statute created by the bill are similar to the provisions of the emergency rule adopted by the DEO in April 2020.

Section 14 amends s. 443.151, F.S., to require an employer⁵⁹ to respond to a notice of claim within 14 days after the mailing date of the notice, or in lieu of mailing, within 14 days after the delivery of the notice. Currently, employers are given 20 days to respond to a notice of claim.

The bill rewords the current provision related to the finality of monetary determination to provide clarification.

Under the bill, a claimant may file a request for the DEO to reconsider a monetary determination within 20 days after the DEO mails the notice to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice. A monetary determination is final for a claimant if the claimant does not file a timely request for redetermination. The bill provides that a monetary redetermination is final for a claimant unless within 20 days after the mailing of the notice of monetary redetermination to the claimant's last known address, or in lieu of mailing, within 20 days after delivery of the notice, the claimant files an appeal.

The monetary determination or monetary redetermination is final for an employer or other party entitled to notice unless within 20 days after the mailing or, in lieu of mailing, within 20 days after delivery of the notice, an appeal is filed by an employer or other party.

⁵⁹ "Employer" is referring to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination.

The bill repeals the requirement that an appeals referee be an attorney in good standing with the Florida Bar.

The bill establishes a five-year statute of limitations on appeals from the date the mailing or the delivery of the notice of determination.⁶⁰

Effective Date

Section 56 provides that 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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the changes to the reemployment assistance requirements makes it more efficient to deal with claims, both claimants and employers will benefit.

⁶⁰ The bill provides that an appeal may not be filed more than 5 years after the date of the mailing of a determination or, if the determination is not mailed, more than 5 years after the date of the delivery of the determination.

C. Government Sector Impact:

The changes to the CDBG statutes will allow the DEO to implement recent federal grants for disaster recovery more efficiently and allow local governments to receive more grants from additional categories to mitigate and recover from the effects of past events.

Related to the reemployment assistance computer system, the bill authorizes the DEO to take action to modernize the system as provided in the Fiscal Year 2021-2022 General Appropriations Act.

The DEO may realign existing resources through a budget amendment or may, in its Fiscal Year 2022-2023 Legislative Budget Request, make a request for any necessary realignment of resources related to the Office of Economic Accountability and Transparency, the Office of the Secretary, or any other offices created within the Office of the Secretary.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 20.60, 288.901, 290.042, 290.044, 290.046, 331.3081, 435.02, 443.036, 443.091, 443.101, 443.1113, 443.151, 445.004, 553.79, 14.20195, 16.615, 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, and 1004.015.

The bill creates section 443.1118 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 Appropriations on April 15, 2021:

The committee substitute expands the definition of “temporary layoff” to include when an individual’s employer mandates a furlough, if the furlough is temporary, the person is still “job attached,” and the person expects to return to work with the employer.

The committee substitute creates a process for employers that commence a mass separation to initiate submittal of reemployment assistance claims on behalf of their employees.

The committee substitute requires the DEO to implement an integrated, modular system hosted in the cloud for reemployment assistance. The amendment requires the system to maintain interoperability with other department workforce system and allow for employer-assisted claims. The amendment also sets forth a non-exhaustive list of required annual review of improvements and makes other minor changes to this section of the bill.

CS by Commerce and Tourism on March 15, 2021:

The committee substitute requires the DEO, for Fiscal Year 2021-2022, to modernize the reemployment assistance (RA) system as provided in the General Appropriations Act. It clarifies that the RA system must efficiently distribute benefits and effectively manage and operate the RA program, which includes monitoring and managing the collection of overpayments.

The committee substitute clarifies that the DEO must perform an annual review of the RA system and identify ways to improve the delivery of services, and requires a summary of maintenance, enhancement, and modernization efforts over the last fiscal year and a 3-year outlook of recommended changes to be included in the RA Claims and Benefits Information System report. The committee substitute provides that the DEO must seek input and recommendations on RA system enhancements from specified entities.

B. Amendments:

None.

By the Committees on Appropriations; and Commerce and Tourism;
and Senators Bean, Bradley, Pizzo, and Bracy

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1 A bill to be entitled
2 An act relating to the Department of Economic
3 Opportunity; amending s. 20.60, F.S.; renaming the
4 executive director of the Department of Economic
5 Opportunity as the Secretary of Economic Opportunity;
6 authorizing the secretary to appoint deputy and
7 assistant secretaries for a specified purpose;
8 establishing the Office of the Secretary and the
9 Office of Economic Accountability and Transparency;
10 providing duties for the Office of Economic
11 Accountability and Transparency; authorizing the
12 secretary to create offices within the Office of the
13 Secretary and within the divisions; requiring the
14 secretary to appoint division directors; providing
15 duties for the division directors; conforming
16 provisions to changes made by the act; amending s.
17 288.901, F.S.; revising the membership of the board of
18 directors of Enterprise Florida, Inc.; amending s.
19 290.042, F.S.; revising the definition of the term
20 "administrative costs" relating to the Florida Small
21 Cities Community Development Block Grant Program Act;
22 amending s. 290.044, F.S.; revising the application
23 process and funding for the Florida Small Cities
24 Community Development Block Grant Program Fund;
25 amending s. 290.046, F.S.; revising the application
26 process and funding for development grants awarded by
27 the department to local governments; amending s.
28 331.3081, F.S.; conforming a cross-reference; amending
29 s. 435.02, F.S.; revising the definition of the term

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30 "specified agency" to include certain regional
31 workforce boards for the purposes of labor laws;
32 amending s. 443.036, F.S.; revising the definition of
33 the term "temporary layoff"; amending s. 443.091,
34 F.S.; revising the reporting requirements for
35 reemployment assistance benefit eligibility; defining
36 the term "address"; amending s. 443.101, F.S.;
37 deleting a provision providing that individuals who
38 voluntarily leave work as a direct result of
39 circumstances relating to domestic violence are
40 ineligible for benefits under certain circumstances;
41 amending s. 443.1113, F.S.; requiring the department
42 to implement an integrated, modular system hosted in a
43 cloud service, rather than an integrated Internet-
44 based system, for the reemployment assistance program;
45 revising the functions and objectives of the
46 Reemployment Assistance Claims and Benefits
47 Information System; requiring the department to
48 perform an annual review of the system; requiring the
49 department to seek input from certain state entities
50 when performing such review; requiring the department
51 to submit an annual report to the Governor and the
52 Legislature beginning on a specified date; providing
53 requirements for such report; deleting obsolete
54 language; requiring the department to take actions to
55 modernize the system in the 2021-2022 fiscal year as
56 directed in the General Appropriations Act; creating
57 s. 443.1118, F.S.; defining terms; providing
58 requirements for employer-assisted claims relating to

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59 mass separations; specifying the effective date of
 60 such claims; providing that benefits paid to a
 61 claimant pursuant to an employer-assisted claim count
 62 toward maximum benefits for which the claimant is
 63 eligible; requiring a claimant covered by an employer-
 64 assisted claim to file continued biweekly claims;
 65 providing construction; requiring and authorizing the
 66 department to adopt specified rules; amending s.
 67 443.151, F.S.; revising the timeline for employers'
 68 responses to notices of benefits claims sent by the
 69 department; authorizing claimants to request the
 70 department to reconsider a monetary determination;
 71 providing requirements for such request; providing
 72 that monetary determinations and redeterminations are
 73 final after a specified period of time; providing
 74 exceptions; deleting a requirement that appeals
 75 referees be attorneys in good standing with The
 76 Florida Bar or be admitted to The Florida Bar within 8
 77 months after the date of employment; prohibiting
 78 appeals from being filed after a specified time;
 79 amending s. 445.004, F.S.; revising the membership of
 80 the state board, which directs CareerSource Florida,
 81 Inc.; amending s. 553.79, F.S.; requiring specified
 82 building permit applications applied for by licensed
 83 contractors for property owners under certain programs
 84 administered by the department to be issued within a
 85 reduced timeframe; amending ss. 14.20195, 16.615,
 86 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656,
 87 288.106, 288.1089, 288.1251, 288.8014, 288.955,

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88 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065,
 89 373.4149, 380.045, 403.0752, 420.0005, 420.0006,
 90 420.101, 420.503, 420.504, 420.506, 420.507, 420.511,
 91 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53,
 92 450.261, 624.5105, and 1004.015, F.S.; conforming
 93 provisions to changes made by the act; providing an
 94 effective date.
 95

96 Be It Enacted by the Legislature of the State of Florida:
 97

98 Section 1. Subsections (2) and (3), paragraph (a) of
 99 subsection (5), paragraph (b) of subsection (6), and subsection
 100 (9) of section 20.60, Florida Statutes, are amended, and
 101 subsection (1) of that section is republished, to read:

102 20.60 Department of Economic Opportunity; creation; powers
 103 and duties.—

104 (1) There is created the Department of Economic
 105 Opportunity.

106 (2) The head of the department is the Secretary of Economic
 107 Opportunity ~~executive director~~, who shall be appointed by the
 108 Governor, subject to confirmation by the Senate. The secretary
 109 ~~executive director~~ shall serve at the pleasure of and report to
 110 the Governor. The secretary may appoint deputy and assistant
 111 secretaries as necessary to aid the secretary in fulfilling his
 112 or her statutory obligations.

113 (3) (a) The following divisions and offices of the
 114 Department of Economic Opportunity are established:

115 1. (a) The Division of Strategic Business Development.

116 2. (b) The Division of Community Development.

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117 3.(e) The Division of Workforce Services.
 118 4.(d) The Division of Finance and Administration.
 119 5.(e) The Division of Information Technology.
 120 6. The Office of the Secretary.
 121 7. The Office of Economic Accountability and Transparency,
 122 which shall:

123 a. Oversee the department's critical objectives as
 124 determined by the secretary and make sure that the department's
 125 key objectives are clearly communicated to the public.

126 b. Organize department resources, expertise, data, and
 127 research to focus on and solve the complex economic challenges
 128 facing the state.

129 c. Provide leadership for the department's priority issues
 130 that require integration of policy, management, and critical
 131 objectives from multiple programs and organizations internal and
 132 external to the department; and organize and manage external
 133 communication on such priority issues.

134 d. Promote and facilitate key department initiatives to
 135 address priority economic issues and explore data and identify
 136 opportunities for innovative approaches to address such economic
 137 issues.

138 e. Promote strategic planning for the department.

139 (b) The secretary:

140 1. May create offices within the Office of the Secretary
 141 and within the divisions established in paragraph (a) to promote
 142 efficient and effective operation of the department.

143 2. Shall appoint a director for each division, who shall
 144 directly administer his or her division and be responsible to
 145 the secretary.

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146 (5) The divisions within the department have specific
 147 responsibilities to achieve the duties, responsibilities, and
 148 goals of the department. Specifically:
 149 (a) The Division of Strategic Business Development shall:
 150 1. Analyze and evaluate business prospects identified by
 151 the Governor, the ~~secretary executive director of the~~
 152 ~~department~~, and Enterprise Florida, Inc.

153 2. Administer certain tax refund, tax credit, and grant
 154 programs created in law. Notwithstanding any other provision of
 155 law, the department may expend interest earned from the
 156 investment of program funds deposited in the Grants and
 157 Donations Trust Fund to contract for the administration of those
 158 programs, or portions of the programs, assigned to the
 159 department by law, by the appropriations process, or by the
 160 Governor. Such expenditures shall be subject to review under
 161 chapter 216.

162 3. Develop measurement protocols for the state incentive
 163 programs and for the contracted entities which will be used to
 164 determine their performance and competitive value to the state.
 165 Performance measures, benchmarks, and sanctions must be
 166 developed in consultation with the legislative appropriations
 167 committees and the appropriate substantive committees, and are
 168 subject to the review and approval process provided in s.
 169 216.177. The approved performance measures, standards, and
 170 sanctions shall be included and made a part of the strategic
 171 plan for contracts entered into for delivery of programs
 172 authorized by this section.

173 4. Develop a 5-year statewide strategic plan. The strategic
 174 plan must include, but need not be limited to:

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- 175 a. Strategies for the promotion of business formation,
 176 expansion, recruitment, and retention through aggressive
 177 marketing, international development, and export assistance,
 178 which lead to more and better jobs and higher wages for all
 179 geographic regions, disadvantaged communities, and populations
 180 of the state, including rural areas, minority businesses, and
 181 urban core areas.
- 182 b. The development of realistic policies and programs to
 183 further the economic diversity of the state, its regions, and
 184 their associated industrial clusters.
- 185 c. Specific provisions for the stimulation of economic
 186 development and job creation in rural areas and midsize cities
 187 and counties of the state, including strategies for rural
 188 marketing and the development of infrastructure in rural areas.
- 189 d. Provisions for the promotion of the successful long-term
 190 economic development of the state with increased emphasis in
 191 market research and information.
- 192 e. Plans for the generation of foreign investment in the
 193 state which create jobs paying above-average wages and which
 194 result in reverse investment in the state, including programs
 195 that establish viable overseas markets, assist in meeting the
 196 financing requirements of export-ready firms, broaden
 197 opportunities for international joint venture relationships, use
 198 the resources of academic and other institutions, coordinate
 199 trade assistance and facilitation services, and facilitate
 200 availability of and access to education and training programs
 201 that assure requisite skills and competencies necessary to
 202 compete successfully in the global marketplace.
- 203 f. The identification of business sectors that are of

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- 204 current or future importance to the state's economy and to the
 205 state's global business image, and development of specific
 206 strategies to promote the development of such sectors.
- 207 g. Strategies for talent development necessary in the state
 208 to encourage economic development growth, taking into account
 209 factors such as the state's talent supply chain, education and
 210 training opportunities, and available workforce.
- 211 5. Update the strategic plan every 5 years.
- 212 6. Involve Enterprise Florida, Inc.; CareerSource Florida,
 213 Inc.; local governments; the general public; local and regional
 214 economic development organizations; other local, state, and
 215 federal economic, international, and workforce development
 216 entities; the business community; and educational institutions
 217 to assist with the strategic plan.
- 218 (6)
- 219 (b) The Department of Economic Opportunity shall serve as
 220 the designated agency for purposes of each federal workforce
 221 development grant assigned to it for administration. The
 222 department shall carry out the duties assigned to it by the
 223 Governor, under the terms and conditions of each grant. The
 224 department shall have the level of authority and autonomy
 225 necessary to be the designated recipient of each federal grant
 226 assigned to it and shall disburse such grants pursuant to the
 227 plans and policies of the state board as defined in s. 445.002.
 228 The secretary ~~executive director~~ may, upon delegation from the
 229 Governor and pursuant to agreement with the state board, sign
 230 contracts, grants, and other instruments as necessary to execute
 231 functions assigned to the department. Notwithstanding other
 232 provisions of law, the department shall administer other

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233 programs funded by federal or state appropriations, as
 234 determined by the Legislature in the General Appropriations Act
 235 or other law.

236 (9) The ~~secretary executive director~~ shall:

237 (a) Manage all activities and responsibilities of the
 238 department.

239 (b) Serve as the manager for the state with respect to
 240 contracts with Enterprise Florida, Inc., and all applicable
 241 direct-support organizations. To accomplish the provisions of
 242 this section and applicable provisions of chapter 288, and
 243 notwithstanding the provisions of part I of chapter 287, the
 244 ~~secretary director~~ shall enter into specific contracts with
 245 Enterprise Florida, Inc., and other appropriate direct-support
 246 organizations. Such contracts may be for multiyear terms and
 247 must include specific performance measures for each year. For
 248 purposes of this section, the Florida Tourism Industry Marketing
 249 Corporation and the Institute for Commercialization of Florida
 250 Technology are not appropriate direct-support organizations.

251 (c) Serve as a member of the board of directors of the
 252 Florida Development Finance Corporation. The ~~secretary executive~~
 253 ~~director~~ may designate an employee of the department to serve in
 254 this capacity.

255 Section 2. Paragraph (a) of subsection (5) of section
 256 288.901, Florida Statutes, is amended to read:

257 288.901 Enterprise Florida, Inc.—

258 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

259 (a) In addition to the Governor or his or her designee, the
 260 board of directors shall consist of the following appointed
 261 members:

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- 262 1. The Commissioner of Education or his or her designee.
 263 2. The Chief Financial Officer or his or her designee.
 264 3. The Attorney General or his or her designee.
 265 4. The Commissioner of Agriculture or his or her designee.
 266 5. The chairperson of the state board as defined in s.
 267 445.002.
 268 6. The Secretary of State or his or her designee.
 269 7. The Secretary of Economic Opportunity or his or her
 270 designee.

271 8. Twelve members from the private sector, six of whom
 272 shall be appointed by the Governor, three of whom shall be
 273 appointed by the President of the Senate, and three of whom
 274 shall be appointed by the Speaker of the House of
 275 Representatives. Members appointed by the Governor are subject
 276 to Senate confirmation.

277
 278 All board members shall serve without compensation, but are
 279 entitled to receive reimbursement for per diem and travel
 280 expenses pursuant to s. 112.061. Such expenses must be paid out
 281 of funds of Enterprise Florida, Inc.

282 Section 3. Subsection (2) of section 290.042, Florida
 283 Statutes, is amended to read:

284 290.042 Definitions relating to Florida Small Cities
 285 Community Development Block Grant Program Act.—As used in ss.
 286 290.0401–290.048, the term:

287 (2) "Administrative costs" has the same meaning as defined
 288 in the Housing and Community Development Act of 1974, as
 289 amended, and applicable federal regulations means the payment of
 290 all reasonable costs of management, coordination, monitoring,

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291 ~~and evaluation, and similar costs and carrying charges, related~~
 292 ~~to the planning and execution of community development~~
 293 ~~activities which are funded in whole or in part under the~~
 294 ~~Florida Small Cities Community Development Block Grant Program.~~
 295 ~~Administrative costs shall include all costs of administration,~~
 296 ~~including general administration, planning and urban design, and~~
 297 ~~project administration costs.~~

298 Section 4. Subsections (3), (4), and (5) of section
 299 290.044, Florida Statutes, are amended to read:

300 290.044 Florida Small Cities Community Development Block
 301 Grant Program Fund; administration; distribution.-

302 (3) The department shall require applicants for grants to
 303 compete against each other in ~~the following grant program~~
 304 categories that may include one or more of the following:

305 (a) Housing rehabilitation.

306 (b) Economic development.

307 (c) Neighborhood revitalization.

308 (d) Commercial revitalization.

309 (e) Any other activity authorized by the Housing and
 310 Community Development Act of 1974, as amended, and applicable
 311 federal regulations.

312 (4) The department shall define broad community development
 313 objectives to be achieved by the activities in ~~each of the grant~~
 314 program categories with the use of funds from the Florida Small
 315 Cities Community Development Block Grant Program Fund. Such
 316 objectives shall be designed to meet at least one of the
 317 national objectives provided in the Housing and Community
 318 Development Act of 1974.

319 (5) The department may set aside an amount of up to 15 ~~5~~

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320 percent of the funds annually for use in any eligible local
 321 government jurisdiction for which an emergency or natural
 322 disaster has been declared by executive order. Such funds may
 323 only be provided to a local government to fund eligible
 324 emergency-related activities for which no other source of
 325 federal, state, or local disaster funds is available. The
 326 department may provide for such set-aside by rule. In the last
 327 quarter of the state fiscal year, any funds not allocated under
 328 the emergency-related set-aside shall be distributed to unfunded
 329 applications ~~from the most recent funding cycle.~~

330 Section 5. Subsection (2), paragraph (b) of subsection (3),
 331 and subsection (6) of section 290.046, Florida Statutes, are
 332 amended to read:

333 290.046 Applications for grants; procedures; requirements.-

334 ~~(2)(a) Except for applications for economic development~~
 335 ~~grants as provided in subparagraph (b)1., an eligible local~~
 336 ~~government may submit one application for a grant during each~~
 337 ~~application cycle.~~

338 ~~(b)1. An eligible local government may apply up to three~~
 339 ~~times in any one annual funding cycle for an economic~~
 340 ~~development grant but may not receive more than one such grant~~
 341 ~~per annual funding cycle. A local government may have more than~~
 342 ~~one open economic development grant.~~

343 ~~(2)(a)2-~~ The department shall establish minimum criteria
 344 pertaining to the number of jobs created for persons of low or
 345 moderate income, the degree of private sector financial
 346 commitment, and the economic feasibility of the proposed project
 347 and shall establish any other criteria the department deems
 348 appropriate. Assistance to a private, for-profit business may

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349 not be provided from a grant award unless sufficient evidence
 350 exists to demonstrate that without such public assistance the
 351 creation or retention of such jobs would not occur.

352 ~~(b)(e)1-~~ A local government with an open housing
 353 rehabilitation, neighborhood revitalization, or commercial
 354 revitalization contract is not eligible to apply for another
 355 housing rehabilitation, neighborhood revitalization, or
 356 commercial revitalization grant until administrative closeout of
 357 its existing contract. The department shall notify a local
 358 government of administrative closeout or of any outstanding
 359 closeout issues within 45 days after receipt of a closeout
 360 package from the local government. A local government with an
 361 open housing rehabilitation, neighborhood revitalization, or
 362 commercial revitalization community development block grant
 363 contract whose activities are on schedule in accordance with the
 364 expenditure rates and accomplishments described in the contract
 365 may apply for an economic development grant.

366 (c)2- A local government with an open economic development
 367 community development block grant contract whose activities are
 368 on schedule in accordance with the expenditure rates and
 369 accomplishments described in the contract may apply for a
 370 housing rehabilitation, neighborhood revitalization, or
 371 commercial revitalization community development block grant. A
 372 local government with an open economic development contract
 373 whose activities are on schedule in accordance with the
 374 expenditure rates and accomplishments described in the contract
 375 may receive ~~no~~ more than one additional economic development
 376 grant in each fiscal year.

377 (d) The department may not award a grant until it has

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378 conducted a site visit to verify the information contained in
 379 the local government's application.

380 (3)

381 (b) Funds shall be distributed according to the rankings
 382 established in each application cycle. If economic development
 383 funds remain available after the application cycle closes, the
 384 remaining funds shall be awarded to eligible projects ~~on a~~
 385 ~~first-come, first-served basis until such funds are fully~~
 386 ~~obligated.~~

387 (6) The department shall, before approving an application
 388 for a grant, determine that the applicant has the administrative
 389 capacity to carry out the proposed activities and has performed
 390 satisfactorily in carrying out past activities funded by
 391 community development block grants. The evaluation of past
 392 performance shall take into account procedural aspects of
 393 previous grants as well as substantive results. If the
 394 department determines that any applicant has failed to
 395 accomplish substantially the results it proposed in ~~its last~~
 396 previously funded applications ~~application~~, it may prohibit the
 397 applicant from receiving a grant or may penalize the applicant
 398 in the rating of the current application. An application for
 399 grant funds may not be denied solely upon the basis of the past
 400 performance of the eligible applicant.

401 Section 6. Section 331.3081, Florida Statutes, is amended
 402 to read:

403 331.3081 Board of directors.—Space Florida shall be
 404 governed by a 13-member independent board of directors that
 405 consists of the members appointed to the board of directors of
 406 Enterprise Florida, Inc., by the Governor, the President of the

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407 Senate, and the Speaker of the House of Representatives pursuant
408 to ~~s. 288.901(5)(a)8. s. 288.901(5)(a)7-~~ and the Governor, who
409 shall serve ex officio, or who may appoint a designee to serve,
410 as the chair and a voting member of the board.

411 Section 7. Subsection (5) of section 435.02, Florida
412 Statutes, is amended to read:

413 435.02 Definitions.—For the purposes of this chapter, the
414 term:

415 (5) "Specified agency" means the Department of Health, the
416 Department of Children and Families, the Division of Vocational
417 Rehabilitation within the Department of Education, the Agency
418 for Health Care Administration, the Department of Elderly
419 Affairs, the Department of Juvenile Justice, the Agency for
420 Persons with Disabilities, regional workforce boards providing
421 services as defined in s. 445.002(3), and local licensing
422 agencies approved pursuant to s. 402.307, when these agencies
423 are conducting state and national criminal history background
424 screening on persons who work with children or persons who are
425 elderly or disabled.

426 Section 8. Subsection (43) of section 443.036, Florida
427 Statutes, is amended to read:

428 443.036 Definitions.—As used in this chapter, the term:

429 (43) "Temporary layoff" means an individual's a job
430 separation due to lack of work which does not exceed 8
431 consecutive weeks and which has a fixed or approximate return-
432 to-work date; or an individual's employer-initiated furlough
433 that causes a mandatory complete stoppage of work if such
434 furlough is temporary and the individual remains job attached
435 and is expected to return to work with the employer.

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436 Section 9. Paragraph (c) of subsection (1) of section
437 443.091, Florida Statutes, is amended to read:

438 443.091 Benefit eligibility conditions.—

439 (1) An unemployed individual is eligible to receive
440 benefits for any week only if the Department of Economic
441 Opportunity finds that:

442 (c) To make continued claims for benefits, she or he is
443 reporting to the department in accordance with this paragraph
444 and department rules. Department rules may not conflict with s.
445 443.111(1)(b), which requires that each claimant continue to
446 report regardless of any pending appeal relating to her or his
447 eligibility or disqualification for benefits.

448 1. For each week of unemployment claimed, each report must,
449 at a minimum, include the name and, ~~address,~~ ~~and telephone~~
450 ~~number~~ of each prospective employer contacted, or the date the
451 claimant reported to a one-stop career center, pursuant to
452 paragraph (d). For the purposes of this subparagraph, the term
453 "address" means a website address, a physical address, or an e-
454 mail address.

455 2. The department shall offer an online assessment aimed at
456 identifying an individual's skills, abilities, and career
457 aptitude. The skills assessment must be voluntary, and the
458 department shall allow a claimant to choose whether to take the
459 skills assessment. The online assessment shall be made available
460 to any person seeking services from a local workforce
461 development board or a one-stop career center.

462 a. If the claimant chooses to take the online assessment,
463 the outcome of the assessment shall be made available to the
464 claimant, local workforce development board, and one-stop career

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465 center. The department, local workforce development board, or
 466 one-stop career center shall use the assessment to develop a
 467 plan for referring individuals to training and employment
 468 opportunities. Aggregate data on assessment outcomes may be made
 469 available to CareerSource Florida, Inc., and Enterprise Florida,
 470 Inc., for use in the development of policies related to
 471 education and training programs that will ensure that businesses
 472 in this state have access to a skilled and competent workforce.

473 b. Individuals shall be informed of and offered services
 474 through the one-stop delivery system, including career
 475 counseling, the provision of skill match and job market
 476 information, and skills upgrade and other training
 477 opportunities, and shall be encouraged to participate in such
 478 services at no cost to the individuals. The department shall
 479 coordinate with CareerSource Florida, Inc., the local workforce
 480 development boards, and the one-stop career centers to identify,
 481 develop, and use best practices for improving the skills of
 482 individuals who choose to participate in skills upgrade and
 483 other training opportunities. The department may contract with
 484 an entity to create the online assessment in accordance with the
 485 competitive bidding requirements in s. 287.057. The online
 486 assessment must work seamlessly with the Reemployment Assistance
 487 Claims and Benefits Information System.

488 Section 10. Paragraph (a) of subsection (1) and subsection
 489 (6) of section 443.101, Florida Statutes, are amended to read:

490 443.101 Disqualification for benefits.—An individual shall
 491 be disqualified for benefits:

492 (1) (a) For the week in which he or she has voluntarily left
 493 work without good cause attributable to his or her employing

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494 unit or for the week in which he or she has been discharged by
 495 the employing unit for misconduct connected with his or her
 496 work, based on a finding by the Department of Economic
 497 Opportunity. As used in this paragraph, the term "work" means
 498 any work, whether full-time, part-time, or temporary.

499 1. Disqualification for voluntarily quitting continues for
 500 the full period of unemployment next ensuing after the
 501 individual has left his or her full-time, part-time, or
 502 temporary work voluntarily without good cause and until the
 503 individual has earned income equal to or greater than 17 times
 504 his or her weekly benefit amount. As used in this subsection,
 505 the term "good cause" includes only that cause attributable to
 506 the employing unit which would compel a reasonable employee to
 507 cease working or attributable to the individual's illness or
 508 disability requiring separation from his or her work. Any other
 509 disqualification may not be imposed.

510 2. An individual is not disqualified under this subsection
 511 for:

512 a. Voluntarily leaving temporary work to return immediately
 513 when called to work by the permanent employing unit that
 514 temporarily terminated his or her work within the previous 6
 515 calendar months;

516 b. Voluntarily leaving work to relocate as a result of his
 517 or her military-connected spouse's permanent change of station
 518 orders, activation orders, or unit deployment orders; or

519 c. Voluntarily leaving work if he or she proves that his or
 520 her discontinued employment is a direct result of circumstances
 521 related to domestic violence as defined in s. 741.28. An
 522 individual who voluntarily leaves work under this sub-

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523 subparagraph must:

524 (I) Make reasonable efforts to preserve employment, unless
525 the individual establishes that such remedies are likely to be
526 futile or to increase the risk of future incidents of domestic
527 violence. Such efforts may include seeking a protective
528 injunction, relocating to a secure place, or seeking reasonable
529 accommodation from the employing unit, such as a transfer or
530 change of assignment;

531 (II) Provide evidence such as an injunction, a protective
532 order, or other documentation authorized by state law which
533 reasonably proves that domestic violence has occurred; and

534 (III) Reasonably believe that he or she is likely to be the
535 victim of a future act of domestic violence at, in transit to,
536 or departing from his or her place of employment. An individual
537 ~~who is otherwise eligible for benefits under this sub-~~
538 ~~subparagraph is ineligible for each week that he or she no~~
539 ~~longer meets such criteria or refuses a reasonable accommodation~~
540 ~~offered in good faith by his or her employing unit.~~

541 3. The employment record of an employing unit may not be
542 charged for the payment of benefits to an individual who has
543 voluntarily left work under sub-subparagraph 2.c.

544 4. Disqualification for being discharged for misconduct
545 connected with his or her work continues for the full period of
546 unemployment next ensuing after having been discharged and until
547 the individual is reemployed and has earned income of at least
548 17 times his or her weekly benefit amount and for not more than
549 52 weeks immediately following that week, as determined by the
550 department in each case according to the circumstances or the
551 seriousness of the misconduct, under the department's rules for

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552 determining disqualification for benefits for misconduct.

553 5. If an individual has provided notification to the
554 employing unit of his or her intent to voluntarily leave work
555 and the employing unit discharges the individual for reasons
556 other than misconduct before the date the voluntary quit was to
557 take effect, the individual, if otherwise entitled, shall
558 receive benefits from the date of the employer's discharge until
559 the effective date of his or her voluntary quit.

560 6. If an individual is notified by the employing unit of
561 the employer's intent to discharge the individual for reasons
562 other than misconduct and the individual quits without good
563 cause before the date the discharge was to take effect, the
564 claimant is ineligible for benefits pursuant to s. 443.091(1)(d)
565 for failing to be available for work for the week or weeks of
566 unemployment occurring before the effective date of the
567 discharge.

568 (6) For making any false or fraudulent representation for
569 the purpose of obtaining benefits contrary to this chapter,
570 constituting a violation under s. 443.071. The disqualification
571 imposed under this subsection shall begin with the week for ~~in~~
572 which the false or fraudulent representation was ~~is~~ made and
573 shall continue for a period not to exceed 1 year after the date
574 the Department of Economic Opportunity discovers the false or
575 fraudulent representation and until any overpayment of benefits
576 resulting from such representation has been repaid in full. This
577 disqualification may be appealed in the same manner as any other
578 disqualification imposed under this section. A conviction by any
579 court of competent jurisdiction in this state of the offense
580 prohibited or punished by s. 443.071 is conclusive upon the

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581 appeals referee and the commission of the making of the false or
582 fraudulent representation for which disqualification is imposed
583 under this section.

584 Section 11. Section 443.1113, Florida Statutes, is amended
585 to read:

586 443.1113 Reemployment Assistance Claims and Benefits
587 Information System.—

588 (1) The Department of Economic Opportunity shall implement
589 an integrated, modular system hosted in a cloud computing
590 service, as defined in s. 282.0041, that provides for rapid
591 provisioning of additional data processing when necessary. The
592 system must support the efficient distribution of benefits and
593 the effective operation and management of the reemployment
594 assistance program. ~~To~~ The extent that funds are appropriated
595 for each phase of the Reemployment Assistance Claims and
596 Benefits Information system may be cited by the Legislature, the
597 Department of Economic Opportunity shall replace and enhance the
598 functionality provided in the following systems with an
599 integrated Internet-based system that is known as the
600 "Reemployment Assistance Claims and Benefits Information System"
601 and must:

602 (a) Be accessible through the Internet on both mobile
603 devices and personal computers ~~Claims and benefit mainframe~~
604 ~~system.~~

605 (b) Process reemployment assistance claims ~~Florida~~
606 ~~unemployment Internet direct.~~

607 (c) Process benefit payments ~~Florida continued claim~~
608 ~~Internet directory.~~

609 (d) Process and manage overpayments ~~Call center interactive~~

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610 ~~voice response system.~~

611 (e) Perform adjudication functions ~~Benefit overpayment~~
612 ~~screening system.~~

613 (f) Process appeals and manage appeal hearings ~~Internet and~~
614 ~~Intranet appeals system.~~

615 (g) Manage and process employer charging.

616 (2) Wherever cost-effective and operationally feasible, the
617 Reemployment Assistance Claims and Benefits System shall
618 accomplish the following main ~~business~~ objectives:

619 (a) ~~Wherever cost-effective and operationally feasible,~~
620 Eliminate or automate existing paper processes and enhance any
621 existing automated workflows in order to expedite customer
622 transactions and eliminate redundancy.

623 (b) Enable and enhance online, self-service capabilities
624 ~~access~~ to claimant and employer information and federal and
625 state reporting.

626 (c) Integrate benefit payment control with the adjudication
627 program and collection system in order to improve the detection
628 of fraud.

629 (d) Comply with all requirements established in federal and
630 state law for reemployment assistance.

631 (e) Integrate with the Department of Revenue's statewide
632 unified tax system that collects reemployment assistance taxes.

633 (f) Maintain interoperability with other department
634 workforce systems.

635 (g) Allow for employer-assisted claims.

636 (3) The scope of the Reemployment Assistance Claims and
637 Benefits Information System does not include any of the
638 following functionalities:

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639 (a) Collection of reemployment assistance taxes.

640 (b) General ledger, financial management, or budgeting

641 capabilities.

642 (c) Human resource planning or management capabilities.

643 (4) (a) The Department of Economic Opportunity shall perform

644 an annual review of the system and identify enhancements or

645 modernization efforts that improve the delivery of services to

646 claimants and employers and reporting to state and federal

647 entities. These improvements must include, but need not be

648 limited to:

649 1. Infrastructure upgrades through cloud services.

650 2. Software improvements.

651 3. Enhanced data analytics and reporting.

652 4. Increased cybersecurity pursuant to s. 282.318.

653 (b) The department shall seek input on recommended

654 enhancements from, at a minimum, the following entities:

655 1. The Florida Digital Service within the Department of

656 Management Services.

657 2. The General Tax Administration Program Office within the

658 Department of Revenue.

659 3. The Division of Accounting and Auditing within the

660 Department of Financial Services.

661 (5) By October 1, 2023, and each year thereafter, the

662 Department of Economic Opportunity shall submit a Reemployment

663 Assistance Claims and Benefits Information System report to the

664 Governor, the President of the Senate, and the Speaker of the

665 House of Representatives. The report must, at a minimum,

666 include:

667 (a) A summary of maintenance, enhancement, and

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668 modernization efforts over the last fiscal year.

669 (b) A 3-year outlook of recommended enhancements or

670 modernization efforts that includes projected costs and

671 timeframes for completion ~~The project to implement the~~

672 ~~Reemployment Assistance Claims and Benefits Information System~~

673 ~~is comprised of the following phases and corresponding~~

674 ~~implementation timeframes:~~

675 ~~(a) No later than the end of fiscal year 2009-2010~~

676 ~~completion of the business re-engineering analysis and~~

677 ~~documentation of both the detailed system requirements and the~~

678 ~~overall system architecture.~~

679 ~~(b) The Reemployment Assistance Claims and Benefits~~

680 ~~Internet portal that replaces the Florida Unemployment Internet~~

681 ~~Direct and the Florida Continued Claims Internet Directory~~

682 ~~systems, the Call Center Interactive Voice Response System, the~~

683 ~~Benefit Overpayment Screening System, the Internet and Intranet~~

684 ~~Appeals System, and the Claims and Benefits Mainframe System~~

685 ~~shall be deployed to full operational status no later than the~~

686 ~~end of fiscal year 2013-2014.~~

687 ~~(5) The Department of Economic Opportunity shall implement~~

688 ~~the following project governance structure until such time as~~

689 ~~the project is completed, suspended, or terminated:~~

690 ~~(a) The project sponsor for the Reemployment Assistance~~

691 ~~Claims and Benefits Information System project is the~~

692 ~~department.~~

693 ~~(b) The project shall be governed by an executive steering~~

694 ~~committee composed of the following voting members or their~~

695 ~~designees:~~

696 1. ~~The executive director of the department.~~

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697 ~~2. The executive director of the Department of Revenue.~~
698 ~~3. The director of the Division of Workforce Services~~
699 ~~within the department.~~
700 ~~4. The program director of the General Tax Administration~~
701 ~~Program Office within the Department of Revenue.~~
702 ~~5. The chief information officer of the department.~~
703 ~~(c) The executive steering committee has the overall~~
704 ~~responsibility for ensuring that the project meets its primary~~
705 ~~objectives and is specifically responsible for:~~
706 ~~1. Providing management direction and support to the~~
707 ~~project management team.~~
708 ~~2. Assessing the project's alignment with the strategic~~
709 ~~goals of the department for administering the reemployment~~
710 ~~assistance program.~~
711 ~~3. Reviewing and approving or disapproving any changes to~~
712 ~~the project's scope, schedule, and costs.~~
713 ~~4. Reviewing, approving or disapproving, and determining~~
714 ~~whether to proceed with any major project deliverables.~~
715 ~~5. Recommending suspension or termination of the project to~~
716 ~~the Governor, the President of the Senate, and the Speaker of~~
717 ~~the House of Representatives if it determines that the primary~~
718 ~~objectives cannot be achieved.~~
719 ~~(d) The project management team shall work under the~~
720 ~~direction of the executive steering committee and shall be~~
721 ~~minimally comprised of senior managers and stakeholders from the~~
722 ~~department and the Department of Revenue. The project management~~
723 ~~team is responsible for:~~
724 ~~1. Providing daily planning, management, and oversight of~~
725 ~~the project.~~

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726 ~~2. Submitting an operational work plan and providing~~
727 ~~quarterly updates to that plan to the executive steering~~
728 ~~committee. The plan must specify project milestones,~~
729 ~~deliverables, and expenditures.~~
730 ~~3. Submitting written monthly project status reports to the~~
731 ~~executive steering committee which include:~~
732 ~~a. Planned versus actual project costs;~~
733 ~~b. An assessment of the status of major milestones and~~
734 ~~deliverables;~~
735 ~~c. Identification of any issues requiring resolution, the~~
736 ~~proposed resolution for these issues, and information regarding~~
737 ~~the status of the resolution;~~
738 ~~d. Identification of risks that must be managed; and~~
739 ~~e. Identification of and recommendations regarding~~
740 ~~necessary changes in the project's scope, schedule, or costs.~~
741 ~~All recommendations must be reviewed by project stakeholders~~
742 ~~before submission to the executive steering committee in order~~
743 ~~to ensure that the recommendations meet required acceptance~~
744 ~~criteria.~~
745 Section 12. For the 2021-2022 fiscal year, the Department
746 of Economic Opportunity shall take actions to modernize the
747 Reemployment Assistance Claims and Benefits Information System
748 as provided in the General Appropriations Act.
749 Section 13. Section 443.1118, Florida Statutes, is created
750 to read:
751 443.1118 Employer-assisted claims.—
752 (1) DEFINITIONS.—For purposes of this section:
753 (a) "Employer-assisted claim" means an initial claim filed
754 by an employer on behalf of its employees who are a part of a

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755 mass separation from the employer.

756 (b) "Mass separation" means a full, partial, permanent, or
 757 temporary separation, including a temporary layoff, of full-time
 758 employees from their employer if the separation occurs at or
 759 around the same time, the employees are separated for the same
 760 reason, and the separation is due to circumstances for which the
 761 employees are not at fault. At a minimum, a mass separation
 762 involves 1,000 or more employees.

763 (2) EMPLOYER-ASSISTED CLAIM PROCESS.—

764 (a) Initiation.—An employer that commences a mass
 765 separation may initiate an employer-assisted claim by submitting
 766 employee information to the department within 10 days after the
 767 date of the mass separation pursuant to rules adopted by the
 768 department.

769 (b) Form of submission.—Due to the sensitive nature of
 770 employee information, an employer shall submit employee
 771 information through secure means approved by department rule.

772 (c) Notice and Affidavit.—For each employer-assisted claim,
 773 the employer shall give notice and instructions to the employees
 774 for which claims are filed and direct the employees to complete
 775 further steps as required by the department. The employer shall
 776 provide an attestation to the department in a form and format
 777 required by the department.

778 (3) EFFECTIVE DATE OF CLAIM.—The effective date of an
 779 employer-assisted claim is the Sunday immediately preceding the
 780 date on which the employer-assisted claim was received by the
 781 department.

782 (4) PAYMENTS.—Weeks of benefits paid to a claimant pursuant
 783 to an employer-assisted claim count toward the maximum benefits

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784 for which the claimant is eligible.

785 (5) CLAIMANT FILING REQUIREMENTS.—A claimant covered by an
 786 employer-assisted claim must file continued biweekly claims
 787 pursuant to department rule.

788 (6) CONSTRUCTION.—This section does not limit, alter, or
 789 amend a claimant's rights under this chapter relating to a
 790 hearing if a claimant is denied a claim.

791 (7) RULEMAKING.—The department shall adopt rules
 792 establishing additional procedures for filing an employer-
 793 assisted claim and may adopt additional rules to administer this
 794 section.

795 Section 14. Paragraphs (a) and (b) of subsection (3) and
 796 paragraphs (a) and (b) of subsection (4) of section 443.151,
 797 Florida Statutes, are amended to read:

798 443.151 Procedure concerning claims.—

799 (3) DETERMINATION OF ELIGIBILITY.—

800 (a) *Notices of claim.*—The Department of Economic
 801 Opportunity shall promptly provide a notice of claim to the
 802 claimant's most recent employing unit and all employers whose
 803 employment records are liable for benefits under the monetary
 804 determination. The employer must respond to the notice of claim
 805 within ~~14~~ 14 ~~20~~ days after the mailing date of the notice, or in
 806 lieu of mailing, within ~~14~~ 14 ~~20~~ days after the delivery of the
 807 notice. If a contributing employer or its agent fails to timely
 808 or adequately respond to the notice of claim or request for
 809 information, the employer's account may not be relieved of
 810 benefit charges as provided in s. 443.131(3)(a), notwithstanding
 811 paragraph (5)(b). The department may adopt rules as necessary to
 812 implement the processes described in this paragraph relating to

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813 notices of claim.

814 (b) *Monetary determinations.*—In addition to the notice of
 815 claim, the department shall also promptly provide an initial
 816 monetary determination to the claimant and each base period
 817 employer whose account is subject to being charged for its
 818 respective share of benefits on the claim. The monetary
 819 determination must include a statement of whether and in what
 820 amount the claimant is entitled to benefits, and, in the event
 821 of a denial, must state the reasons for the denial. A monetary
 822 determination for the first week of a benefit year must also
 823 include a statement of whether the claimant was paid the wages
 824 required under s. 443.091(1)(g) and, if so, the first day of the
 825 benefit year, the claimant's weekly benefit amount, and the
 826 maximum total amount of benefits payable to the claimant for a
 827 benefit year. The claimant may file a request for the department
 828 to reconsider a monetary determination within 20 days after the
 829 department mails the notice to the claimant's last known address
 830 or, in lieu of mailing, within 20 days after the delivery of the
 831 notice. A monetary determination is final for a claimant if the
 832 claimant does not file a timely request for the department to
 833 reconsider the monetary determination. A monetary
 834 redetermination is final for a claimant unless within 20 days
 835 after the mailing of the notice of monetary redetermination to
 836 the claimant's last known address or, in lieu of mailing, within
 837 20 days after the delivery of the notice, the claimant files an
 838 appeal. The monetary determination or monetary redetermination
 839 is final for an employer or other party entitled to notice
 840 unless within 20 days after the mailing of the respective notice
 841 to the employer or party to its last known address or, in lieu

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842 of mailing, within 20 days after delivery of the notice, an
 843 appeal is filed by the employer or the party ~~The monetary~~
 844 ~~determination is final unless within 20 days after the mailing~~
 845 ~~of the notices to the parties' last known addresses, or in lieu~~
 846 ~~of mailing, within 20 days after the delivery of the notices, an~~
 847 ~~appeal or written request for reconsideration is filed by the~~
 848 ~~claimant or other party entitled to notice.~~ The department may
 849 adopt rules as necessary to implement the processes described in
 850 this paragraph relating to notices of monetary determinations
 851 and the appeals or reconsideration requests filed in response to
 852 such notices.

853 (4) APPEALS.—

854 (a) *Appeals referees.*—

855 1. The Department of Economic Opportunity shall appoint one
 856 or more impartial salaried appeals referees in accordance with
 857 s. 443.171(3) to hear and decide appealed claims.

858 2. ~~An appeals referee must be an attorney in good standing~~
 859 ~~with The Florida Bar or be successfully admitted to The Florida~~
 860 ~~Bar within 8 months after his or her date of employment. This~~
 861 ~~subparagraph does not apply to an appeals referee appointed~~
 862 ~~before January 1, 2014.~~

863 3. A person may not participate on behalf of the department
 864 as an appeals referee in any case in which she or he is an
 865 interested party.

866 3.4. The department may designate alternates to serve in
 867 the absence or disqualification of any appeals referee on a
 868 temporary basis. These alternates must have the same
 869 qualifications required of appeals referees.

870 4.5. The department shall provide the commission and the

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871 appeals referees with proper facilities and assistance for the
872 execution of their functions.

873 (b) *Filing and hearing.*—

874 1. The claimant or any other party entitled to notice of a
875 determination may appeal an adverse determination to an appeals
876 referee within 20 days after the date of mailing of the notice
877 to her or his last known address or, if the notice is not
878 mailed, within 20 days after the date of delivering the notice.

879 2. Unless the appeal is untimely or withdrawn or review is
880 initiated by the commission, the appeals referee, after mailing
881 all parties and attorneys of record a notice of hearing at least
882 10 days before the date of hearing, notwithstanding the 14-day
883 notice requirement in s. 120.569(2)(b), may only affirm, modify,
884 or reverse the determination. An appeal may not be withdrawn
885 without the permission of the appeals referee.

886 3. ~~However,~~ If an appeal appears to have been filed after
887 the permissible time limit, the Office of Appeals may issue an
888 order to show cause to the appellant which requires the
889 appellant to show why the appeal should not be dismissed as
890 untimely. If, within 15 days after the mailing date of the order
891 to show cause, the appellant does not provide written evidence
892 of timely filing or good cause for failure to appeal timely, the
893 appeal shall be dismissed. However, an appeal may not be filed
894 more than 5 years after the date of the mailing of the
895 determination or, if the determination is not mailed, more than
896 5 years after the date of the delivery of the determination.

897 4. If an appeal involves a question of whether services
898 were performed by a claimant in employment or for an employer,
899 the referee must give special notice of the question and of the

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900 pendency of the appeal to the employing unit and to the
901 department, both of which become parties to the proceeding.

902 5.a. Any part of the evidence may be received in written
903 form, and all testimony of parties and witnesses shall be made
904 under oath.

905 b. Irrelevant, immaterial, or unduly repetitious evidence
906 shall be excluded, but all other evidence of a type commonly
907 relied upon by reasonably prudent persons in the conduct of
908 their affairs is admissible, whether or not such evidence would
909 be admissible in a trial in state court.

910 c. Hearsay evidence may be used for the purpose of
911 supplementing or explaining other evidence, or to support a
912 finding if it would be admissible over objection in civil
913 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
914 support a finding of fact if:

915 (I) The party against whom it is offered has a reasonable
916 opportunity to review such evidence prior to the hearing; and

917 (II) The appeals referee or special deputy determines,
918 after considering all relevant facts and circumstances, that the
919 evidence is trustworthy and probative and that the interests of
920 justice are best served by its admission into evidence.

921 6. The parties must be notified promptly of the referee's
922 decision. The referee's decision is final unless further review
923 is initiated under paragraph (c) within 20 days after the date
924 of mailing notice of the decision to the party's last known
925 address or, in lieu of mailing, within 20 days after the
926 delivery of the notice.

927 Section 15. Paragraph (d) of subsection (3) of section
928 445.004, Florida Statutes, is amended, and subsections (1) and

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929 (2) of that section are republished, to read:

930 445.004 CareerSource Florida, Inc., and the state board;
931 creation; purpose; membership; duties and powers.—

932 (1) CareerSource Florida, Inc., is created as a not-for-
933 profit corporation, which shall be registered, incorporated,
934 organized, and operated in compliance with chapter 617 and shall
935 operate at the direction of the state board. CareerSource
936 Florida, Inc., is not a unit or entity of state government and
937 is exempt from chapters 120 and 287. CareerSource Florida, Inc.,
938 shall apply the procurement and expenditure procedures required
939 by federal law for the expenditure of federal funds.

940 CareerSource Florida, Inc., shall be administratively housed
941 within the department and shall operate under agreement with the
942 department. The Legislature finds that public policy dictates
943 that CareerSource Florida, Inc., operate in the most open and
944 accessible manner consistent with its public purpose. To this
945 end, the Legislature specifically declares that CareerSource
946 Florida, Inc., its board, councils, and any advisory committees
947 or similar groups created by CareerSource Florida, Inc., are
948 subject to the provisions of chapter 119 relating to public
949 records, and those provisions of chapter 286 relating to public
950 meetings.

951 (2) CareerSource Florida, Inc., provides administrative
952 support for the state board, the principal workforce policy
953 organization for the state. The purpose of the state board is to
954 design and implement strategies that help Floridians enter,
955 remain in, and advance in the workplace, so that they may become
956 more highly skilled and successful, which benefits these
957 Floridians, Florida businesses, and the entire state, and

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958 fosters the development of the state's business climate.

959 CareerSource Florida, Inc., shall, consistent with its agreement
960 with the department, implement the policy directives of the
961 state board and administer state workforce development programs
962 as authorized by law.

963 (3)

964 (d) The state board must include the Secretary of Economic
965 Opportunity or his or her designee, the vice chairperson of the
966 board of directors of Enterprise Florida, Inc., and one member
967 representing each of the Workforce Innovation and Opportunity
968 Act partners, including the Division of Career and Adult
969 Education, and other entities representing programs identified
970 in the Workforce Innovation and Opportunity Act, as determined
971 necessary.

972 Section 16. Subsection (14) of section 553.79, Florida
973 Statutes, is amended to read:

974 553.79 Permits; applications; issuance; inspections.—

975 (14) (a) Except as provided in paragraph (b), a building
976 permit for a single-family residential dwelling must be issued
977 within 30 working days after receipt of the application ~~therefor~~
978 unless unusual circumstances require a longer time for
979 processing the application or unless the permit application
980 fails to satisfy the Florida Building Code or the enforcing
981 agency's laws or ordinances.

982 (b) A building permit for a single-family residential
983 dwelling applied for by a contractor licensed in this state on
984 behalf of a property owner who participates in a Community
985 Development Block Grant-Disaster Recovery program administered
986 by the Department of Economic Opportunity must be issued within

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987 15 working days after receipt of the application unless the
 988 permit application fails to satisfy the Florida Building Code or
 989 the enforcing agency's laws or ordinances.

990 Section 17. Paragraph (b) of subsection (2) of section
 991 14.20195, Florida Statutes, is amended to read:

992 14.20195 Suicide Prevention Coordinating Council; creation;
 993 membership; duties.—There is created within the Statewide Office
 994 for Suicide Prevention a Suicide Prevention Coordinating
 995 Council. The council shall develop strategies for preventing
 996 suicide.

997 (2) MEMBERSHIP.—The Suicide Prevention Coordinating Council
 998 shall consist of 31 voting members and 1 nonvoting member.

999 (b) The following state officials or their designees shall
 1000 serve on the coordinating council:

- 1001 1. The Secretary of Elderly Affairs.
- 1002 2. The State Surgeon General.
- 1003 3. The Commissioner of Education.
- 1004 4. The Secretary of Health Care Administration.
- 1005 5. The Secretary of Juvenile Justice.
- 1006 6. The Secretary of Corrections.
- 1007 7. The executive director of the Department of Law
 1008 Enforcement.
- 1009 8. The executive director of the Department of Veterans'
 1010 Affairs.
- 1011 9. The Secretary of Children and Families.
- 1012 10. The Secretary ~~executive director of the Department~~ of
 1013 Economic Opportunity.

1014 Section 18. Paragraph (j) of subsection (1) of section
 1015 16.615, Florida Statutes, is amended to read:

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1016 16.615 Council on the Social Status of Black Men and Boys.—

1017 (1) The Council on the Social Status of Black Men and Boys
 1018 is established within the Department of Legal Affairs and shall
 1019 consist of 19 members appointed as follows:

1020 (j) The Secretary ~~executive director of the Department~~ of
 1021 Economic Opportunity or his or her designee.

1022 Section 19. Subsection (3) and paragraph (b) of subsection
 1023 (7) of section 20.04, Florida Statutes, are amended to read:

1024 20.04 Structure of executive branch.—The executive branch
 1025 of state government is structured as follows:

1026 (3) For their internal structure, all departments, except
 1027 for the Department of Financial Services, the Department of
 1028 Economic Opportunity, the Department of Children and Families,
 1029 the Department of Corrections, the Department of Management of
 1030 Services, the Department of Revenue, and the Department of
 1031 Transportation, must adhere to the following standard terms:

1032 (a) The principal unit of the department is the "division."
 1033 Each division is headed by a "director."

1034 (b) The principal unit of the division is the "bureau."
 1035 Each bureau is headed by a "chief."

1036 (c) The principal unit of the bureau is the "section." Each
 1037 section is headed by an "administrator."

1038 (d) If further subdivision is necessary, sections may be
 1039 divided into "subsections," which are headed by "supervisors."

1040 (7)

1041 (b) Within the limitations of this subsection, the head of
 1042 the department may recommend the establishment of additional
 1043 divisions, bureaus, sections, and subsections of the department
 1044 to promote efficient and effective operation of the department.

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1045 However, additional divisions, or offices in the Department of
 1046 Children and Families, the Department of Corrections, the
 1047 Department of Economic Opportunity, and the Department of
 1048 Transportation, may be established only by specific statutory
 1049 enactment. New bureaus, sections, and subsections of departments
 1050 may be initiated by a department and established as recommended
 1051 by the Department of Management Services and approved by the
 1052 Executive Office of the Governor, or may be established by
 1053 specific statutory enactment.

1054 Section 20. Paragraph (a) of subsection (7) of section
 1055 213.053, Florida Statutes, is amended to read:

1056 213.053 Confidentiality and information sharing.—

1057 (7) (a) Any information received by the Department of
 1058 Revenue in connection with the administration of taxes,
 1059 including, but not limited to, information contained in returns,
 1060 reports, accounts, or declarations filed by persons subject to
 1061 tax, shall be made available to the following in performance of
 1062 their official duties:

- 1063 1. The Auditor General or his or her authorized agent;
- 1064 2. The director of the Office of Program Policy Analysis
 1065 and Government Accountability or his or her authorized agent;
- 1066 3. The Chief Financial Officer or his or her authorized
 1067 agent;
- 1068 4. The Director of the Office of Insurance Regulation of
 1069 the Financial Services Commission or his or her authorized
 1070 agent;
- 1071 5. A property appraiser or tax collector or their
 1072 authorized agents pursuant to s. 195.084(1);
- 1073 6. Designated employees of the Department of Education

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1074 solely for determination of each school district's price level
 1075 index pursuant to s. 1011.62(2);

1076 7. ~~The Secretary executive director of the Department of~~
 1077 Economic Opportunity or his or her authorized agent;

1078 8. The taxpayers' rights advocate or his or her authorized
 1079 agent pursuant to s. 20.21(3); and

1080 9. The coordinator of the Office of Economic and
 1081 Demographic Research or his or her authorized agent.

1082 Section 21. Paragraph (b) of subsection (5) of section
 1083 220.194, Florida Statutes, is amended to read:

1084 220.194 Corporate income tax credits for spaceflight
 1085 projects.—

1086 (5) APPLICATION AND CERTIFICATION.—

1087 (b) In order to take a tax credit under subparagraph (a)1.
 1088 or, if applicable, to transfer an approved credit under
 1089 subparagraph (a)2., a spaceflight business must submit an
 1090 application for certification to the Department of Economic
 1091 Opportunity along with a nonrefundable \$250 fee.

1092 1. The application must include:

- 1093 a. The name and physical in-state address of the taxpayer.
- 1094 b. Documentation demonstrating to the satisfaction of the
 1095 Department of Economic Opportunity that:

1096 (I) The taxpayer is a spaceflight business.

1097 (II) The business has engaged in a qualifying spaceflight
 1098 project before taking or transferring a credit under this
 1099 section.

1100 c. In addition to any requirement specific to a credit,
 1101 documentation that the business has:

1102 (I) Created 35 new jobs in this state directly associated

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1103 with spaceflight projects during its immediately preceding 3
 1104 taxable years. The business shall be deemed to have created new
 1105 jobs if the number of full-time jobs located in this state at
 1106 the time of application for certification is greater than the
 1107 total number of full-time jobs located in this state at the time
 1108 of application for approval to earn credits; and

1109 (II) Invested a total of at least \$15 million in this state
 1110 on a spaceflight project during its immediately preceding 3
 1111 taxable years.

1112 d. The total amount and types of credits sought.

1113 e. An acknowledgment that a transfer of a tax credit is to
 1114 be accomplished pursuant to subsection (5).

1115 f. A copy of an audit or audits of the preceding 3 taxable
 1116 years, prepared by a certified public accountant licensed to
 1117 practice in this state, which identifies that portion of the
 1118 business's activities in this state related to spaceflight
 1119 projects in this state.

1120 g. An acknowledgment that the business must file an annual
 1121 report on the spaceflight project's progress with the Department
 1122 of Economic Opportunity.

1123 h. Any other information necessary to demonstrate that the
 1124 applicant meets the job creation, investment, and other
 1125 requirements of this section.

1126 2. Within 60 days after receipt of the application for
 1127 certification, the Department of Economic Opportunity shall
 1128 evaluate the application and recommend the business for
 1129 certification or denial. The Secretary ~~executive director of the~~
 1130 ~~Department~~ of Economic Opportunity must approve or deny the
 1131 application within 30 days after receiving the recommendation.

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1132 If approved, the Department of Economic Opportunity must provide
 1133 a letter of certification to the applicant consistent with any
 1134 restrictions imposed. If the Department of Economic Opportunity
 1135 denies any part of the requested credit, the Department of
 1136 Economic Opportunity must inform the applicant of the grounds
 1137 for the denial. A copy of the certification shall be submitted
 1138 to the department within 10 days after the secretary's ~~executive~~
 1139 ~~director's~~ approval.

1140 Section 22. Subsection (3) of section 288.005, Florida
 1141 Statutes, is amended to read:

1142 288.005 Definitions.—As used in this chapter, the term:

1143 ~~(3) "Executive director" means the executive director of~~
 1144 ~~the Department of Economic Opportunity, unless otherwise stated.~~

1145 Section 23. Subsections (1) and (3), paragraph (a) of
 1146 subsection (5), and subsection (6) of section 288.061, Florida
 1147 Statutes, are amended to read:

1148 288.061 Economic development incentive application
 1149 process.—

1150 (1) Upon receiving a submitted economic development
 1151 incentive application, the Division of Strategic Business
 1152 Development of the Department of Economic Opportunity and
 1153 designated staff of Enterprise Florida, Inc., shall review the
 1154 application to ensure that the application is complete, whether
 1155 and what type of state and local permits may be necessary for
 1156 the applicant's project, whether it is possible to waive such
 1157 permits, and what state incentives and amounts of such
 1158 incentives may be available to the applicant. The department
 1159 shall recommend to the Secretary of Economic Opportunity
 1160 ~~executive director~~ to approve or disapprove an applicant

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1161 business. If review of the application demonstrates that the
 1162 application is incomplete, the ~~secretary executive director~~
 1163 shall notify the applicant business within the first 5 business
 1164 days after receiving the application.

1165 (3) Within 10 business days after the department receives
 1166 the submitted economic development incentive application, the
 1167 Secretary of Economic Opportunity ~~executive director~~ shall
 1168 approve or disapprove the application and issue a letter of
 1169 certification to the applicant which includes a justification of
 1170 that decision, unless the business requests an extension of that
 1171 time.

1172 (a) The contract or agreement with the applicant must
 1173 specify the total amount of the award, the performance
 1174 conditions that must be met to obtain the award, the schedule
 1175 for payment, and sanctions that would apply for failure to meet
 1176 performance conditions. The department may enter into one
 1177 agreement or contract covering all of the state incentives that
 1178 are being provided to the applicant. The contract must provide
 1179 that release of funds is contingent upon sufficient
 1180 appropriation of funds by the Legislature.

1181 (b) The release of funds for the incentive or incentives
 1182 awarded to the applicant depends upon the statutory requirements
 1183 of the particular incentive program.

1184 (5) (a) The Secretary of Economic Opportunity ~~executive~~
 1185 ~~director~~ may not approve an economic development incentive
 1186 application unless the application includes a signed written
 1187 declaration by the applicant which states that the applicant has
 1188 read the information in the application and that the information
 1189 is true, correct, and complete to the best of the applicant's

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1190 knowledge and belief.

1191 (6) Beginning July 1, 2020, the Secretary of Economic
 1192 Opportunity ~~executive director~~ may not approve an economic
 1193 development incentive application unless the application
 1194 includes proof to the department that the applicant business is
 1195 registered with and uses the E-Verify system, as defined in s.
 1196 448.095, to verify the work authorization status of all newly
 1197 hired employees. If the department determines that an awardee is
 1198 not complying with this subsection, the department must notify
 1199 the awardee by certified mail of the department's determination
 1200 of noncompliance and the awardee's right to appeal the
 1201 determination. Upon a final determination of noncompliance, the
 1202 awardee must repay all moneys received as an economic
 1203 development incentive to the department within 30 days after the
 1204 final determination.

1205 Section 24. Paragraph (a) of subsection (6) of section
 1206 288.0656, Florida Statutes, is amended to read:

1207 288.0656 Rural Economic Development Initiative.—

1208 (6) (a) By August 1 of each year, the head of each of the
 1209 following agencies and organizations shall designate a deputy
 1210 secretary or higher-level staff person from within the agency or
 1211 organization to serve as the REDI representative for the agency
 1212 or organization:

- 1213 1. The Department of Transportation.
- 1214 2. The Department of Environmental Protection.
- 1215 3. The Department of Agriculture and Consumer Services.
- 1216 4. The Department of State.
- 1217 5. The Department of Health.
- 1218 6. The Department of Children and Families.

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- 1219 7. The Department of Corrections.
 1220 8. The Department of Education.
 1221 9. The Department of Juvenile Justice.
 1222 10. The Fish and Wildlife Conservation Commission.
 1223 11. Each water management district.
 1224 12. Enterprise Florida, Inc.
 1225 13. CareerSource Florida, Inc.
 1226 14. VISIT Florida.
 1227 15. The Florida Regional Planning Council Association.
 1228 16. The Agency for Health Care Administration.
 1229 17. The Institute of Food and Agricultural Sciences (IFAS).

1230

1231 An alternate for each designee shall also be chosen, and the
 1232 names of the designees and alternates shall be sent to the
 1233 Secretary of Economic Opportunity ~~executive director of the~~
 1234 ~~department.~~

1235 Section 25. Paragraph (c) of subsection (5) and subsection
 1236 (8) of section 288.106, Florida Statutes, are amended to read:

1237 288.106 Tax refund program for qualified target industry
 1238 businesses.—

1239 (5) TAX REFUND AGREEMENT.—

1240 (c) The agreement must be signed by the Secretary of
 1241 Economic Opportunity ~~executive director~~ and by an authorized
 1242 officer of the qualified target industry business within 120
 1243 days after the issuance of the letter of certification under
 1244 subsection (4), but not before passage and receipt of the
 1245 resolution of local financial support. The department may grant
 1246 an extension of this period at the written request of the
 1247 qualified target industry business.

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1248 (8) SPECIAL INCENTIVES.—If the department determines it is
 1249 in the best interest of the public for reasons of facilitating
 1250 economic development, growth, or new employment opportunities
 1251 within a Disproportionally Affected County, the department may,
 1252 between July 1, 2011, and June 30, 2014, waive any or all wage
 1253 or local financial support eligibility requirements and allow a
 1254 qualified target industry business from another state which
 1255 relocates all or a portion of its business to a
 1256 Disproportionally Affected County to receive a tax refund
 1257 payment of up to \$6,000 multiplied by the number of jobs
 1258 specified in the tax refund agreement under subparagraph
 1259 (5) (a)1. over the term of the agreement. ~~Before~~ Prior to
 1260 granting such waiver, the Secretary of Economic Opportunity
 1261 ~~executive director of the department~~ shall file with the
 1262 Governor a written statement of the conditions and circumstances
 1263 constituting the reason for the waiver. Such business shall be
 1264 eligible for the additional tax refund payments specified in
 1265 subparagraph (3) (b)4. if it meets the criteria. As used in this
 1266 section, the term "Disproportionally Affected County" means Bay
 1267 County, Escambia County, Franklin County, Gulf County, Okaloosa
 1268 County, Santa Rosa County, Walton County, or Wakulla County.

1269 Section 26. Subsection (5) of section 288.1089, Florida
 1270 Statutes, is amended to read:

1271 288.1089 Innovation Incentive Program.—

1272 (5) The department shall review proposals pursuant to s.
 1273 288.061 for all three categories of innovation incentive awards.
 1274 Before making a recommendation to the Secretary of Economic
 1275 Opportunity ~~executive director~~, the department shall solicit
 1276 comments and recommendations from the Department of Agriculture

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1277 and Consumer Services. For each project, the evaluation and
 1278 recommendation to the department must include, but need not be
 1279 limited to:

1280 (a) A description of the project, its required facilities,
 1281 and the associated product, service, or research and development
 1282 associated with the project.

1283 (b) The percentage of match provided for the project.

1284 (c) The number of full-time equivalent jobs that will be
 1285 created by the project, the total estimated average annual wages
 1286 of such jobs, and the types of business activities and jobs
 1287 likely to be stimulated by the project.

1288 (d) The cumulative investment to be dedicated to the
 1289 project within 5 years and the total investment expected in the
 1290 project if more than 5 years.

1291 (e) The projected economic and fiscal impacts on the local
 1292 and state economies relative to investment.

1293 (f) A statement of any special impacts the project is
 1294 expected to stimulate in a particular business sector in the
 1295 state or regional economy or in the state's universities and
 1296 community colleges.

1297 (g) A statement of any anticipated or proposed
 1298 relationships with state universities.

1299 (h) A statement of the role the incentive is expected to
 1300 play in the decision of the applicant to locate or expand in
 1301 this state.

1302 (i) A recommendation and explanation of the amount of the
 1303 award needed to cause the applicant to expand or locate in this
 1304 state.

1305 (j) A discussion of the efforts and commitments made by the

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1306 local community in which the project is to be located to induce
 1307 the applicant's location or expansion, taking into consideration
 1308 local resources and abilities.

1309 (k) A recommendation for specific performance criteria the
 1310 applicant would be expected to achieve in order to receive
 1311 payments from the fund and penalties or sanctions for failure to
 1312 meet or maintain performance conditions.

1313 (l) Additional evaluative criteria for a research and
 1314 development facility project, including:

1315 1. A description of the extent to which the project has the
 1316 potential to serve as catalyst for an emerging or evolving
 1317 cluster.

1318 2. A description of the extent to which the project has or
 1319 could have a long-term collaborative research and development
 1320 relationship with one or more universities or community colleges
 1321 in this state.

1322 3. A description of the existing or projected impact of the
 1323 project on established clusters or targeted industry sectors.

1324 4. A description of the project's contribution to the
 1325 diversity and resiliency of the innovation economy of this
 1326 state.

1327 5. A description of the project's impact on special needs
 1328 communities, including, but not limited to, rural areas,
 1329 distressed urban areas, and enterprise zones.

1330 (m) Additional evaluative criteria for alternative and
 1331 renewable energy proposals, including:

1332 1. The availability of matching funds or other in-kind
 1333 contributions applied to the total project from an applicant.
 1334 The Department of Agriculture and Consumer Services shall give

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1335 greater preference to projects that provide such matching funds
1336 or other in-kind contributions.

1337 2. The degree to which the project stimulates in-state
1338 capital investment and economic development in metropolitan and
1339 rural areas, including the creation of jobs and the future
1340 development of a commercial market for renewable energy
1341 technologies.

1342 3. The extent to which the proposed project has been
1343 demonstrated to be technically feasible based on pilot project
1344 demonstrations, laboratory testing, scientific modeling, or
1345 engineering or chemical theory that supports the proposal.

1346 4. The degree to which the project incorporates an
1347 innovative new technology or an innovative application of an
1348 existing technology.

1349 5. The degree to which a project generates thermal,
1350 mechanical, or electrical energy by means of a renewable energy
1351 resource that has substantial long-term production potential.

1352 6. The degree to which a project demonstrates efficient use
1353 of energy and material resources.

1354 7. The degree to which the project fosters overall
1355 understanding and appreciation of renewable energy technologies.

1356 8. The ability to administer a complete project.

1357 9. Project duration and timeline for expenditures.

1358 10. The geographic area in which the project is to be
1359 conducted in relation to other projects.

1360 11. The degree of public visibility and interaction.

1361 Section 27. Paragraph (b) of subsection (1) of section
1362 288.1251, Florida Statutes, is amended to read:

1363 288.1251 Promotion and development of entertainment

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1364 industry; Office of Film and Entertainment; creation; purpose;
1365 powers and duties.-

1366 (1) CREATION.-

1367 (b) The department shall conduct a national search for a
1368 qualified person to fill the position of Commissioner of Film
1369 and Entertainment when the position is vacant. The Secretary of
1370 Economic Opportunity ~~executive director of the department~~ has
1371 the responsibility to hire the film commissioner. Qualifications
1372 for the film commissioner include, but are not limited to, the
1373 following:

1374 1. A working knowledge of the equipment, personnel,
1375 financial, and day-to-day production operations of the
1376 industries to be served by the Office of Film and Entertainment;

1377 2. Marketing and promotion experience related to the film
1378 and entertainment industries to be served;

1379 3. Experience working with a variety of individuals
1380 representing large and small entertainment-related businesses,
1381 industry associations, local community entertainment industry
1382 liaisons, and labor organizations; and

1383 4. Experience working with a variety of state and local
1384 governmental agencies.

1385 Section 28. Subsection (8) of section 288.8014, Florida
1386 Statutes, is amended to read:

1387 288.8014 Triumph Gulf Coast, Inc.; organization; board of
1388 directors.-

1389 (8) The Secretary ~~executive director of the Department~~ of
1390 Economic Opportunity, or his or her designee, the secretary of
1391 the Department of Environmental Protection, or his or her
1392 designee, and the chair of the Committee of 8 Disproportionally

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1393 Affected Counties, or his or her designee, shall be available to
 1394 consult with the board of directors and may be requested to
 1395 attend meetings of the board of directors. These individuals
 1396 shall not be permitted to vote on any matter before the board.

1397 Section 29. Paragraph (a) of subsection (4) of section
 1398 288.955, Florida Statutes, is amended to read:

1399 288.955 Scripps Florida Funding Corporation.—

1400 (4) BOARD; MEMBERSHIP.—The corporation shall be governed by
 1401 a board of directors.

1402 (a) The board of directors shall consist of nine voting
 1403 members, of whom the Governor shall appoint three, the President
 1404 of the Senate shall appoint three, and the Speaker of the House
 1405 of Representatives shall appoint three. The Secretary of
 1406 Economic Opportunity ~~executive director of the department~~ or the
 1407 ~~secretary's director's~~ designee shall serve as an ex-officio,
 1408 nonvoting member of the board of directors.

1409 Section 30. Subsection (2) of section 288.9604, Florida
 1410 Statutes, is amended to read:

1411 288.9604 Creation of the corporation.—

1412 (2) The board of directors of the corporation shall consist
 1413 of seven directors. The Secretary of Economic Opportunity
 1414 ~~executive director of the department~~, or his or her designee,
 1415 shall serve as chair of the board of directors of the
 1416 corporation. The director of the Division of Bond Finance of the
 1417 State Board of Administration, or his or her designee, shall
 1418 serve as a director on the board of directors of the
 1419 corporation. The Governor, subject to confirmation by the
 1420 Senate, shall appoint the remaining five directors of the board
 1421 of directors of the corporation. The terms of office for the

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1422 appointed directors are for 4 years after the date of their
 1423 appointment. A vacancy occurring during a term of an appointed
 1424 director shall be filled for the unexpired term. An appointed
 1425 director is eligible for reappointment. At least three of the
 1426 appointed directors of the corporation must have experience in
 1427 finance, and one of the directors must have experience in
 1428 economic development.

1429 Section 31. Subsection (5) of section 288.987, Florida
 1430 Statutes, is amended to read:

1431 288.987 Florida Defense Support Task Force.—

1432 (5) The Secretary ~~executive director of the Department~~ of
 1433 Economic Opportunity, or his or her designee, shall serve as the
 1434 ex officio, nonvoting executive director of the task force.

1435 Section 32. Paragraph (a) of subsection (6) of section
 1436 290.0065, Florida Statutes, is amended to read:

1437 290.0065 State designation of enterprise zones.—

1438 (6) (a) The department may develop guidelines necessary for
 1439 the approval of areas under this section by the Secretary of
 1440 Economic Opportunity ~~executive director~~.

1441 Section 33. Subsection (1) of section 311.09, Florida
 1442 Statutes, is amended to read:

1443 311.09 Florida Seaport Transportation and Economic
 1444 Development Council.—

1445 (1) The Florida Seaport Transportation and Economic
 1446 Development Council is created within the Department of
 1447 Transportation. The council consists of the following 17
 1448 members: the port director, or the port director's designee, of
 1449 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
 1450 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,

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1451 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
 1452 West, and Fernandina; the secretary of the Department of
 1453 Transportation or his or her designee; and the secretary
 1454 ~~director~~ of the Department of Economic Opportunity or his or her
 1455 designee.

1456 Section 34. Paragraph (b) of subsection (1) of section
 1457 311.105, Florida Statutes, is amended to read:

1458 311.105 Florida Seaport Environmental Management Committee;
 1459 permitting; mitigation.-

1460 (1)

1461 (b) The committee shall consist of the following members:

1462 the Secretary of Environmental Protection, or his or her
 1463 designee, as an ex officio, nonvoting member; a designee from
 1464 the United States Army Corps of Engineers, as an ex officio,
 1465 nonvoting member; a designee from the Florida Inland Navigation
 1466 District, as an ex officio, nonvoting member; the Secretary
 1467 ~~executive director of the Department~~ of Economic Opportunity, or
 1468 his or her designee, as an ex officio, nonvoting member; and
 1469 five or more port directors, as voting members, appointed to the
 1470 committee by the council chair, who shall also designate one
 1471 such member as committee chair.

1472 Section 35. Subsection (3) of section 334.065, Florida
 1473 Statutes, is amended to read:

1474 334.065 Center for Urban Transportation Research.-

1475 (3) An advisory board shall be created to periodically and
 1476 objectively review and advise the center concerning its research
 1477 program. Except for projects mandated by law, state-funded base
 1478 projects shall not be undertaken without approval of the
 1479 advisory board. The membership of the board shall consist of

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1480 nine experts in transportation-related areas, including the
 1481 secretaries of the Department ~~Florida Departments~~ of
 1482 Transportation, the Department of ~~and~~ Environmental Protection,
 1483 ~~and the executive director of~~ the Department of Economic
 1484 Opportunity, or their designees, and a member of the Florida
 1485 Transportation Commission. The nomination of the remaining
 1486 members of the board shall be made to the President of the
 1487 University of South Florida by the College of Engineering at the
 1488 University of South Florida, and the appointment of these
 1489 members must be reviewed and approved by the Florida
 1490 Transportation Commission and confirmed by the Board of
 1491 Governors.

1492 Section 36. Subsection (5) of section 373.4149, Florida
 1493 Statutes, is amended to read:

1494 373.4149 Miami-Dade County Lake Belt Plan.-

1495 (5) The secretary of the Department of Environmental
 1496 Protection, the secretary ~~executive director~~ of the Department
 1497 of Economic Opportunity, the secretary of the Department of
 1498 Transportation, the Commissioner of Agriculture, the executive
 1499 director of the Fish and Wildlife Conservation Commission, and
 1500 the executive director of the South Florida Water Management
 1501 District may enter into agreements with landowners, developers,
 1502 businesses, industries, individuals, and governmental agencies
 1503 as necessary to effectuate the Miami-Dade County Lake Belt Plan
 1504 and the provisions of this section.

1505 Section 37. Subsection (2) of section 380.045, Florida
 1506 Statutes, is amended to read:

1507 380.045 Resource planning and management committees;
 1508 objectives; procedures.-

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1509 (2) The committee must ~~shall~~ include, but is ~~shall~~ not be
 1510 limited to, representation from each of the following: elected
 1511 officials from the local governments within the area under
 1512 study; the planning office of each of the local governments
 1513 within the area under study; the state land planning agency; any
 1514 other state agency under chapter 20 a representative of which
 1515 the Governor feels is relevant to the compilation of the
 1516 committee; and a water management district, if appropriate, and
 1517 regional planning council all or part of whose jurisdiction lies
 1518 within the area under study. After the appointment of the
 1519 members, the Governor shall select a chair and vice chair. A
 1520 staff member of the state land planning agency shall be
 1521 appointed by the secretary ~~director~~ of such agency to serve as
 1522 the secretary of the committee. The state land planning agency
 1523 shall, to the greatest extent possible, provide technical
 1524 assistance and administrative support to the committee. Meetings
 1525 will be called as needed by the chair or on the demand of three
 1526 or more members of the committee. The committee will act on a
 1527 simple majority of a quorum present and shall make a report
 1528 within 6 months to the head of the state land planning agency.
 1529 The committee must ~~shall~~, from the time of appointment, remain
 1530 in existence for no less than 6 months.

1531 Section 38. Subsection (5) of section 403.0752, Florida
 1532 Statutes, is amended to read:

1533 403.0752 Ecosystem management agreements.—

1534 (5) The Secretary ~~Executive Director of the Department~~ of
 1535 Economic Opportunity, the Secretary of Transportation, the
 1536 Commissioner of Agriculture, the Executive Director of the Fish
 1537 and Wildlife Conservation Commission, and the executive

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1538 directors of the water management districts are authorized to
 1539 participate in the development of ecosystem management
 1540 agreements with regulated entities and other governmental
 1541 agencies as necessary to effectuate the provisions of this
 1542 section. Local governments are encouraged to participate in
 1543 ecosystem management agreements.

1544 Section 39. Subsection (1) of section 420.0005, Florida
 1545 Statutes, is amended to read:

1546 420.0005 State Housing Trust Fund; State Housing Fund.—

1547 (1) There is established in the State Treasury a separate
 1548 trust fund to be named the "State Housing Trust Fund." There
 1549 shall be deposited in the fund all moneys appropriated by the
 1550 Legislature, or moneys received from any other source, for the
 1551 purpose of this chapter, and all proceeds derived from the use
 1552 of such moneys. The fund shall be administered by the Florida
 1553 Housing Finance Corporation on behalf of the department, as
 1554 specified in this chapter. Money deposited to the fund and
 1555 appropriated by the Legislature must, notwithstanding the
 1556 provisions of chapter 216 or s. 420.504(3), be transferred
 1557 quarterly in advance, to the extent available, or, if not so
 1558 available, as soon as received into the State Housing Trust
 1559 Fund, and subject to the provisions of s. 420.5092(6) (a) and (b)
 1560 by the Chief Financial Officer to the corporation upon
 1561 certification by the Secretary ~~executive director of the~~
 1562 ~~Department~~ of Economic Opportunity that the corporation is in
 1563 compliance with the requirements of s. 420.0006. The
 1564 certification made by the secretary ~~executive director~~ shall
 1565 also include the split of funds among programs administered by
 1566 the corporation and the department as specified in chapter 92-

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1567 317, Laws of Florida, as amended. Moneys advanced by the Chief
 1568 Financial Officer must be deposited by the corporation into a
 1569 separate fund established with a qualified public depository
 1570 meeting the requirements of chapter 280 to be named the "State
 1571 Housing Fund" and used for the purposes of this chapter.
 1572 Administrative and personnel costs incurred in implementing this
 1573 chapter may be paid from the State Housing Fund, but such costs
 1574 may not exceed 5 percent of the moneys deposited into such fund.
 1575 To the State Housing Fund shall be credited all loan repayments,
 1576 penalties, and other fees and charges accruing to such fund
 1577 under this chapter. It is the intent of this chapter that all
 1578 loan repayments, penalties, and other fees and charges collected
 1579 be credited in full to the program account from which the loan
 1580 originated. Moneys in the State Housing Fund which are not
 1581 currently needed for the purposes of this chapter shall be
 1582 invested in such manner as is provided for by statute. The
 1583 interest received on any such investment shall be credited to
 1584 the State Housing Fund.

1585 Section 40. Section 420.0006, Florida Statutes, is amended
 1586 to read:

1587 420.0006 Authority to contract with corporation; contract
 1588 requirements; nonperformance.—The Secretary ~~executive director~~
 1589 of Economic Opportunity ~~the department~~ shall contract,
 1590 notwithstanding part I of chapter 287, with the Florida Housing
 1591 Finance Corporation on a multiyear basis to stimulate, provide,
 1592 and foster affordable housing in the state. The contract must
 1593 incorporate the performance measures required by s. 420.511 and
 1594 be consistent with the corporation's strategic business plan
 1595 prepared in accordance with s. 420.511. The contract must

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1596 provide that if the corporation fails to comply with a
 1597 performance measure required by s. 420.511, the secretary
 1598 ~~executive director~~ shall notify the Governor and refer the
 1599 nonperformance to the department's inspector general for review
 1600 and determination as to whether such failure is due to forces
 1601 beyond the corporation's control or whether such failure is due
 1602 to inadequate management of the corporation's resources.
 1603 Advances shall continue to be made pursuant to s. 420.0005
 1604 during the pendency of the review. If such failure is due to
 1605 outside forces, it may not be deemed a violation of the
 1606 contract. If such failure is due to inadequate management, the
 1607 department's inspector general shall provide recommendations
 1608 regarding solutions. The Governor may resolve differences of
 1609 opinion with respect to performance under the contract and may
 1610 request that advances continue in the event of a failure under
 1611 the contract due to inadequate management. The Chief Financial
 1612 Officer shall approve the request absent a finding by the Chief
 1613 Financial Officer that continuing such advances would adversely
 1614 impact the state; however, the Chief Financial Officer shall
 1615 provide advances sufficient to meet the debt service
 1616 requirements of the corporation and sufficient to fund contracts
 1617 committing funds from the State Housing Trust Fund if such
 1618 contracts are in accordance with the laws of this state.

1619 Section 41. Paragraph (d) of subsection (1) of section
 1620 420.101, Florida Statutes, is amended to read:

1621 420.101 Housing Development Corporation of Florida;
 1622 creation, membership, and purposes.—

1623 (1) Twenty-five or more persons, a majority of whom shall
 1624 be residents of this state, who may desire to create a housing

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1625 development corporation under the provisions of this part for
 1626 the purpose of promoting and developing housing and advancing
 1627 the prosperity and economic welfare of the state and, to that
 1628 end, to exercise the powers and privileges hereinafter provided,
 1629 may be incorporated by filing in the Department of State, as
 1630 hereinafter provided, articles of incorporation. The articles of
 1631 incorporation shall contain:

1632 (d) The names and post office addresses of the members of
 1633 the first board of directors. The first board of directors shall
 1634 be elected by and from the stockholders of the corporation and
 1635 shall consist of 21 members. However, five of such members shall
 1636 consist of the following persons, who shall be nonvoting
 1637 members: the Secretary executive director of the Department of
 1638 Economic Opportunity or her or his designee; the head of the
 1639 Department of Financial Services or her or his designee with
 1640 expertise in banking matters; a designee of the head of the
 1641 Department of Financial Services with expertise in insurance
 1642 matters; one state senator appointed by the President of the
 1643 Senate; and one representative appointed by the Speaker of the
 1644 House of Representatives.

1645 Section 42. Subsection (8) of section 420.503, Florida
 1646 Statutes, is amended to read:

1647 420.503 Definitions.—As used in this part, the term:

1648 (8) "Contract" means the contract between the Secretary
 1649 ~~executive director of Economic Opportunity the department~~ and
 1650 the corporation for provision of housing services referenced in
 1651 s. 420.0006.

1652 Section 43. Subsections (1) and (3) of section 420.504,
 1653 Florida Statutes, are amended to read:

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1654 420.504 Public corporation; creation, membership, terms,
 1655 expenses.—

1656 (1) A public corporation and a public body corporate and
 1657 politic, to be known as the "Florida Housing Finance
 1658 Corporation," is created within the Department of Economic
 1659 Opportunity. It is declared to be the intent of and
 1660 constitutional construction by the Legislature that the Florida
 1661 Housing Finance Corporation constitutes an entrepreneurial
 1662 public corporation organized to provide and promote the public
 1663 welfare by administering the governmental function of financing
 1664 or refinancing housing and related facilities in this state and
 1665 that the corporation is not a department of the executive branch
 1666 of state government within the scope and meaning of s. 6, Art.
 1667 IV of the State Constitution, but is functionally related to the
 1668 Department of Economic Opportunity in which it is placed. The
 1669 executive function of state government to be performed by the
 1670 Secretary executive director of the Department of Economic
 1671 Opportunity in the conduct of the business of the Florida
 1672 Housing Finance Corporation must be performed pursuant to a
 1673 contract to monitor and set performance standards for the
 1674 implementation of the business plan for the provision of housing
 1675 approved for the corporation as provided in s. 420.0006. This
 1676 contract must include performance standards for the provision of
 1677 affordable housing in this state established in the strategic
 1678 business plan described in s. 420.511.

1679 (3) The corporation is a separate budget entity and is not
 1680 subject to control, supervision, or direction by the Department
 1681 of Economic Opportunity in any manner, including, but not
 1682 limited to, personnel, purchasing, transactions involving real

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1683 or personal property, and budgetary matters. The corporation
 1684 shall consist of a board of directors composed of the Secretary
 1685 ~~executive director of the Department~~ of Economic Opportunity as
 1686 an ex officio and voting member, or a senior-level agency
 1687 employee designated by the secretary director, and eight members
 1688 appointed by the Governor subject to confirmation by the Senate
 1689 from the following:

- 1690 (a) One citizen actively engaged in the residential home
 1691 building industry.
 1692 (b) One citizen actively engaged in the banking or mortgage
 1693 banking industry.
 1694 (c) One citizen who is a representative of those areas of
 1695 labor engaged in home building.
 1696 (d) One citizen with experience in housing development who
 1697 is an advocate for low-income persons.
 1698 (e) One citizen actively engaged in the commercial building
 1699 industry.
 1700 (f) One citizen who is a former local government elected
 1701 official.
 1702 (g) Two citizens of the state who are not principally
 1703 employed as members or representatives of any of the groups
 1704 specified in paragraphs (a)-(f).

1705 Section 44. Subsection (1) of section 420.506, Florida
 1706 Statutes, is amended to read:

1707 420.506 Executive director; agents and employees; inspector
 1708 general.—

- 1709 (1) The appointment and removal of an executive director
 1710 shall be by the Secretary ~~executive director of the Department~~
 1711 of Economic Opportunity, with the advice and consent of the

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1712 corporation's board of directors. The executive director shall
 1713 employ legal and technical experts and such other agents and
 1714 employees, permanent and temporary, as the corporation may
 1715 require, and shall communicate with and provide information to
 1716 the Legislature with respect to the corporation's activities.
 1717 Notwithstanding s. 216.262, the board may develop and implement
 1718 rules regarding the employment of employees of the corporation
 1719 and service providers, including legal counsel. The board is
 1720 entitled to establish travel procedures and guidelines for
 1721 employees of the corporation, subject to s. 112.061(6) and (7).
 1722 The executive director's office and the corporation's files and
 1723 records must be located in Leon County.

1724 Section 45. Subsection (30) of section 420.507, Florida
 1725 Statutes, is amended to read:

1726 420.507 Powers of the corporation.—The corporation shall
 1727 have all the powers necessary or convenient to carry out and
 1728 effectuate the purposes and provisions of this part, including
 1729 the following powers which are in addition to all other powers
 1730 granted by other provisions of this part:

- 1731 (30) To prepare and submit to the Secretary ~~executive~~
 1732 ~~director of Economic Opportunity the department~~ a budget request
 1733 for purposes of the corporation, which request shall,
 1734 notwithstanding the provisions of chapter 216 and in accordance
 1735 with s. 216.351, contain a request for operational expenditures
 1736 and separate requests for other authorized corporation programs.
 1737 The request need not contain information on the number of
 1738 employees, salaries, or any classification thereof, and the
 1739 approved operating budget therefor need not comply with s.
 1740 216.181(8)-(10). The secretary ~~executive director~~ may include

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1741 within the department's budget request the corporation's budget
1742 request in the form as authorized by this section.

1743 Section 46. Subsection (2) of section 420.511, Florida
1744 Statutes, is amended to read:

1745 420.511 Strategic business plan; long-range program plan;
1746 annual report; audited financial statements.—

1747 (2) The corporation, in coordination with the department,
1748 shall annually develop a long-range program plan for the
1749 provision of affordable housing in this state as required
1750 pursuant to chapter 186. In part, the plan must include
1751 provisions that maximize the abilities of the corporation to
1752 implement the state housing strategy established under s.
1753 420.0003, to respond to federal housing initiatives, and to
1754 develop programs in a manner that is more responsive to the
1755 needs of public and private partners. The plan shall be
1756 developed on a schedule consistent with that established by s.
1757 186.021. For purposes of this section, the Secretary of Economic
1758 Opportunity ~~executive director~~ or his or her designee shall
1759 serve as the corporation's representative to achieve a
1760 coordinated and integrated planning relationship with the
1761 department.

1762 Section 47. Subsection (7) of section 420.602, Florida
1763 Statutes, is amended to read:

1764 420.602 Definitions.—As used in this part, the following
1765 terms shall have the following meanings, unless the context
1766 otherwise requires:

1767 ~~(7) "Director" means the executive director of the~~
1768 ~~Department of Economic Opportunity.~~

1769 Section 48. Subsection (5) of section 420.609, Florida

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1770 Statutes, is amended to read:

1771 420.609 Affordable Housing Study Commission.—Because the
1772 Legislature firmly supports affordable housing in Florida for
1773 all economic classes:

1774 (5) The commission shall review, evaluate, and make
1775 recommendations regarding existing and proposed housing programs
1776 and initiatives. The commission shall provide these and any
1777 other housing recommendations to the Secretary ~~director~~ of
1778 Economic Opportunity ~~the department~~ and the executive director
1779 of the corporation.

1780 Section 49. Subsection (2) of section 420.622, Florida
1781 Statutes, is amended to read:

1782 420.622 State Office on Homelessness; Council on
1783 Homelessness.—

1784 (2) The Council on Homelessness is created to consist of 19
1785 representatives of public and private agencies who shall develop
1786 policy and advise the State Office on Homelessness. The council
1787 members shall be: the Secretary of Children and Families, or his
1788 or her designee; the Secretary ~~executive director of the~~
1789 ~~Department~~ of Economic Opportunity, or his or her designee, who
1790 shall advise the council on issues related to rural development;
1791 the State Surgeon General, or his or her designee; the Executive
1792 Director of Veterans' Affairs, or his or her designee; the
1793 Secretary of Corrections, or his or her designee; the Secretary
1794 of Health Care Administration, or his or her designee; the
1795 Commissioner of Education, or his or her designee; the Executive
1796 Director of CareerSource Florida, Inc., or his or her designee;
1797 one representative of the Florida Association of Counties; one
1798 representative of the Florida League of Cities; one

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1799 representative of the Florida Supportive Housing Coalition; one
 1800 representative of the Florida Housing Coalition; the Executive
 1801 Director of the Florida Housing Finance Corporation, or his or
 1802 her designee; one representative of the Florida Coalition for
 1803 the Homeless; the secretary of the Department of Elder Affairs,
 1804 or his or her designee; and four members appointed by the
 1805 Governor. The council members shall be nonpaid volunteers and
 1806 shall be reimbursed only for travel expenses. The appointed
 1807 members of the council shall be appointed to staggered 2-year
 1808 terms and are encouraged to have experience in the
 1809 administration or provision of resources, services, or housing
 1810 that addresses the needs of persons experiencing homelessness.
 1811 The council shall meet at least four times per year. The
 1812 importance of minority, gender, and geographic representation
 1813 shall be considered in appointing members to the council.

1814 Section 50. Paragraph (g) of subsection (1) of section
 1815 427.012, Florida Statutes, is amended to read:

1816 427.012 The Commission for the Transportation
 1817 Disadvantaged.—There is created the Commission for the
 1818 Transportation Disadvantaged in the Department of
 1819 Transportation.

1820 (1) The commission shall consist of seven members, all of
 1821 whom shall be appointed by the Governor, in accordance with the
 1822 requirements of s. 20.052.

1823 (g) The Secretary of Transportation, the Secretary of
 1824 Children and Families, the Secretary ~~executive director of the~~
 1825 ~~Department~~ of Economic Opportunity, the executive director of
 1826 the Department of Veterans' Affairs, the Secretary of Elderly
 1827 Affairs, the Secretary of Health Care Administration, the

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1828 director of the Agency for Persons with Disabilities, and a
 1829 county manager or administrator who is appointed by the
 1830 Governor, or a senior management level representative of each,
 1831 shall serve as ex officio, nonvoting advisors to the commission.

1832 Section 51. Subsections (2), (3), and (4) of section
 1833 443.1116, Florida Statutes, are amended to read:

1834 443.1116 Short-time compensation.—

1835 (2) APPROVAL OF SHORT-TIME COMPENSATION PLANS.—An employer
 1836 wishing to participate in the short-time compensation program
 1837 must submit a signed, written, short-time plan to the Department
 1838 of Economic Opportunity for approval. The Secretary of Economic
 1839 Opportunity ~~director~~ or his or her designee shall approve the
 1840 plan if:

1841 (a) The plan applies to and identifies each specific
 1842 affected unit;

1843 (b) The individuals in the affected unit are identified by
 1844 name and social security number;

1845 (c) The normal weekly hours of work for individuals in the
 1846 affected unit are reduced by at least 10 percent and by not more
 1847 than 40 percent;

1848 (d) The plan includes a certified statement by the employer
 1849 that the aggregate reduction in work hours is in lieu of layoffs
 1850 that would affect at least 10 percent of the employees in the
 1851 affected unit and that would have resulted in an equivalent
 1852 reduction in work hours;

1853 (e) The plan applies to at least 10 percent of the
 1854 employees in the affected unit;

1855 (f) The plan is approved in writing by the collective
 1856 bargaining agent for each collective bargaining agreement

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1857 covering any individual in the affected unit;

1858 (g) The plan does not serve as a subsidy to seasonal
1859 employers during the off-season or as a subsidy to employers who
1860 traditionally use part-time employees;

1861 (h) The plan certifies that, if the employer provides
1862 fringe benefits to any employee whose workweek is reduced under
1863 the program, the fringe benefits will continue to be provided to
1864 the employee participating in the short-time compensation
1865 program under the same terms and conditions as though the
1866 workweek of such employee had not been reduced or to the same
1867 extent as other employees not participating in the short-time
1868 compensation program. As used in this paragraph, the term
1869 "fringe benefits" includes, but is not limited to, health
1870 insurance, retirement benefits under defined benefit pension
1871 plans as defined in subsection 35 of s. 1002 of the Employee
1872 Retirement Income Security Act of 1974, 29 U.S.C., contributions
1873 under a defined contribution plan as defined in s. 414(i) of the
1874 Internal Revenue Code, paid vacation and holidays, and sick
1875 leave;

1876 (i) The plan describes the manner in which the requirements
1877 of this subsection will be implemented, including a plan for
1878 giving notice, if feasible, to an employee whose workweek is to
1879 be reduced, together with an estimate of the number of layoffs
1880 that would have occurred absent the ability to participate in
1881 short-time compensation; and

1882 (j) The terms of the employer's written plan and
1883 implementation are consistent with employer obligations under
1884 applicable federal laws and laws of this state.

1885 (3) APPROVAL OR DISAPPROVAL OF THE PLAN.—The Secretary of

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

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1886 Economic Opportunity ~~director~~ or his or her designee shall
1887 approve or disapprove a short-time compensation plan in writing
1888 within 15 days after its receipt. If the plan is denied, the
1889 ~~secretary director~~ or his or her designee shall notify the
1890 employer of the reasons for disapproval.

1891 (4) BEGINNING AND TERMINATION OF SHORT-TIME COMPENSATION
1892 BENEFIT PERIOD.—A plan takes effect on the date of its approval
1893 by the Secretary of Economic Opportunity ~~director~~ or his or her
1894 designee and expires at the end of the 12th full calendar month
1895 after its effective date.

1896 Section 52. Paragraph (d) of subsection (2) of section
1897 446.53, Florida Statutes, is amended to read:

1898 446.53 Concrete masonry education.—

1899 (2)

1900 (d) In addition to the 13 voting members described in
1901 paragraph (a), the Secretary ~~executive director of the~~
1902 ~~Department~~ of Economic Opportunity, or his or her designee,
1903 shall serve ex officio as a nonvoting member of the board of
1904 directors of the council.

1905 Section 53. Section 450.261, Florida Statutes, is amended
1906 to read:

1907 450.261 Interstate Migrant Labor Commission; Florida
1908 membership.—In selecting the Florida membership of the
1909 Interstate Migrant Labor Commission, the Governor may designate
1910 the Secretary ~~executive director of the Department~~ of Economic
1911 Opportunity as his or her representative.

1912 Section 54. Paragraph (d) of subsection (1), paragraph (a)
1913 of subsection (4), and paragraphs (b), (c), and (d) of
1914 subsection (5) of section 624.5105, Florida Statutes, are

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1915 amended to read:

1916 624.5105 Community contribution tax credit; authorization;
 1917 limitations; eligibility and application requirements;
 1918 administration; definitions; expiration.—

1919 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

1920 (d) Each proposal for the granting of such tax credit
 1921 requires the prior approval of the Secretary of Economic
 1922 Opportunity ~~director~~.

1923 (4) ADMINISTRATION.—

1924 (a)1. The Department of Economic Opportunity may adopt
 1925 rules to administer this section, including rules for the
 1926 approval or disapproval of proposals by insurers.

1927 2. The decision of the Secretary of Economic Opportunity
 1928 ~~director~~ shall be in writing, and, if approved, the proposal
 1929 shall state the maximum credit allowable to the insurer. A copy
 1930 of the decision shall be transmitted to the executive director
 1931 of the Department of Revenue, who shall apply such credit to the
 1932 tax liability of the insurer.

1933 3. The Department of Economic Opportunity shall monitor all
 1934 projects periodically, in a manner consistent with available
 1935 resources to ensure that resources are utilized in accordance
 1936 with this section; however, each project shall be reviewed no
 1937 less frequently than once every 2 years.

1938 4. The Department of Economic Opportunity shall, in
 1939 consultation with the Florida Housing Finance Corporation and
 1940 the statewide and regional housing and financial intermediaries,
 1941 market the availability of the community contribution tax credit
 1942 program to community-based organizations.

1943 (5) DEFINITIONS.—As used in this section, the term:

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1944 ~~(b) "Director" means the director of the Department of~~
 1945 ~~Economic Opportunity.~~

1946 (b)(e) "Local government" means any county or incorporated
 1947 municipality in the state.

1948 (c)(d) "Project" means an activity as defined in s.

1949 220.03(1)(t).

1950 Section 55. Paragraph (f) of subsection (2) of section
 1951 1004.015, Florida Statutes, is amended to read:

1952 1004.015 Florida Talent Development Council.—

1953 (2) Members of the council shall include:

1954 (f) The Secretary ~~executive director of the Department of~~
 1955 ~~Economic Opportunity.~~

1956 Section 56. This act shall take effect upon becoming a law.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **Senate Bill #1948**, relating to Department of Economic Opportunity, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

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

THE FLORIDA SENATE

APPEARANCE RECORD

04/15/2021

Meeting Date

SB 1948

Bill Number (if applicable)

Topic SB 1948 - Department of Economic Opportunity

Amendment Barcode (if applicable)

Name John Schrader

Job Title Director of Legislative and Cabinet Affairs

Address 107 E. Madison Street, Caldwell Building

Phone (850) 245-7116

Street

Tallahassee

FL

32399

Email John.Schrader@deo.myflorida.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Economic Opportunity

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

4/15/2021
Meeting Date

1948

Bill Number (if applicable)

Topic D.E.O.

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Coll St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcfep@yahoo.com

Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

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 Appropriations

BILL: CS/CS/SB 1966

INTRODUCER: Appropriations Committee; Regulated Industries Committee; and Senator Diaz and others

SUBJECT: Department of Business and Professional Regulation

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1966 revises provisions relating to the licensing and regulation of cosmetics manufacturers, construction contractors, tobacco products, alcoholic beverages, pugilistic events, condominium associations, and public food and lodging establishments by the Department of Business and Professional Regulation (DBPR).

Relating to reporting requirements for tobacco product wholesalers, the bill:

- Requires tax and sales reports to be filed with the Division of Alcoholic Beverages and Tobacco through the agency's electronic system; and
- Revises the reporting requirements.

Relating to construction contracting, the bill allows registered contractors to apply for a statewide certified contractors' license without having to take the state licensure examination.

Relating to construction and electrical contractors, the bill repeals the \$4 fee all certificate holders and registrants must pay to the DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida.

Relating to cosmetic manufacturers, the bill:

- Creates an exemption from the cosmetic manufacturing permit requirements for a person who manufactures limited cosmetic products, such as soaps, and has annual gross sales of \$25,000 or less;
- Authorizes a temporary permit for 90 calendar days to allow continued operation of a cosmetics establishment when there is a change of ownership, controlling interest, or location; and
- Authorizes the DBPR to issue remedial, nondisciplinary citations for violations that do not pose a substantial threat to the public health, safety, or welfare.

Relating to regulation of pugilistic events, the bill:

- Changes the name of the Florida State Boxing Commission to the Florida Athletic Commission (commission);
- Authorizes the commission to establish the weight of any gloves used in pugilistic matches by rule; and
- Deletes the requirement for all participants in pugilistic matches to wear gloves.

Relating to alcoholic beverage regulations, the bill:

- Requires applicants for an alcoholic beverage license to submit fingerprints to the DBPR electronically, provide proof of the applicant's right of occupancy for the entire premises they are seeking to license, and maintain a current electronic mailing address with the DBPR;
- Requires licensees to submit alcohol sales reports through the DBPR's electronic system;
- Requires notices related to a vendor's delinquent payment to a distributor be provided by the DBPR through electronic mail;
- Revises the compliance audit timeframes for special restaurant licensees; and
- Removes "grains of paradise" from the list of prohibited ingredients in liquor under the crime of "adulterating liquor."

Relating to condominium and cooperative associations, the bill:

- Requires a proposed annual budget to be provided to members of the association and adopted by its board of directors no later than 14 days before the beginning of the fiscal year;
- Provides the board's failure to timely adopt the annual budget a second time is a minor violation and the prior year's budget will continue in effect until a new budget is adopted.

Relating to condominium associations, the bill:

- Defines the circumstances when a person is delinquent in a payment due to an association;
- Deletes the requirement that the condominium ombudsman keep his or her principal office in Leon County; and
- Authorizes the DBPR to adopt rules for submitting complaints against condominium associations.

The bill has a negative fiscal impact on state revenues. According to the DBPR, state government revenues deposited in the Professional Regulation Trust Fund will be reduced by \$162,266 in Fiscal Year 2021-2022 and \$281,937 in Fiscal Year 2022-2023 resulting from the elimination of the \$4 fee for construction licensure applications and renewals. As a result, revenues transferred to the General Revenue Fund as the general revenue service charge will be reduced by \$35,536 over the next two fiscal years.

The bill takes effect July 1, 2021.

II. Present Situation:

For ease of reference, the Present Situation for each section of SB 1966 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (DBPR) is provided below.

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 12 divisions:

- Administration.
- Alcoholic Beverages and Tobacco.
- Certified Public Accounting.
- Drugs, Devices, and Cosmetics.
- Florida Condominiums, Timeshares, and Mobile Homes.
- Hotels and Restaurants.
- Pari-mutuel Wagering.
- Professions.
- Real Estate.
- Regulation.
- Service Operations.
- Technology.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.¹ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.²

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”³ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁴

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁵ Regulation is required when:

¹ Section 548.003(1), F.S.

² See parts I and III of ch. 450, F.S.

³ Section 455.01(6), F.S.

⁴ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁵ Section 455.201(2), F.S.

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁶

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.⁷

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.⁸ The FCTMH has limited regulatory authority over the following entities and individuals:⁹

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners’ Associations (jurisdiction is limited to arbitration of election and recall disputes).

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.¹⁰

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco regulates the manufacturing, distribution, sale, and service of alcoholic beverages and tobacco products in Florida, including:

- Receipt and processing of license applications;
- Collection and auditing of taxes, surcharges, and fees paid by licensees; and
- Enforcement of the laws and regulations governing the sale of alcoholic beverages and tobacco products.¹¹

⁶ *Id.*

⁷ Section 455.201(4)(b), F.S.

⁸ Department of Business and Professional Regulation (DBPR), *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/> (last visited Apr. 8, 2021).

⁹ *Id.*

¹⁰ DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Apr. 8, 2021).

¹¹ DBPR, *Division of Alcoholic Beverages and Tobacco*, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/> (last visited Apr. 8, 2021).

III. Effect of Proposed Changes:

Tobacco Products Regulation and Taxation

Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) is responsible for the regulation of tobacco products under ch. 210, F.S., which sets out tax requirements for cigarettes and other tobacco products, and ch. 569, F.S., which sets out requirements for the retail sale of tobacco products.¹²

“Cigarettes” are defined in s. 210.01(1), F.S., for the purpose of taxation, as:

...any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.

“Tobacco products” are defined in s. 210.25(12), F.S., in the context of state taxes on tobacco products other than cigarettes or cigars, as:

...loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing.

Cigars, nicotine products, and nicotine dispensing devices are not included in the above definitions and therefore are not taxed as a cigarette or tobacco product in Florida.¹³

A person, firm, association, or corporation must obtain a permit from the DABT to function as any of the following in Florida:

- Retail tobacco products dealer.¹⁴
- Cigarette manufacturer.¹⁵
- Cigarette wholesale dealer.¹⁶
- Cigarette distributing agent.¹⁷
- Cigarette importer.¹⁸

¹² Section 561.02, F.S.

¹³ Sections 210.01(1) and 210.25(12), F.S. “Nicotine dispensing device” means any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product. “Nicotine products” do not include tobacco products, certain smoking cessation products, and products with incidental nicotine. Sections 877.112(1)(a) and (b), F.S.

¹⁴ Section 569.003, F.S.

¹⁵ Sections 210.01(21) and 210.15, F.S.

¹⁶ Sections 210.01(6) and 210.15(1), F.S.

¹⁷ Sections 210.01(14) and 210.15(1), F.S.

¹⁸ Sections 210.01(20) and 210.15(1), F.S.

- Cigarette exporter.¹⁹
- Cigar wholesale dealer.²⁰
- Tobacco wholesale dealer/distributor.²¹

The DABT collects monthly business records related to cigarettes, which are used to accurately collect and distribute cigarette taxes. Such records must be submitted to the DABT by any manufacturer, importer, distributing agent, wholesale dealer, retail dealer, common carrier, or any other person handling, transporting, or possessing cigarettes for sale or distribution in Florida. The DABT prescribes the manner in which these records are submitted.²²

The DABT also collects monthly returns showing the taxable price of each tobacco product (other than cigarettes or cigars) brought or caused to be brought into Florida for sale, or made, manufactured, or fabricated in this state for sale in this state. Such returns must be submitted by every place of business that sells or manufactures such tobacco products in Florida. The DABT prescribes the form and content for submitting such returns to the DABT. Each return must be accompanied by a remittance for the full tax liability shown.²³

Effect of Proposed Changes

The bill amends ss. 210.09(2) and 210.55(1), F.S., related to monthly reports and records for cigarettes and other tobacco products, to require that all reports filed with the DABT must be made through the DABT's electronic data submission system. Under the bill, manufacturers, importers, distributing agents, wholesale dealers, agents, and retail dealers may keep records in an electronic or paper format.

The bill also amends s. 210.55(1), F.S., to require a tobacco wholesaler (the taxpayer) to submit a full and complete report with the DABT showing the tobacco products (other than cigars or cigarettes) brought or caused to be brought into Florida for sale, or made, manufactured, or fabricated in this state for sale in this state. The bill replaces the term "return" with the term "report." It requires the tax report to be submitted to the DABT electronically, and permits any records that are required to be kept to be in an electronic or paper format.

¹⁹ Sections 210.01(17) and 210.15(1), F.S.

²⁰ The term "cigar wholesale dealer" is not defined or referenced in ch. 210, F.S. However, the DABT issues a permit for "cigar wholesale dealer." See DBPR, *Permits for Cigarettes and Other Tobacco Products*, page 20, available at www.myfloridalicense.com/dbpr/abt/documents/ABTLicenses.pdf (last visited Apr. 8, 2021).

²¹ Sections 210.25(5) and 210.40, F.S.

²² Section 210.09(2), F.S. Some tax forms are electronically filed with the DABT, and some require manual transmission. DBPR, *Alcoholic Beverages and Tobacco- Forms & Publications, Licensing Related Forms, Tax-Related Forms*, <http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/forms-and-publications/#1516309637983-6566a2a4-a2f1> (last visited Apr. 8, 2021).

²³ Section 210.55(1), F.S.

Construction Industry Licensing Board

Present Situation

Construction Contractor Divisions

The Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.²⁴ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.²⁵

Under current law, a “certified contractor” has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR, which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements of other jurisdictions.²⁶

The term “registered contractor” means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.²⁷

Section 489.118, F.S., permits registered contractors to obtain statewide certification without taking the state licensure examination if they meet certain criteria. To qualify for this examination exception, a registered contractor must have applied to the DBPR before November 1, 2015. Because the “grandfathering” date of the November 1, 2015, has passed, registered contractors must sit for and satisfactorily pass the state certified license examination to receive a state certified contractor’s license.

License Fees

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed \$150, and, if an examination cost is included in the application fee, the combined amount may not exceed \$350. For an applicant for registration as a contractor, the initial application fee may not exceed \$100, and the initial registration fee and the

²⁴ See s. 489.107, F.S.

²⁵ Section 489.105(3), F.S.

²⁶ Sections 489.105(8) and 489.113(1), F.S.

²⁷ Sections 489.105(10) and 489.117(1)(b), F.S.

renewal fee may not exceed \$200.²⁸ The initial application fee and the renewal fee is \$50 for an application to certify or register a business.²⁹

Fees must be adequate to ensure the continued operation of the CILB, and must be based on the DBPR's estimates of revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.³⁰

All certificate holders and registrants must pay a fee of \$4 to the DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida, to be selected by the Florida Building Commission.³¹ The Florida Building Commission's advice is not binding on the DBPR, but the DBPR must ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry.³²

Electrical contractors licensed by the Electrical Contractors' Licensing Board (ECLB) are also required to pay a fee of \$4 to the DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida, to be selected by the Florida Building Commission.³³

Each biennium, upon receipt of funds from the CILB and the ECLB collected under ss. 489.109(3) and 489.509(3), F.S., the DBPR must determine the amount of funds available for the Florida Building Code Compliance and Mitigation Program.³⁴

Effect of Proposed Changes

The bill amends ss. 489.109(3) and 489.509(3), F.S., to repeal the \$4 fee all construction contracting and electrical contracting, respectively, certificate holders and registrants must pay to the DBPR at the time of application or renewal to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida.

The bill repeals s. 553.841(5), F.S., to delete the requirement that the CILB and ECLB each biennium determine the amount of funds available for the Florida Building Code Compliance and Mitigation Program from the \$4 fee collected under ss. 489.109(3) and 489.509(3), F.S.

The bill amends s. 489.118, F. S., to delete the November 1, 2015, application deadline for registered contractors to apply for a statewide certified contractors' license without having to take the state licensure examination.

²⁸ Section 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by the DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by the DBPR.

²⁹ *Id.*

³⁰ *Id.*

³¹ Section 489.109(3), F.S.

³² *Id.*

³³ Section 489.509(3), F.S.

³⁴ Section 553.841, F.S.

Cosmetic Manufacturers

Present Situation

The Division of Drugs, Devices and Cosmetics within the DBPR administers the “Florida Drug and Cosmetic Act,” in part I of ch. 499, F.S., which is intended to safeguard the health, safety, and welfare of the citizens of the state of Florida from injury due to the use of adulterated, contaminated, misbranded drugs, drug ingredients and cosmetics.

Section 499.01(2)(p), F.S., requires a person manufacturing or repackaging cosmetics in the state to obtain a cosmetic manufacturing permit. Current law provides an exemption from the permit requirement if a person only labels or changes the labeling of a cosmetic, but does not open the container sealed by the manufacturer of the product.

According to the DBPR, there are numerous home businesses without the cosmetic manufacturing permit who manufacture “pour soaps,” creams, and lotions.³⁵ These cosmetic products are typically offered for sale at flea markets, online, and at open markets.

A cosmetic manufacturer’s permit holder must comply with current good manufacturing practices that apply to all cosmetic manufacturers whether the cosmetic manufacturer is manufacturing a “pour soap,” bath wash, eye liner, lip gloss, or liquid foundation. According to the DBPR, many initial applicants for a cosmetic manufacturing permit cannot meet the criteria for the permit and are currently manufacturing cosmetics as unlicensed cosmetic manufacturers.³⁶

A cosmetics manufacturer permit is nontransferable, and is valid only for the person or governmental unit for which the permit is issued.³⁷ A permit is also only valid for the establishment, i.e., the physical location,³⁸ for which the permit is issued.³⁹ A cosmetics manufacturer must submit an application for a new permit when a change of ownership, change of controlling interest, or a change of location occurs. According to the DBPR, cosmetics manufacturers are often unable to present the documentation to establish the change of ownership or controlling interest when submitting the application for the new permit because the legal change of ownership, controlling interest, or location has not occurred.⁴⁰ Consequently, there may be a period between such change and an application during which the permit holder is not legally compliant. For example, when an establishment changes location a lapse may occur because the business rarely is able to shut down one location and move equipment to the new location simultaneously with the issuance of the new permit thus requiring the business to maintain two permitted locations to continue to operate.⁴¹

³⁵ See Department of Business and Professional Regulation, *CS/SB 1966 Bill Analysis*, p. 4, (Apr. 1, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁶ *Id.*

³⁷ Section 499.012(6), F.S.

³⁸ See s. 499.003(18), F.S.

³⁹ Section 499.012(6), F.S.

⁴⁰ See DBPR, *CS/SB 1966 Bill Analysis*, p. 4, (Apr. 1, 2021) (on file with Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁴¹ *Id.*

If a person violates any criminal provision in ch. 499, F.S., the DBPR may provide relevant information to the appropriate state attorney or prosecuting agency having jurisdiction. The DBPR may seek a cease and desist order in circuit court to permanently or temporarily enjoin any person violating any provision of ch. 499, F.S., or any rule adopted under that chapter. The DBPR may also impose an administrative fine not to exceed \$5,000 per day, for a violation relating to ch. 499, F.S., or any rule adopted under that chapter.

The DBPR or the Florida Department of Health (DOH) may issue such citations as a remedial or nondisciplinary tool for resolution of violations for which there is no substantial threat to the public health, safety, or welfare, but for which the licensee or permit holder has been provided prior opportunity to correct.⁴² Current law does not authorize the DBPR to issue a remedial, nondisciplinary citation for violations of ch. 499, F.S., or any rule adopted thereunder.

Effect of Proposed Changes

Permit Exemption

The bill amends s. 499.01(2)(p), F.S., to exempt from the requirement for a cosmetic manufacturing permit a person who manufactures cosmetics with annual gross sales of \$25,000 or less. Under the bill, an exempt cosmetics manufacturer may only:

- Sell prepackaged cosmetics affixed with a label containing information required by the United States Food and Drug Administration.
- Manufacture and sell cosmetics that are soaps, not otherwise exempt from the definition of cosmetics, lotions, moisturizers, and creams.
- Sell cosmetic products that are not adulterated or misbranded, in accordance with 21 U.S.C. ss. 361 and 362.

Each unit of cosmetic product must contain, in a contrasting color, a statement in the form provided by the bill, indicating that the product is “made by a manufacturer exempt from Florida’s cosmetic manufacturing permit requirements.”

The bill authorizes the DBPR to investigate complaints. It provides that any officer or employee of the DBPR may enter and inspect the premises of an exempt cosmetic manufacturer to determine compliance with ch. 499, F.S., and rules of the DBPR. A refusal to permit entry to the premises or to permit an inspection is a violation of the prohibition in s. 499.005(6), F.S.,⁴³ which prohibits refusing to allow an authorized officer or employee of the DBPR to enter the premises to conduct an inspection. Under the bill, refusal to allow an inspection is grounds for disciplinary action pursuant to s. 499.066, F.S., which provides remedies and penalties for violations of ch. 499, F.S., including administrative fines of up to \$5,000 per violation.

⁴² See ss. 455.224 and 456.077, F.S., authorizing the DBPR and the Department of Health (DOH) to issue citations, respectively.

⁴³ Section 499.005, F.S., specifies several prohibited acts, but does not specify any disciplinary actions. Disciplinary actions for violations of ch. 499, F.S., are specified in s. 499.066, F.S., relating to penalties and remedies, s. 499.0661, F.S., relating to cease and desist orders, and s. 499.067, F.S., relating to denial, suspension, or revocation of permit, certification, or registration.

The bill clarifies that s. 499.01(2)(p), F.S., does not exempt any person from any state or federal tax law, rule, regulation, or county or municipal law or ordinance that applies to cosmetic manufacturing.

Temporary Permits

The bill creates s. 499.012(6)(d), F.S., to authorize a 90 day temporary permit for issuance upon an application for change of ownership, controlling interest, or location. The existing permit expires when the DBPR authorizes the temporary permit. The temporary permit would allow the new owner to continue to operate for 90 days until the new owner's permit is issued, and would allow an establishment to continue to operate at the old location without renewing the permit if necessary until the new location is inspected and appropriately permitted, thus avoiding two separate permitting fees.

Citations

The bill creates s. 499.066(8), F.S., to authorize the DBPR to adopt rules to issue remedial, nondisciplinary citations to a permit holder alleged to have committed a violation. The bill specifies the information that must be included in the citation, including a brief factual statement, the sections of law allegedly violated, and the monetary assessment or other remedial measures imposed. The person receiving the citation will have 30 days after the citation is served to contest the citation by providing supplemental and clarifying information to the DBPR.

The citation must clearly state that the person may choose, in lieu of accepting the citation, to have the DBPR rescind the citation and conduct an investigation of violations alleged in the citation. The DBPR may rescind the citation if the person remedies or corrects the violations or deficiencies contained in the citation within 30 days after the citation is served. However, if the person does not successfully contest the citation to the satisfaction of the department, or complete the remedial action, the citation becomes a final order but does not constitute discipline.

Although the bill provides that a citation may become a final order and that such order does not constitute discipline, the bill requires the citation to include any monetary assessment imposed for the violation. The bill also provides that the DBPR is entitled to recover the costs of investigation, in addition to any penalty provided according to DBPR rule, as part of the penalty levied pursuant to a citation.

The DBPR must issue a citation within six months after the filing of a complaint against the manufacturer, e.g., a consumer or other person notifies the DBPR alleging a violation, which is the basis for the citation.

The citation may be served by personal service or certified mail, restricted delivery, to the person at their last known address of record with the DBPR, or to the person's Florida registered agent.

The bill authorizes the DBPR to adopt rules to designate the violations for which a person may be subject to issuance of a citation and the monetary assessments or other remedial measures that must be taken for those violations. Violations designated as subject to issuance of a citation must

be limited to violations for which there is no substantial threat to the public health, safety, or welfare. The DBPR may amend such rules.

State Boxing Commission

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁴⁴ and mixed martial arts⁴⁵ by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁴⁶

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁴⁷ which involves a professional.⁴⁸ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁴⁹ Chapter 548, F.S., does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”⁵⁰

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁵¹ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁵² During Fiscal Year 2018-2019, there were 59 sanctioned professional events and 137 amateur events.⁵³

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant,⁵⁴ manager, second, judge, physician, matchmaker, promoter,⁵⁵ trainer, timekeeper, referee, or announcer.⁵⁶

⁴⁴ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

⁴⁵ The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

⁴⁶ Section 548.003(1), F.S.

⁴⁷ Section 548.006(1), F.S.

⁴⁸ The term “professional” means a person who has received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

⁴⁹ Section 548.006(4), F.S.

⁵⁰ Section 548.007(6), F.S., and *supra* n. 50 for the definition of “mixed martial arts.”

⁵¹ Section 548.006(3), F.S.

⁵² Section 548.002(2), F.S.

⁵³ *See* DBPR, *Florida State Boxing Commission Annual Report, Fiscal Year 2018-2019*, at p. 2, available at: http://www.myfloridalicense.com/dbpr/os/documents/Boxing18_19.pdf (last visited Apr. 8, 2021).

⁵⁴ Section 548.002(17), F.S., defines “participant” as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁵⁵ *See* s. 548.002, F.S., for the definitions of “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.”

⁵⁶ The terms “trainer,” “timekeeper,” “referee,” and “announcer” are not defined in ch. 548, F.S.

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁵⁷

Effect of Proposed Changes

The bill amends s. 548.003, F.S., to change the name of the commission to the Florida Athletic Commission.

The bill amends s. 548.043(3), F.S., to authorize the commission to establish by rule the need for gloves, if any, in each pugilistic match. The bill also authorizes the commission to establish by rule the weight of any gloves used in pugilistic matches, and deletes the requirement that the gloves weigh between four to eight ounces each. The bill also deletes the requirement for all participants in pugilistic matches to wear gloves.

The bill amends ss. 455.219, 548.002, 548.05, 548.071, and 548.077, F.S., to conform references to the name of the commission, as revised by the bill.

Division of Alcoholic Beverages and Tobacco

Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) is responsible for enforcing the beverage law and supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.⁵⁸

Permit Carriers

Section 561.57(1), F.S., permits an alcoholic beverage vendor to make deliveries. Deliveries made by a manufacturer, distributor, or vendor away from its place of business may only be made in vehicles owned or leased by the licensee. By acceptance of an alcoholic beverage license and the use of vehicles owned by or leased by the vendor, the vendor agrees the vehicle is subject to be inspected and searched without a search warrant by employees of the DABT or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.⁵⁹

The term “permit carrier” is defined as a licensee authorized to make deliveries as provided in s. 561.57, F.S.⁶⁰ A separate permit is not required for licensees making a delivery of alcoholic beverages under this section.

In 2015, the Legislature amended s. 561.57, F.S., to delete a requirement that each vehicle used to deliver alcoholic beverages from a distributor’s place of business to the vendor’s licensed

⁵⁷ Section 548.043(3), F.S.

⁵⁸ Section 561.02, F.S.

⁵⁹ Section 561.57(2), F.S.

⁶⁰ Section 561.01(20), F.S.

premises or to an off-premises storage have a permit. The 2015 amendment to s. 561.57, F.S., also removed a requirement for vendors to possess an invoice or sales ticket during the transportation of alcoholic beverages.⁶¹

License Application Process

Before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages, a person must file a sworn application in the format prescribed by the DABT. The applicant must be a legal or business entity, person, or persons and must include all persons, officers, shareholders, and directors of such legal or business entity that have a direct or indirect interest in the business seeking to be licensed under this part. The format and content of the application is determined by the DABT.⁶²

Before any application is approved, the DABT may require an applicant, and any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought, to file a set of fingerprints with the DABT on regular United States Department of Justice forms.⁶³

All applications for alcoholic beverage licenses for consumption on the premises must be accompanied by a certificate from the DHR, the Department of Agriculture and Consumer Services, the DOH, the Agency for Health Care Administration, or the county health department stating that the place of business where the business is to be conducted meets all of the sanitary requirements of the state.⁶⁴

The application for an alcoholic beverage license must include a sketch of the licensed premises over which the applicant must have some dominion and control.⁶⁵ Current law does not require an applicant for an alcoholic beverage license to submit proof of the applicant's right of occupancy for the entire premises sought to be licensed.

Current law does not require an alcoholic beverage licensee or an applicant for a license to provide and maintain an electronic mail address for communications with the DABT.

Quota Licenses

Section 561.20(1), F.S., limits, by county, the number of alcoholic beverage licenses that may be issued for the sale of distilled spirits, to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation, if certain conditions are met.

Section 561.19(2)(a), F.S., authorizes the DABT to hold a public drawing by double random selection to determine which applicants may be considered for a quota license when one or more additional licenses become available due to an increase in county population or if a quota license

⁶¹ Chapter 2015-52, Laws of Fla.

⁶² Section 561.17(1), F.S.

⁶³ *Id.*

⁶⁴ Section 561.17(2), F.S.

⁶⁵ Section 561.01(11), F.S., defining the term "licensed premises," and s. 565.03(2)(c), F.S., for craft distilleries.

is revoked. Current law does not reference the availability of a quota license due to the cancellation of a license.

Special Restaurant Licenses

A “special license” is an exception to the quota licensing scheme that allows the sale of beer, wine, and distilled spirits without a quota license and subject to conditions. One such special license is a “special restaurant license,” which applies to a food service establishment that has 2,500 square feet, is equipped to serve 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages. The DABT must perform an audit to confirm compliance with the food and nonalcoholic beverage sales percentage requirements during the first 60-day operating period and each 12-month operating period thereafter.⁶⁶

If a special restaurant licensee fails to satisfy the percentage requirements of food and nonalcoholic beverage sales, the license must be revoked or a pending license application must be denied. A licensee whose license is revoked is ineligible to have an interest in a subsequent application for a license for 120 days after the revocation or denial of a license application.⁶⁷

Recordkeeping and Reporting Requirements

Each manufacturer, distributor, broker, sales agent, importer, and exporter must keep a complete and accurate record and make reports to the DABT showing the amount of alcoholic beverages:⁶⁸

- Manufactured or sold within the state and to whom sold;
- Imported from beyond the limits of the state and to whom sold; and
- Exported beyond the limits of the state, to whom sold, the place where sold, and the address of the person to whom sold.

Each manufacturer, distributor, broker, sales agent, and importer must send this full and complete report to the DABT by the 10th day of each month for the previous calendar month. The report must be made out in triplicate with two copies sent to the DABT and a third copy to be retained for the licensee’s record. Reports must be made on forms prepared and furnished by the DABT.⁶⁹

Credit for the Sale of Liquor

A retail vendor must make a timely payment to a distributor of alcoholic beverages within 10 days after the calendar week in which the alcoholic beverages were purchased. When a vendor does not make a timely payment, the distributor who made the sale must, within three days, notify the DABT in writing that payment has not been made.⁷⁰

The DABT must then give notice to the vendor that it has received a notice of payment delinquency from a distributor. The vendor has five days after receipt of the notice to show cause

⁶⁶ Section 561.20(2)(a)4., F.S.

⁶⁷ *Id.*

⁶⁸ Section 561.55(1), F.S.

⁶⁹ Section 561.55(2), F.S.

⁷⁰ Section 561.42(3), F.S.

why further sales to the vendor should not be prohibited. The vendor may demand a hearing before the DABT. The demand for a hearing must be delivered to the DABT in person or by mail within those five days.⁷¹

If a vendor does not demand a hearing, the DABT must declare in writing to the vendor and to all manufacturers and distributors in Florida that all further sales to such vendor are prohibited until the DABT certifies in writing that such vendor has fully paid for all liquors previously purchased.⁷²

Adulterated Liquor

Section 562.455, F.S., provides that a person who adulterates, for the purpose of sale, any liquor, used or intended for drink with cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health, and whoever knowingly sells any liquor so adulterated, is guilty of a third degree felony.⁷³ This law was enacted in 1868.

Grains of paradise is a spice related to ginger and native to West Africa.⁷⁴ It is commonly used in alcoholic beverages, food, and medicine.⁷⁵ Grains of paradise has been found to be generally regarded as safe by the Food and Drug Administration (FDA).⁷⁶

On January 28, 2020, the United States District Court for the Southern District of Florida held that s. 562.455, F.S., as it relates to prohibiting the use of grains of paradise in liquor, is preempted by federal law.⁷⁷ The court found that the Federal Food, Drug, and Cosmetic Act (FFDCA) and FDA regulations conflict with s. 562.455, F.S., because it frustrates the purposes and objectives of the FFDCA and implementing FDA regulations. Under FFDCA, the FDA has broad regulatory authority to monitor and control the introduction of “food additives” in interstate commerce. The FFDCA seeks to advance food technology by allowing the use of safe food additives, and the Florida law prohibits the use of an additive that is generally regarded as safe by the FDA.⁷⁸

Effect of Proposed Changes

The bill deletes the definition for the term “permit carrier” in s. 561.01(20), F.S. The bill also corrects cross-references in s. 561.20(2)(a), F.S., affected by the deletion of the definition of the term “permit carrier.”

⁷¹ Section 561.42(4), F.S.

⁷² *Id.*

⁷³ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁷⁴ Merriam-Webster Dictionary, *Grains of Paradise*, <https://www.merriam-webster.com/dictionary/grains%20of%20paradise> (last visited Mar. 24, 2021).

⁷⁵ WebMD, *Grains of Paradise*, <https://www.webmd.com/vitamins/ai/ingredientmono-670/grains-of-paradise> (last visited Mar. 24, 2021); SPICEography, *Grains of Paradise: An African Spice with a European History*, <https://www.spiceography.com/grains-of-paradise/> (last visited Mar. 24, 2021).

⁷⁶ 21 C.F.R. s. 182.10 (2021).

⁷⁷ *Marrache v. Bacardi U.S.A., Inc.*, 2020 WL 434928 (S.D. Fla. 2020).

⁷⁸ *Id.* at p. 2.

The bill amends the alcoholic beverage license application process in s. 561.17(1), F.S., to require applicants to file fingerprints electronically through an approved electronic fingerprinting vendor, or to use a form prescribed by the Florida Department of Law Enforcement. The bill deletes the requirement that the fingerprints be submitted on regular United States Department of Justice forms.

The bill amends s. 561.17(2), F.S., to require an applicant for any alcoholic beverage license to provide proof of the applicant's right of occupancy for the entire premises sought to be licensed.

The bill creates s. 561.17(5), F.S., to require any person or entity licensed or permitted by the DABT to provide an electronic mail address to the DABT to function as the primary contact for all communication by the DABT to the licensee or permittee. Under the bill, licensees and permittees are responsible for maintaining accurate contact information with the DABT.

The bill amends s. 561.19(2)(a), F.S., to authorize the DABT to hold a public drawing by double random selection to determine which applicants may be considered for a quota license when one or more additional licenses become available due to the cancellation of a license.

The bill amends s. 561.20(2)(a)4., F.S., to revise the auditing timeframes for special restaurant licensees. Under the bill, the DABT must perform the initial compliance audit within the first 120 days of operation, instead of within the first 60 days.

In addition, the bill revises the frequency of subsequent audits. Under the bill, the frequency of compliance audits is determined by the percentage of the licensee's gross revenue from the sale of food and nonalcoholic beverages, as established by the licensee's most recent audit. The bill provides the following audit levels:

- Level 1 licensees, 51 to 60 percent, will be audited every year;
- Level 2 licensees, 61 to 75 percent, will be audited every two years;
- Level 3 licensees, 76 to 90 percent, will be audited every three years; and
- Level 4 licensees, 91 to 100 percent, will be audited every four years.

The bill amends s. 561.42(4), F.S., to require the DABT to give a retail vendor notice of a payment delinquency via electronic mail. The bill deletes the requirement that the delinquency notice be a written notice. The bill also allows a vendor to send a demand for a hearing to the DABT by electronic mail.

The bill amends s. 561.55(2), F.S., to delete the requirement that reports by a manufacturer, distributor, broker, sales agent, and importer be made out in triplicate. Under the bill, the reports must be submitted to the DABT through the DABT's electronic data submission system.

The bill amends s. 562.455, F.S., to remove "grains of paradise" as an ingredient that if added to liquor, would cause the liquor to be adulterated. Anyone who sells adulterated liquor commits a third degree felony.

Condominiums and Cooperative Associations

Present Situation

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., the Condominium Act, comprised of units which may be owned by one or more persons along with an undivided right of access to common elements.⁷⁹ A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.⁸⁰ All unit owners are members of the condominium association, an entity responsible for the operation and maintenance of the common elements owned by the unit owners. The condominium association is overseen by an elected board of directors, which enacts bylaws governing the administration of the association.⁸¹

Division of Florida Condominiums, Timeshares, and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The FCTMH may investigate complaints and enforce compliance with chs. 718 and 719, F.S., with respect to associations that are still under developer control.⁸² The FCTMH also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.⁸³ After control of the condominium is transferred from the developer to the unit owners, the FCTMH's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.⁸⁴ For cooperatives, the FCTMH's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.⁸⁵

As part of the FCTMH's authority to investigate complaints, the FCTMH may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers and associations.⁸⁶

If the FCTMH has reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or a related rule has occurred, the FCTMH may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The FCTMH may conduct an investigation and issue an order to cease and desist from unlawful practices and take affirmative action to carry out the purpose of the applicable chapter. In addition, the FCTMH is authorized to petition a court to appoint a receiver or conservator to implement a court order, or to enforce an injunction or temporary restraining order. The FCTMH may also impose civil penalties.⁸⁷

⁷⁹ Section 718.103(11), F.S.

⁸⁰ Section 718.104(2), F.S.

⁸¹ Section 718.103(4), F.S.

⁸² Sections 718.501(1) and 719.501(1), F.S.

⁸³ *Id.*

⁸⁴ Section 718.501(1), F.S.

⁸⁵ Section 719.501(1), F.S.

⁸⁶ Sections 718.501(1) and 719.501(1), F.S.

⁸⁷ *Id.*

Annual Budget - Condominium and Cooperative Associations

Every condominium and cooperative association must have an annual financial budget that sets forth the proposed expenditure of funds for the maintenance, management, and operation of the condominium association. The annual budget must include operating expenses for the coming year and reserve accounts for capital expenditures and deferred maintenance.⁸⁸

A condominium and cooperative association must hold a meeting to adopt a proposed budget. These associations must provide notice of the meeting and a copy of the proposed budget to the members of the association at least 14 days before the meeting.⁸⁹ The proposed budget must be detailed, and, at a minimum, include the condominium's estimated revenues and expenses.⁹⁰

Current law does not define the timing for adoption of the budget for a condominium or cooperative association.

Board of Directors – Eligibility based on Payment of Monetary Obligations

A condominium association is overseen by an elected board of directors, termed a Board of Administration. The board is responsible for managing the affairs of the association, has a fiduciary relationship with the unit owners, has the responsibility to act with the highest degree of good faith, and must place the interests of the unit owners above the personal interests of the directors.⁹¹

To become a board member, a person may be:

- Elected to the board by the members of the association;⁹²
- Appointed to the board by the developer if the developer is still entitled to representation; or
- Appointed by the board of directors if a vacancy on the board occurs between meetings.⁹³

A condominium association's bylaws establish the eligibility requirements to serve on the association's board of directors.⁹⁴ However, current law also establishes minimum qualifications to serve on an association's board of directors.⁹⁵ To serve as a director, a person may not:⁹⁶

- Be a co-owner of a unit with another director unless they own more than one unit or the condominium association is made up of less than ten units;
- Be delinquent in the payment of any monetary obligation to the condominium association;
- Have been previously suspended or removed from a condominium association's board of directors or by the FCTMH; or
- Have been convicted of a felony, under certain circumstances.⁹⁷

⁸⁸ Sections 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively.

⁸⁹ Sections 718.112(2)(e)1 and 718.106(1)(e), F.S., relating to condominium and cooperative associations, respectively.

⁹⁰ Sections 718.112(2)(f) and 719.106(1)(j), F.S., relating to condominium and cooperative associations, respectively.

⁹¹ Sections 718.103(4), 718.111, and 718.112, F.S.

⁹² Section 718.112(2)(d)4., F.S.

⁹³ Sections 617.0809 and 718.112(2)(d)9., F.S.

⁹⁴ Section 718.112(2)(a), F.S.

⁹⁵ Section 718.112(2)(d), F.S.

⁹⁶ *Id.*

⁹⁷ Section 718.111(1)(d), F.S.

Chapter 718, F.S., does not define the terms “monetary obligation” or “delinquent.” According to the DBPR, defining the term “delinquent” would assist in the FCTMH’s investigation of cases in which the unit owner alleges they were left off of an election ballot because of a delinquent payment to the association.⁹⁸ The DBPR also maintains that it is the practice of a “controlling board of directors to issue fines to unit owners in an effort to limit the pool of eligible candidates who can compete in an election.”⁹⁹

Condominium Ombudsman

The Office of the Ombudsman within the FCTMH is an attorney appointed by the Governor to be a neutral resource for unit owners and condominium associations. The ombudsman is authorized to prepare and issue reports and recommendations to the Governor, the FCTMH, and the Legislature on any matter or subject within the jurisdiction of the FCTMH. In addition, the ombudsman may make recommendations to the FCTMH for changes in rules and procedures for the filing, investigation, and resolution of complaints.¹⁰⁰

The ombudsman also acts as a liaison among the FCTMH, unit owners, and condominium associations and is responsible for developing policies and procedures to help affected parties understand their rights and responsibilities.¹⁰¹

The ombudsman is required to maintain his or her principal office in Leon County.¹⁰²

Effect of Proposed Changes

The bill amends s. 718.112(2)(d)2., F.S., to replace the term “monetary obligation” with the term “assessment.” The bill also provides that a person is delinquent if a payment is not made by the due date identified in the association’s governing documents, which include the declaration, articles of incorporation, and bylaws. If no due date is specifically identified in the governing documents, the due date is the first day of the assessment period.

The bill amends ss. 718.112(2)(f) and 719.106(1)(j), F.S., to require the annual budget for condominium and cooperative associations to be proposed to unit owners and adopted by the board of directors no later than 14 days before the beginning of the fiscal year. Under the bill, the failure by an association’s board to timely adopt the annual budget a second time is a minor violation¹⁰³ and the prior year’s budget shall continue in effect until a new budget is adopted.

⁹⁸ See Department of Business Professional Regulation, *SB 1966 Bill Analysis*, p. 4, (Mar. 12, 2021) (on file with Senate Committee on Regulated Industries).

⁹⁹ *Id.*

¹⁰⁰ Sections 718.5011 and 718.5012, F.S.

¹⁰¹ *Id.*

¹⁰² Section 718.5014, F.S.

¹⁰³ The term “minor violation” is not defined in ch. 718 and 719, F.S. Fla. Admin. Code R. 61B-21.001(3), relating to condominium resolution guidelines for unit owner-controlled associations, defines a “minor violation” as a violation in which the FCTMH will issue a notice of noncompliance as a first response to a violation of a rule due to the violation’s lower potential for public harm. Failure to timely comply with the notice of noncompliance may result in further sanctions and enforcement. Fla. Admin. Code R. 61B-77.003(7)(a), provides a comparable definition for the term for violations related to cooperative associations.

The bill amends s. 718.501, F.S., to authorize the FCTMH to adopt rules regarding the submission of a complaint against a condominium association.

The bill amends s. 718.5014, F.S., to delete the requirement that the condominium ombudsman maintain his or her principal office in Leon County.

Effective Date

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Division of Professions of the Department of Business and Professional Regulation (DBPR) estimates that the bill will result in a reduction of application and license renewal fees paid by the private sector of approximately \$162,266 in Fiscal Year 2021-2022 and \$281,937 in Fiscal Year 2022-2023.¹⁰⁴

B. Private Sector Impact:

The bill has an indeterminate positive fiscal impact for the private sector. Under the bill, construction and electrical contractors would not have to pay the \$4 fee to the Department of Business and Professional Regulation (DBPR) at the time of application or

¹⁰⁴ See Department of Business and Professional Regulation, *CS/SB 1966 Bill Analysis*, p. 10, (Apr. 1, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

renewal to fund projects relating to the building construction industry or continuing education programs.

The bill may provide an opportunity for small cosmetic manufacturing businesses to generate revenues up to \$25,000 in annual gross sales without the cost of a cosmetic manufacturing permit.

Relating to cosmetic manufacturers, the bill may save license expenses needed to continue operation of the business during permitting transfers due to change of ownership, change of controlling interest, or change of location. According to the DBPR, the bill will eliminate the dual permit fee many firms currently pay to continue operating pending approval of the new permit.¹⁰⁵

C. Government Sector Impact:

The DBPR expects the following fiscal impact on revenues:¹⁰⁶

Division of Alcoholic Beverages and Tobacco: Tax revenue may be maximized by the required electronic submission of tax reports.

Division of Professions: The bill repeals the \$4 fee for Construction Industry Licensing Board (CILB) and the Electrical Contractors' Licensing Board (ECLB) license applications and license renewals. According to the DBPR, based on historical data, the repeal of the fee may result in a revenue reduction of \$162,266 in Fiscal Year 2021-2022 and \$281,937 in Fiscal Year 2022-2023 deposited into the Professional Regulation Trust Fund for the CILB and ECLB.¹⁰⁷

The \$4.00 fee collected in the Professional Regulation Trust fund is also subject to the GR service charge. The elimination of the fee would reduce transfers to GR by \$12,981 in Fiscal Year 2021-2022, and \$22,555 in Fiscal Year 2022-2023. The total loss of revenue over the two fiscal years would be an estimated \$479,739, of which \$35,536 would be a reduction in transfers to GR. The net loss to the Professional Regulations Trust Fund would be an estimated \$444,203 over the next two fiscal years.

The bill amends s. 489.118, F.S., to delete the November 1, 2015, application deadline for registered contractors to apply for a statewide certified contractors' license without having to take the state licensure examination. According to the DBPR, by allowing registered contractors to be certified without sitting for the certification examination, there may be an indeterminate reduction in local registered license, renewal, and reciprocity fees.¹⁰⁸

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ See Department of Business and Professional Regulation, *CS/SB 1966 Bill Analysis*, p. 10, (Apr. 1, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

¹⁰⁸ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 210.09, 210.55, 210.60, 489.109, 489.118, 489.509, 499.01, 499.012, 499.066, 548.003, 548.043, 553.841, 561.01, 561.17, 561.19, 561.20, 561.42, 561.55, 562.455, 718.112, 718.501, 718.5014, 719.106, 455.219, 548.002, 548.05, 548.071, and 548.077.

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 April 15, 2021:

The committee substitute:

- Removes from the bill the provisions amending ss. 509.241 and 509.251, F.S., to revise the staggered licensing schedule for public lodging establishments.
- Reduces from 30 days to 14 days before the beginning of the fiscal year the date by which the bill requires the annual budget for a condominium association to be proposed to unit owners and adopted by the board of directors.
- Requires the board of a cooperative association to propose to the unit owners and adopt the annual budget at least 14 days before the beginning of the fiscal year.
- Provides that, in the event the board of a condominium or cooperative association fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted.

CS by Regulated Industries on March 30, 2021:

The committee substitute (CS):

- Repeals s. 489.509(3), F.S., to delete the \$4 fee that all certified and registered electrical contractors must pay to the DBPR at the time of application or renewal.
- Clarifies that refusal to permit an authorized officer or employee of the Department of Business and Professional Regulation to enter the premises is a violation of s. 499.005(6), F.S., and is grounds for disciplinary action pursuant to s. 499.066, F.S.

- B. **Amendments:**

None.

By the Committees on Appropriations; and Regulated Industries;
and Senators Diaz and Garcia

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1 A bill to be entitled
2 An act relating to the Department of Business and
3 Professional Regulation; amending s. 210.09, F.S.;
4 requiring that certain reports relating to the
5 transportation or possession of cigarettes be filed
6 with the Division of Alcoholic Beverages and Tobacco
7 through the division's electronic data submission
8 system; providing that specified records relating to
9 cigarettes received, sold, or delivered within the
10 state may be kept in an electronic or paper format;
11 amending s. 210.55, F.S.; requiring that certain
12 entities file reports, rather than returns, relating
13 to tobacco products with the division; providing
14 requirements for such reports; amending s. 210.60,
15 F.S.; providing that specified records relating to
16 tobacco products may be kept in an electronic or paper
17 format; amending s. 489.109, F.S.; removing provisions
18 relating to an additional fee for application and
19 renewal, transfer of funds, recommendations by the
20 Construction Industry Licensing Board for use of such
21 funds, distribution of such funds by the department,
22 and required reports of the department; amending s.
23 489.118, F.S.; removing an obsolete date; amending s.
24 489.509, F.S.; deleting requirements relating to
25 certain fees collected by the department for
26 electrical and alarm system contracting; amending s.
27 499.01, F.S.; exempting certain persons from specified
28 permit requirements under certain circumstances;
29 requiring an exempt cosmetics manufacturer to provide,

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30 upon request, to the department specified
31 documentation verifying his or her annual gross sales;
32 authorizing an exempt cosmetics manufacturer to only
33 manufacture and sell specified products; requiring
34 specified labeling for each unit of cosmetics
35 manufactured by an exempt cosmetics manufacturer;
36 authorizing the department to investigate complaints
37 and to enter and inspect the premises of an exempt
38 cosmetics manufacturer; providing disciplinary
39 actions; providing construction; amending s. 499.012,
40 F.S.; authorizing specified establishments to submit a
41 request for a temporary permit; requiring such
42 establishments to submit the request to the department
43 on specified forms; providing that upon authorization
44 by the department for a temporary permit for a certain
45 location, the existing permit for such location is
46 immediately null and void; prohibiting a temporary
47 permit from being extended; providing for expiration
48 of a temporary permit; prohibiting an establishment
49 from operating under an expired temporary permit;
50 amending s. 499.066, F.S.; requiring the department to
51 adopt rules to permit the issuance of remedial,
52 nondisciplinary citations; providing requirements for
53 such citations; providing for contest of and the
54 rescinding of a citation; authorizing the department
55 to recover specified costs relating to a citation;
56 providing a timeframe for when a citation may be
57 issued; providing requirements for the service of a
58 citation; authorizing the department to adopt and

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59 amend rules, designate violations and monetary
60 assessments, and order remedial measures that must be
61 taken for such violations; amending s. 548.003, F.S.;
62 renaming the Florida State Boxing Commission as the
63 Florida Athletic Commission; amending s. 548.043,
64 F.S.; revising rulemaking requirements for the
65 commission relating to gloves; amending s. 553.841,
66 F.S.; conforming a provision to changes made by the
67 act; amending s. 561.01, F.S.; deleting the definition
68 of the term "permit carrier"; amending s. 561.17,
69 F.S.; revising a requirement related to the filing of
70 fingerprints with the division; requiring that
71 applications be accompanied by certain information
72 relating to right of occupancy; providing requirements
73 relating to contact information for licensees and
74 permittees; amending s. 561.19, F.S.; revising
75 provisions relating to the availability of beverage
76 licenses to include by reason of the cancellation of a
77 quota beverage license; amending s. 561.20, F.S.;
78 conforming cross-references; revising requirements for
79 issuing special licenses to certain food service
80 establishments; amending s. 561.42, F.S.; requiring
81 the division, and authorizing vendors, to use
82 electronic mail to give certain notice; amending s.
83 561.55, F.S.; revising requirements for reports
84 relating to alcoholic beverages; amending s. 562.455,
85 F.S.; removing grains of paradise as a form of
86 adulteration of liquor used or intended for drink;
87 amending s. 718.112, F.S.; providing the circumstances

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88 under which a person is delinquent in the payment of
89 an assessment in the context of eligibility for
90 membership on certain condominium boards; requiring
91 boards to adopt annual budgets within a specified
92 timeframe; specifying that the failure to adopt a
93 timely budget a second time is a minor violation and
94 that the previous year's budget continues in effect
95 until a new budget is adopted; amending s. 718.501,
96 F.S.; authorizing the Division of Florida
97 Condominiums, Timeshares, and Mobile Homes to adopt
98 rules regarding the submission of complaints against a
99 condominium association; amending s. 718.5014, F.S.;
100 revising the location requirements for the principal
101 office of the condominium ombudsman; amending s.
102 719.106, F.S.; requiring boards of administration to
103 adopt annual budgets within a specified timeframe;
104 specifying that the failure to adopt a timely budget a
105 second time is a minor violation and that the previous
106 year's budget continues in effect until a new budget
107 is adopted; amending ss. 455.219, 548.002, 548.05,
108 548.071, and 548.077, F.S.; conforming provisions to
109 changes made by the act; providing an effective date.

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

112
113 Section 1. Subsections (2) and (3) of section 210.09,
114 Florida Statutes, are amended to read:

115 210.09 Records to be kept; reports to be made;
116 examination.—

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117 (2) The division is authorized to prescribe and promulgate
 118 by rules and regulations, which shall have the force and effect
 119 of the law, such records to be kept and reports to be made to
 120 the division by any manufacturer, importer, distributing agent,
 121 wholesale dealer, retail dealer, common carrier, or any other
 122 person handling, transporting or possessing cigarettes for sale
 123 or distribution within the state as may be necessary to collect
 124 and properly distribute the taxes imposed by s. 210.02. All
 125 reports shall be made on or before the 10th day of the month
 126 following the month for which the report is made, unless the
 127 division by rule or regulation shall prescribe that reports be
 128 made more often. All reports shall be filed with the division
 129 through the division's electronic data submission system.

130 (3) All manufacturers, importers, distributing agents,
 131 wholesale dealers, agents, or retail dealers shall maintain and
 132 keep for a period of 3 years at the place of business where any
 133 transaction takes place, such records of cigarettes received,
 134 sold, or delivered within the state as may be required by the
 135 division. Such records may be kept in an electronic or paper
 136 format. The division or its duly authorized representative is
 137 hereby authorized to examine the books, papers, invoices, and
 138 other records, the stock of cigarettes in and upon any premises
 139 where the same are placed, stored, and sold, and the equipment
 140 of any such manufacturers, importers, distributing agents,
 141 wholesale dealers, agents, or retail dealers, pertaining to the
 142 sale and delivery of cigarettes taxable under this part. To
 143 verify the accuracy of the tax imposed and assessed by this
 144 part, each person is hereby directed and required to give to the
 145 division or its duly authorized representatives the means,

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146 facilities, and opportunity for such examinations as are herein
 147 provided for and required.

148 Section 2. Section 210.55, Florida Statutes, is amended to
 149 read:

150 210.55 Distributors; monthly reports ~~returns~~.-

151 (1) On or before the 10th of each month, every taxpayer
 152 with a place of business in this state shall file a full and
 153 complete report ~~return~~ with the division showing the taxable
 154 price of each tobacco product brought or caused to be brought
 155 into this state for sale, or made, manufactured, or fabricated
 156 in this state for sale in this state, during the preceding
 157 month. Every taxpayer outside this state shall file a full and
 158 complete report with the division through the division's
 159 electronic data submission system ~~return~~ showing the quantity
 160 and taxable price of each tobacco product shipped or transported
 161 to retailers in this state, to be sold by those retailers,
 162 during the preceding month. Reports must ~~Returns shall~~ be made
 163 upon forms furnished and prescribed by the division and must
 164 ~~shall~~ contain any other information that the division requires.
 165 Each report must ~~return shall~~ be accompanied by a remittance for
 166 the full tax liability shown and be filed with the division
 167 through the division's electronic data submission system.

168 (2) As soon as practicable after any report ~~return~~ is
 169 filed, the division shall examine each report ~~return~~ and correct
 170 it, if necessary, according to its best judgment and
 171 information. If the division finds that any amount of tax is due
 172 from the taxpayer and unpaid, it shall notify the taxpayer of
 173 the deficiency, stating that it proposes to assess the amount
 174 due together with interest and penalties. If a deficiency

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175 disclosed by the division's examination cannot be allocated to
 176 one or more particular months, the division shall notify the
 177 taxpayer of the deficiency, stating its intention to assess the
 178 amount due for a given period without allocating it to any
 179 particular months.

180 (3) If, within 60 days after the mailing of notice of the
 181 proposed assessment, the taxpayer files a protest to the
 182 proposed assessment and requests a hearing on it, the division
 183 shall give notice to the taxpayer of the time and place fixed
 184 for the hearing, shall hold a hearing on the protest, and shall
 185 issue a final assessment to the taxpayer for the amount found to
 186 be due as a result of the hearing. If a protest is not filed
 187 within 60 days, the division shall issue a final assessment to
 188 the taxpayer. In any action or proceeding in respect to the
 189 proposed assessment, the taxpayer shall have the burden of
 190 establishing the incorrectness or invalidity of any final
 191 assessment made by the division.

192 (4) If any taxpayer required to file any report ~~return~~
 193 fails to do so within the time prescribed, the taxpayer shall,
 194 on the written demand of the division, file the report ~~return~~
 195 within 20 days after mailing of the demand and at the same time
 196 pay the tax due on its basis. If the taxpayer fails within that
 197 time to file the report ~~return~~, the division shall prepare the
 198 report ~~return~~ from its own knowledge and from the information
 199 that it obtains and on that basis shall assess a tax, which
 200 shall be paid within 10 days after the division has mailed to
 201 the taxpayer a written notice of the amount and a demand for its
 202 payment. In any action or proceeding in respect to the
 203 assessment, the taxpayer shall have the burden of establishing

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204 the incorrectness or invalidity of any report ~~return~~ or
 205 assessment made by the division because of the failure of the
 206 taxpayer to make a report ~~return~~.

207 (5) All taxes are due not later than the 10th day of the
 208 month following the calendar month in which they were incurred,
 209 and thereafter shall bear interest at the annual rate of 12
 210 percent. If the amount of tax due for a given period is assessed
 211 without allocating it to any particular month, the interest
 212 shall begin with the date of the assessment.

213 (6) In issuing its final assessment, the division shall add
 214 to the amount of tax found due and unpaid a penalty of 10
 215 percent, but if it finds that the taxpayer has made a false
 216 report ~~return~~ with intent to evade the tax, the penalty shall be
 217 50 percent of the entire tax as shown by the corrected report
 218 ~~return~~. In assessing a tax on the basis of a report ~~return~~ made
 219 under subsection (4), the division shall add to the amount of
 220 tax found due and unpaid a penalty of 25 percent.

221 (7) For the purpose of compensating the distributor for the
 222 keeping of prescribed records and the proper accounting and
 223 remitting of taxes imposed under this part, the distributor
 224 shall be allowed 1 percent of the amount of the tax due and
 225 accounted for and remitted to the division in the form of a
 226 deduction in submitting his or her report and paying the amount
 227 due; and the division shall allow such deduction of 1 percent of
 228 the amount of the tax to the person paying the same for
 229 remitting the tax in the manner herein provided, for paying the
 230 amount due to be paid by him or her, and as further compensation
 231 to the distributor for the keeping of prescribed records and for
 232 collection of taxes and remitting the same.

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233 (a) The collection allowance may not be granted, nor may
 234 any deduction be permitted, if the tax is delinquent at the time
 235 of payment.

236 (b) The division may reduce the collection allowance by 10
 237 percent or \$50, whichever is less, if a taxpayer files an
 238 incomplete report ~~return~~.

239 1. An "incomplete report ~~return~~" means is, for purposes of
 240 this section ~~part~~, a report ~~return~~ which is lacking such
 241 uniformity, completeness, and arrangement that the physical
 242 handling, verification, or review of the report ~~return~~ may not
 243 be readily accomplished.

244 2. The division shall adopt rules requiring such
 245 information as it may deem necessary to ensure that the tax
 246 levied hereunder is properly collected, reviewed, compiled, and
 247 enforced, including, but not limited to: the amount of taxable
 248 sales; the amount of tax collected or due; the amount claimed as
 249 the collection allowance; the amount of penalty and interest;
 250 the amount due with the report ~~return~~; and such other
 251 information as the division may specify.

252 Section 3. Section 210.60, Florida Statutes, is amended to
 253 read:

254 210.60 Books, records, and invoices to be kept and
 255 preserved; inspection by agents of division.—Every distributor
 256 shall keep in each licensed place of business complete and
 257 accurate records for that place of business, including itemized
 258 invoices of tobacco products held, purchased, manufactured,
 259 brought in or caused to be brought in from without the state, or
 260 shipped or transported to retailers in this state, and of all
 261 sales of tobacco products made, except sales to an ultimate

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262 consumer. Such records shall show the names and addresses of
 263 purchasers and other pertinent papers and documents relating to
 264 the purchase, sale, or disposition of tobacco products. When a
 265 licensed distributor sells tobacco products exclusively to
 266 ultimate consumers at the addresses given in the license, no
 267 invoice of those sales shall be required, but itemized invoices
 268 shall be made of all tobacco products transferred to other
 269 retail outlets owned or controlled by that licensed distributor.
 270 All books, records and other papers, and other documents
 271 required by this section to be kept shall be preserved for a
 272 period of at least 3 years after the date of the documents, as
 273 aforesaid, or the date of the entries thereof appearing in the
 274 records, unless the division, in writing, authorizes their
 275 destruction or disposal at an earlier date. At any time during
 276 usual business hours, duly authorized agents or employees of the
 277 division may enter any place of business of a distributor and
 278 inspect the premises, the records required to be kept under this
 279 part, and the tobacco products contained therein to determine
 280 whether all the provisions of this part are being fully complied
 281 with. Refusal to permit such inspection by a duly authorized
 282 agent or employee of the division shall be grounds for
 283 revocation of the license. Every person who sells tobacco
 284 products to persons other than an ultimate consumer shall render
 285 with each sale an itemized invoice showing the seller's name and
 286 address, the purchaser's name and address, the date of sale, and
 287 all prices and discounts. The seller shall preserve legible
 288 copies of all such invoices for 3 years from the date of sale.
 289 Every retailer shall produce itemized invoices of all tobacco
 290 products purchased. The invoices shall show the name and address

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291 of the seller and the date of purchase. The retailer shall
 292 preserve a legible copy of each such invoice for 3 years from
 293 the date of purchase. Invoices shall be available for inspection
 294 by authorized agents or employees of the division at the
 295 retailer's place of business. Any records required by this
 296 section may be kept in an electronic or paper format.

297 Section 4. Subsection (3) of section 489.109, Florida
 298 Statutes, is amended to read:

299 489.109 Fees.—

300 ~~(3) In addition to the fees provided in subsection (1) for~~
 301 ~~application and renewal for certification and registration, all~~
 302 ~~certificateholders and registrants must pay a fee of \$4 to the~~
 303 ~~department at the time of application or renewal. The funds must~~
 304 ~~be transferred at the end of each licensing period to the~~
 305 ~~department to fund projects relating to the building~~
 306 ~~construction industry or continuing education programs offered~~
 307 ~~to persons engaged in the building construction industry in~~
 308 ~~Florida, to be selected by the Florida Building Commission. The~~
 309 ~~board shall, at the time the funds are transferred, advise the~~
 310 ~~department on the most needed areas of research or continuing~~
 311 ~~education based on significant changes in the industry's~~
 312 ~~practices or on changes in the state building code or on the~~
 313 ~~most common types of consumer complaints or on problems costing~~
 314 ~~the state or local governmental entities substantial waste. The~~
 315 ~~board's advice is not binding on the department. The department~~
 316 ~~shall ensure the distribution of research reports and the~~
 317 ~~availability of continuing education programs to all segments of~~
 318 ~~the building construction industry to which they relate. The~~
 319 ~~department shall report to the board in October of each year,~~

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320 ~~summarizing the allocation of the funds by institution and~~
 321 ~~summarizing the new projects funded and the status of previously~~
 322 ~~funded projects.~~

323 Section 5. Section 489.118, Florida Statutes, is amended to
 324 read:

325 489.118 Certification of registered contractors;
 326 grandfathering provisions.—The board shall, upon receipt of a
 327 completed application and appropriate fee, issue a certificate
 328 in the appropriate category to any contractor registered under
 329 this part who makes application to the board and can show that
 330 he or she meets each of the following requirements:

331 (1) Currently holds a valid registered local license in one
 332 of the contractor categories defined in s. 489.105(3) (a)-(p).

333 (2) Has, for that category, passed a written examination
 334 that the board finds to be substantially similar to the
 335 examination required to be licensed as a certified contractor
 336 under this part. For purposes of this subsection, a written,
 337 proctored examination such as that produced by the National
 338 Assessment Institute, Block and Associates, NAI/Block, Experior
 339 Assessments, Professional Testing, Inc., or Assessment Systems,
 340 Inc., shall be considered to be substantially similar to the
 341 examination required to be licensed as a certified contractor.
 342 The board may not impose or make any requirements regarding the
 343 nature or content of these cited examinations.

344 (3) Has at least 5 years of experience as a contractor in
 345 that contracting category, or as an inspector or building
 346 administrator with oversight over that category, at the time of
 347 application. For contractors, only time periods in which the
 348 contractor license is active and the contractor is not on

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349 probation shall count toward the 5 years required by this
350 subsection.

351 (4) Has not had his or her contractor's license revoked at
352 any time, had his or her contractor's license suspended within
353 the last 5 years, or been assessed a fine in excess of \$500
354 within the last 5 years.

355 (5) Is in compliance with the insurance and financial
356 responsibility requirements in s. 489.115(5).

357

358 ~~Applicants wishing to obtain a certificate pursuant to this~~
359 ~~section must make application by November 1, 2015.~~

360 Section 6. Subsection (3) of section 489.509, Florida
361 Statutes, is amended, and subsection (1) of that section is
362 republished, to read:

363 489.509 Fees.—

364 (1) The board, by rule, shall establish fees to be paid for
365 applications, examination, reexamination, transfers, licensing
366 and renewal, reinstatement, and recordmaking and recordkeeping.
367 The examination fee shall be in an amount that covers the cost
368 of obtaining and administering the examination and shall be
369 refunded if the applicant is found ineligible to sit for the
370 examination. The application fee is nonrefundable. The fee for
371 initial application and examination for certification of
372 electrical contractors may not exceed \$400. The initial
373 application fee for registration may not exceed \$150. The
374 biennial renewal fee may not exceed \$400 for certificateholders
375 and \$200 for registrants. The fee for initial application and
376 examination for certification of alarm system contractors may
377 not exceed \$400. The biennial renewal fee for certified alarm

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378 system contractors may not exceed \$450. The board may establish
379 a fee for a temporary certificate as an alarm system contractor
380 not to exceed \$75. The board may also establish by rule a
381 delinquency fee not to exceed \$50. The fee to transfer a
382 certificate or registration from one business organization to
383 another may not exceed \$200. The fee for reactivation of an
384 inactive license may not exceed \$50. The board shall establish
385 fees that are adequate to ensure the continued operation of the
386 board. Fees shall be based on department estimates of the
387 revenue required to implement this part and the provisions of
388 law with respect to the regulation of electrical contractors and
389 alarm system contractors.

390 ~~(3) Four dollars of each fee under subsection (1) paid to~~
391 ~~the department at the time of application or renewal shall be~~
392 ~~transferred at the end of each licensing period to the~~
393 ~~department to fund projects relating to the building~~
394 ~~construction industry or continuing education programs offered~~
395 ~~to persons engaged in the building construction industry in~~
396 ~~Florida. The board shall, at the time the funds are transferred,~~
397 ~~advise the department on the most needed areas of research or~~
398 ~~continuing education based on significant changes in the~~
399 ~~industry's practices or on the most common types of consumer~~
400 ~~complaints or on problems costing the state or local~~
401 ~~governmental entities substantial waste. The board's advice is~~
402 ~~not binding on the department. The department shall ensure the~~
403 ~~distribution of research reports and the availability of~~
404 ~~continuing education programs to all segments of the building~~
405 ~~construction industry to which they relate. The department shall~~
406 ~~report to the board in October of each year, summarizing the~~

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407 ~~allocation of the funds by institution and summarizing the new~~
 408 ~~projects funded and the status of previously funded projects.~~

409 Section 7. Paragraph (p) of subsection (2) of section
 410 499.01, Florida Statutes, is amended to read:

411 499.01 Permits.—

412 (2) The following permits are established:

413 (p) Cosmetic manufacturer permit.—A cosmetic manufacturer
 414 permit is required for any person that manufactures or
 415 repackages cosmetics in this state. A person that only labels or
 416 changes the labeling of a cosmetic but does not open the
 417 container sealed by the manufacturer of the product is exempt
 418 from obtaining a permit under this paragraph. A person who
 419 manufactures cosmetics and has annual gross sales of \$25,000 or
 420 less is exempt from the permit requirements of this paragraph.
 421 Upon request, an exempt cosmetics manufacturer must provide to
 422 the department written documentation to verify his or her annual
 423 gross sales, including all sales of cosmetic products at any
 424 location, regardless of the types of products sold or the number
 425 of persons involved in the operation.

426 1. An exempt cosmetics manufacturer may only:

427 a. Sell prepackaged cosmetics affixed with a label
 428 containing information required by the United States Food and
 429 Drug Administration.

430 b. Manufacture and sell cosmetics that are soaps, not
 431 otherwise exempt from the definition of cosmetics, lotions,
 432 moisturizers, and creams.

433 c. Sell cosmetics that are not adulterated or misbranded in
 434 accordance with 21 U.S.C. ss. 361 and 362.

435 d. Sell cosmetic products that are stored on the premises

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436 of the cosmetic manufacturing operation.

437 2. Each unit of cosmetics manufactured under this paragraph
 438 must contain, in contrasting color and not less than 10-point
 439 type, the following statement: "Made by a manufacturer exempt
 440 from Florida's cosmetic manufacturing permit requirements."

441 3. The department may investigate any complaint which
 442 alleges that an exempt cosmetics manufacturer has violated an
 443 applicable provision of this chapter or a rule adopted under
 444 this chapter. The department's authorized officer or employee
 445 may enter and inspect the premises of an exempt cosmetic
 446 manufacturer to determine compliance with this chapter and
 447 department rules, as applicable. A refusal to permit an
 448 authorized officer or employee of the department to enter the
 449 premises or to conduct an inspection is a violation of s.
 450 499.005(6) and is grounds for disciplinary action pursuant to s.
 451 499.066.

452 4. This paragraph does not exempt any person from any state
 453 or federal tax law, rule, regulation, or certificate or from any
 454 county or municipal law or ordinance that applies to cosmetic
 455 manufacturing.

456 Section 8. Paragraph (d) is added to subsection (6) of
 457 section 499.012, Florida Statutes, to read:

458 499.012 Permit application requirements.—

459 (6) A permit issued by the department is nontransferable.
 460 Each permit is valid only for the person or governmental unit to
 461 which it is issued and is not subject to sale, assignment, or
 462 other transfer, voluntarily or involuntarily; nor is a permit
 463 valid for any establishment other than the establishment for
 464 which it was originally issued.

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465 (d) When an establishment that requires a permit pursuant
 466 to this part submits an application to the department for a
 467 change of ownership or controlling interest or a change of
 468 location with the required fees under this subsection, the
 469 establishment may also submit a request for a temporary permit
 470 granting the establishment authority to operate for no more than
 471 90 calendar days. The establishment must submit the request for
 472 a temporary permit to the department on a form provided by the
 473 department and obtain authorization to operate with the
 474 temporary permit before operating under the change of ownership
 475 or operating at the new location. Upon authorization of a
 476 temporary permit, the existing permit at the location for which
 477 the temporary permit is submitted is immediately null and void.
 478 A temporary permit may not be extended and shall expire and
 479 become null and void by operation of law without further action
 480 by the department at 12:01 a.m. on the 91st day after the
 481 department authorizes such permit. Upon expiration of the
 482 temporary permit, the establishment may not continue to operate
 483 under such permit.

484
 485 The department may revoke the permit of any person that fails to
 486 comply with the requirements of this subsection.

487 Section 9. Subsection (8) is added to section 499.066,
 488 Florida Statutes, to read:

489 499.066 Penalties; remedies.—In addition to other penalties
 490 and other enforcement provisions:

491 (8) (a) The department shall adopt rules to authorize the
 492 issuance of a remedial, nondisciplinary citation. A citation
 493 shall be issued to the person alleged to have committed a

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494 violation and contain the person's name, address, and license
 495 number, if applicable; a brief factual statement; the sections
 496 of the law allegedly violated; and the monetary assessment and
 497 or other remedial measures imposed. The person shall have 30
 498 days after the citation is served to contest the citation by
 499 providing supplemental and clarifying information to the
 500 department. The citation must clearly state that the person may
 501 choose, in lieu of accepting the citation, to have the
 502 department rescind the citation and conduct an investigation
 503 pursuant to s. 499.051 of only those alleged violations
 504 contained in the citation. The citation shall be rescinded by
 505 the department if the person remedies or corrects the violations
 506 or deficiencies contained in the citation within 30 days after
 507 the citation is served. If the person does not successfully
 508 contest the citation to the satisfaction of the department, or
 509 complete remedial action pursuant to this paragraph, the
 510 citation becomes a final order and does not constitute
 511 discipline.

512 (b) The department is entitled to recover the costs of
 513 investigation, in addition to any penalty provided according to
 514 department rule, as part of the penalty levied pursuant to a
 515 citation.

516 (c) A citation must be issued within 6 months after the
 517 filing of the complaint that is the basis for the citation.

518 (d) Service of a citation may be made by personal service
 519 or certified mail, restricted delivery, to the person at the
 520 person's last known address of record with the department, or to
 521 the person's Florida registered agent.

522 (e) The department may adopt rules to designate those

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523 violations for which a person is subject to the issuance of a
 524 citation and the monetary assessments or other remedial measures
 525 that must be taken for those violations. Violations designated
 526 as subject to issuance of a citation shall include violations
 527 for which there is no substantial threat to the public health,
 528 safety, or welfare. The department has continuous authority to
 529 amend its rules adopted pursuant to this section.

530 Section 10. Section 548.003, Florida Statutes, is amended
 531 to read:

532 548.003 Florida Athletic State ~~Boxing~~ Commission.—

533 (1) The Florida Athletic State ~~Boxing~~ Commission is created
 534 and is assigned to the Department of Business and Professional
 535 Regulation for administrative and fiscal accountability purposes
 536 only. The ~~Florida State Boxing~~ commission shall consist of five
 537 members appointed by the Governor, subject to confirmation by
 538 the Senate. One member must be a physician licensed under
 539 ~~pursuant to~~ chapter 458 or chapter 459, who must maintain an
 540 unencumbered license in good standing, and who must, at the time
 541 of her or his appointment, have practiced medicine for at least
 542 5 years. Upon the expiration of the term of a commissioner, the
 543 Governor shall appoint a successor to serve for a 4-year term. A
 544 commissioner whose term has expired shall continue to serve on
 545 the commission until such time as a replacement is appointed. If
 546 a vacancy on the commission occurs before ~~prior to~~ the
 547 expiration of the term, it shall be filled for the unexpired
 548 portion of the term in the same manner as the original
 549 appointment.

550 (2) The ~~Florida State Boxing~~ commission, as created by
 551 subsection (1), shall administer the provisions of this chapter.

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552 The commission has authority to adopt rules pursuant to ss.
 553 120.536(1) and 120.54 to implement the provisions of this
 554 chapter and to implement each of the duties and responsibilities
 555 conferred upon the commission, including, but not limited to:

556 (a) Development of an ethical code of conduct for
 557 commissioners, commission staff, and commission officials.

558 (b) Facility and safety requirements relating to the ring,
 559 floor plan and apron seating, emergency medical equipment and
 560 services, and other equipment and services necessary for the
 561 conduct of a program of matches.

562 (c) Requirements regarding a participant's apparel,
 563 bandages, handwraps, gloves, mouthpiece, and appearance during a
 564 match.

565 (d) Requirements relating to a manager's participation,
 566 presence, and conduct during a match.

567 (e) Duties and responsibilities of all licensees under this
 568 chapter.

569 (f) Procedures for hearings and resolution of disputes.

570 (g) Qualifications for appointment of referees and judges.

571 (h) Qualifications for and appointment of chief inspectors
 572 and inspectors and duties and responsibilities of chief
 573 inspectors and inspectors with respect to oversight and
 574 coordination of activities for each program of matches regulated
 575 under this chapter.

576 (i) Setting fee and reimbursement schedules for referees
 577 and other officials appointed by the commission or the
 578 representative of the commission.

579 (j) Establishment of criteria for approval, disapproval,
 580 suspension of approval, and revocation of approval of amateur

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581 sanctioning organizations for amateur boxing, kickboxing, and
 582 mixed martial arts held in this state, including, but not
 583 limited to, the health and safety standards the organizations
 584 use before, during, and after the matches to ensure the health,
 585 safety, and well-being of the amateurs participating in the
 586 matches, including the qualifications and numbers of health care
 587 personnel required to be present, the qualifications required
 588 for referees, and other requirements relating to the health,
 589 safety, and well-being of the amateurs participating in the
 590 matches. The commission may adopt by rule, or incorporate by
 591 reference into rule, the health and safety standards of USA
 592 Boxing as the minimum health and safety standards for an amateur
 593 boxing sanctioning organization, the health and safety standards
 594 of the International Sport Kickboxing Association as the minimum
 595 health and safety standards for an amateur kickboxing
 596 sanctioning organization, and the minimum health and safety
 597 standards for an amateur mixed martial arts sanctioning
 598 organization. The commission shall review its rules for
 599 necessary revision at least every 2 years and may adopt by rule,
 600 or incorporate by reference into rule, the then-existing current
 601 health and safety standards of USA Boxing and the International
 602 Sport Kickboxing Association. The commission may adopt emergency
 603 rules to administer this paragraph.

604 (3) The commission shall maintain an office in Tallahassee.
 605 At the first meeting of the commission after June 1 of each
 606 year, the commission shall select a chair and a vice chair from
 607 among its membership. Three members shall constitute a quorum
 608 and the concurrence of at least three members is necessary for
 609 official commission action.

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610 (4) Three consecutive unexcused absences or absences
 611 constituting 50 percent or more of the commission's meetings
 612 within any 12-month period shall cause the commission membership
 613 of the member in question to become void, and the position shall
 614 be considered vacant. The commission shall, by rule, define
 615 unexcused absences.

616 (5) Each commission member shall be accountable to the
 617 Governor for the proper performance of duties as a member of the
 618 commission. The Governor shall cause to be investigated any
 619 complaint or unfavorable report received by the Governor or the
 620 department concerning an action of the commission or any member
 621 and shall take appropriate action thereon. The Governor may
 622 remove from office any member for malfeasance, unethical
 623 conduct, misfeasance, neglect of duty, incompetence, permanent
 624 inability to perform official duties, or pleading guilty or nolo
 625 contendere to or being found guilty of a felony.

626 (6) Each member of the commission shall be compensated at
 627 the rate of \$50 for each day she or he attends a commission
 628 meeting and shall be reimbursed for other expenses as provided
 629 in s. 112.061.

630 (7) The commission shall be authorized to join and
 631 participate in the activities of the Association of Boxing
 632 Commissions (ABC).

633 (8) The department shall provide all legal and
 634 investigative services necessary to implement this chapter. The
 635 department may adopt rules as provided in ss. 120.536(1) and
 636 120.54 to carry out its duties under this chapter.

637 Section 11. Subsection (3) of section 548.043, Florida
 638 Statutes, is amended to read:

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639 548.043 Weights and classes, limitations; gloves.-
 640 (3) The commission shall establish by rule the need for
 641 gloves, if any, and the weight of any such gloves to be used in
 642 each pugilistic match ~~the appropriate weight of gloves to be~~
 643 ~~used in each boxing match; however, all participants in boxing~~
 644 ~~matches shall wear gloves weighing not less than 8 ounces each~~
 645 ~~and participants in mixed martial arts matches shall wear gloves~~
 646 ~~weighing 4 to 8 ounces each.~~ Participants shall wear such
 647 protective devices as the commission deems necessary.

648 Section 12. Subsection (5) of section 553.841, Florida
 649 Statutes, is amended to read:

650 553.841 Building code compliance and mitigation program.-

651 ~~(5) Each biennium, upon receipt of funds by the Department~~
 652 ~~of Business and Professional Regulation from the Construction~~
 653 ~~Industry Licensing Board and the Electrical Contractors'~~
 654 ~~Licensing Board provided under ss. 489.109(3) and 489.509(3),~~
 655 ~~the department shall determine the amount of funds available for~~
 656 ~~the Florida Building Code Compliance and Mitigation Program.~~

657 Section 13. Subsection (20) of section 561.01, Florida
 658 Statutes, is amended to read:

659 561.01 Definitions.-As used in the Beverage Law:

660 ~~(20) "Permit carrier" means a licensee authorized to make~~
 661 ~~deliveries as provided in s. 561.57.~~

662 Section 14. Subsections (1) and (2) of section 561.17,
 663 Florida Statutes, are amended, and subsection (5) is added to
 664 that section, to read:

665 561.17 License and registration applications; approved
 666 person.-

667 (1) Any person, before engaging in the business of

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668 manufacturing, bottling, distributing, selling, or in any way
 669 dealing in alcoholic beverages, shall file, with the district
 670 licensing personnel of the district of the division in which the
 671 place of business for which a license is sought is located, a
 672 sworn application in the format prescribed by the division. The
 673 applicant must be a legal or business entity, person, or persons
 674 and must include all persons, officers, shareholders, and
 675 directors of such legal or business entity that have a direct or
 676 indirect interest in the business seeking to be licensed under
 677 this part. However, the applicant does not include any person
 678 that derives revenue from the license solely through a
 679 contractual relationship with the licensee, the substance of
 680 which contractual relationship is not related to the control of
 681 the sale of alcoholic beverages. Before any application is
 682 approved, the division may require the applicant to file a set
 683 of fingerprints electronically through an approved electronic
 684 fingerprinting vendor or on regular United States Department of
 685 Justice forms prescribed by the Florida Department of Law
 686 Enforcement for herself or himself and for any person or persons
 687 interested directly or indirectly with the applicant in the
 688 business for which the license is being sought, when required by
 689 the division. If the applicant or any person who is interested
 690 with the applicant either directly or indirectly in the business
 691 or who has a security interest in the license being sought or
 692 has a right to a percentage payment from the proceeds of the
 693 business, either by lease or otherwise, is not qualified, the
 694 division shall deny the application. However, any company
 695 regularly traded on a national securities exchange and not over
 696 the counter; any insurer, as defined in the Florida Insurance

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697 Code; or any bank or savings and loan association chartered by
 698 this state, another state, or the United States which has an
 699 interest, directly or indirectly, in an alcoholic beverage
 700 license is not required to obtain the division's approval of its
 701 officers, directors, or stockholders or any change of such
 702 positions or interests. A shopping center with five or more
 703 stores, one or more of which has an alcoholic beverage license
 704 and is required under a lease common to all shopping center
 705 tenants to pay no more than 10 percent of the gross proceeds of
 706 the business holding the license to the shopping center, is not
 707 considered as having an interest, directly or indirectly, in the
 708 license. A performing arts center, as defined in s. 561.01,
 709 which has an interest, directly or indirectly, in an alcoholic
 710 beverage license is not required to obtain division approval of
 711 its volunteer officers or directors or of any change in such
 712 positions or interests.

713 (2) All applications for any alcoholic beverage license
 714 must be accompanied by proof of the applicant's right of
 715 occupancy for the entire premises sought to be licensed. All
 716 applications for alcoholic beverage licenses for consumption on
 717 the premises shall be accompanied by a certificate of the
 718 Division of Hotels and Restaurants of the Department of Business
 719 and Professional Regulation, the Department of Agriculture and
 720 Consumer Services, the Department of Health, the Agency for
 721 Health Care Administration, or the county health department that
 722 the place of business wherein the business is to be conducted
 723 meets all of the sanitary requirements of the state.

724 (5) Any person or entity licensed or permitted by the
 725 division must provide an electronic mail address to the division

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726 to function as the primary contact for all communication by the
 727 division to the licensee or permittees. Licensees and permittees
 728 are responsible for maintaining accurate contact information on
 729 file with the division.

730 Section 15. Paragraph (a) of subsection (2) of section
 731 561.19, Florida Statutes, is amended to read:

732 561.19 License issuance upon approval of division.—

733 (2) (a) When beverage licenses become available by reason of
 734 an increase in the population of a county, by reason of a county
 735 permitting the sale of intoxicating beverages when such sale had
 736 been prohibited, or by reason of the cancellation or revocation
 737 of a quota beverage license, the division, if there are more
 738 applicants than the number of available licenses, shall provide
 739 a method of double random selection by public drawing to
 740 determine which applicants shall be considered for issuance of
 741 licenses. The double random selection drawing method shall allow
 742 each applicant whose application is complete and does not
 743 disclose on its face any matter rendering the applicant
 744 ineligible an equal opportunity of obtaining an available
 745 license. After all applications are filed with the director, the
 746 director shall then determine by random selection drawing the
 747 order in which each applicant's name shall be matched with a
 748 number selected by random drawing, and that number shall
 749 determine the order in which the applicant will be considered
 750 for a license. This paragraph does not prohibit a person holding
 751 a perfected lien or security interest in a quota alcoholic
 752 beverage license, in accordance with s. 561.65, from enforcing
 753 the lien or security interest against the license within 180
 754 days after a final order of revocation or suspension. A revoked

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755 quota alcoholic beverage license encumbered by a lien or
 756 security interest, perfected pursuant to s. 561.65, may not be
 757 issued under this subsection until the 180-day period has
 758 elapsed or until such enforcement proceeding is final.

759 Section 16. Paragraph (a) of subsection (2) of section
 760 561.20, Florida Statutes, is amended to read:

761 561.20 Limitation upon number of licenses issued.—

762 (2) (a) The limitation of the number of licenses as provided
 763 in this section does not prohibit the issuance of a special
 764 license to:

765 1. Any bona fide hotel, motel, or motor court of not fewer
 766 than 80 guest rooms in any county having a population of less
 767 than 50,000 residents, and of not fewer than 100 guest rooms in
 768 any county having a population of 50,000 residents or greater;
 769 or any bona fide hotel or motel located in a historic structure,
 770 as defined in s. 561.01(20) ~~s. 561.01(21)~~, with fewer than 100
 771 guest rooms which derives at least 51 percent of its gross
 772 revenue from the rental of hotel or motel rooms, which is
 773 licensed as a public lodging establishment by the Division of
 774 Hotels and Restaurants; provided, however, that a bona fide
 775 hotel or motel with no fewer than 10 and no more than 25 guest
 776 rooms which is a historic structure, as defined in s. 561.01(20)
 777 ~~s. 561.01(21)~~, in a municipality that on the effective date of
 778 this act has a population, according to the University of
 779 Florida's Bureau of Economic and Business Research Estimates of
 780 Population for 1998, of no fewer than 25,000 and no more than
 781 35,000 residents and that is within a constitutionally chartered
 782 county may be issued a special license. This special license
 783 shall allow the sale and consumption of alcoholic beverages only

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784 on the licensed premises of the hotel or motel. In addition, the
 785 hotel or motel must derive at least 60 percent of its gross
 786 revenue from the rental of hotel or motel rooms and the sale of
 787 food and nonalcoholic beverages; provided that this subparagraph
 788 shall supersede local laws requiring a greater number of hotel
 789 rooms;

790 2. Any condominium accommodation of which no fewer than 100
 791 condominium units are wholly rentable to transients and which is
 792 licensed under chapter 509, except that the license shall be
 793 issued only to the person or corporation that operates the hotel
 794 or motel operation and not to the association of condominium
 795 owners;

796 3. Any condominium accommodation of which no fewer than 50
 797 condominium units are wholly rentable to transients, which is
 798 licensed under chapter 509, and which is located in any county
 799 having home rule under s. 10 or s. 11, Art. VIII of the State
 800 Constitution of 1885, as amended, and incorporated by reference
 801 in s. 6(e), Art. VIII of the State Constitution, except that the
 802 license shall be issued only to the person or corporation that
 803 operates the hotel or motel operation and not to the association
 804 of condominium owners;

805 4. A food service establishment that has 2,500 square feet
 806 of service area, is equipped to serve meals to 150 persons at
 807 one time, and derives at least 51 percent of its gross food and
 808 beverage revenue from the sale of food and nonalcoholic
 809 beverages during the first 120-day ~~60-day~~ operating period and
 810 the first ~~each~~ 12-month operating period thereafter. Subsequent
 811 audit timeframes must be based upon the audit percentage
 812 established by the most recent audit and conducted on a

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813 staggered scale as follows: level 1, 51 percent to 60 percent,
 814 every year; level 2, 61 percent to 75 percent, every 2 years;
 815 level 3, 76 percent to 90 percent, every 3 years; and level 4,
 816 91 percent to 100 percent, every 4 years. A food service
 817 establishment granted a special license on or after January 1,
 818 1958, pursuant to general or special law may not operate as a
 819 package store and may not sell intoxicating beverages under such
 820 license after the hours of serving or consumption of food have
 821 elapsed. Failure by a licensee to meet the required percentage
 822 of food and nonalcoholic beverage gross revenues during the
 823 covered operating period shall result in revocation of the
 824 license or denial of the pending license application. A licensee
 825 whose license is revoked or an applicant whose pending
 826 application is denied, or any person required to qualify on the
 827 special license application, is ineligible to have any interest
 828 in a subsequent application for such a license for a period of
 829 120 days after the date of the final denial or revocation;
 830 5. Any caterer, deriving at least 51 percent of its gross
 831 food and beverage revenue from the sale of food and nonalcoholic
 832 beverages at each catered event, licensed by the Division of
 833 Hotels and Restaurants under chapter 509. This subparagraph does
 834 not apply to a culinary education program, as defined in s.
 835 381.0072(2), which is licensed as a public food service
 836 establishment by the Division of Hotels and Restaurants and
 837 provides catering services. Notwithstanding any law to the
 838 contrary, a licensee under this subparagraph shall sell or serve
 839 alcoholic beverages only for consumption on the premises of a
 840 catered event at which the licensee is also providing prepared
 841 food, and shall prominently display its license at any catered

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842 event at which the caterer is selling or serving alcoholic
 843 beverages. A licensee under this subparagraph shall purchase all
 844 alcoholic beverages it sells or serves at a catered event from a
 845 vendor licensed under s. 563.02(1), s. 564.02(1), or licensed
 846 under s. 565.02(1) subject to the limitation imposed in
 847 subsection (1), as appropriate. A licensee under this
 848 subparagraph may not store any alcoholic beverages to be sold or
 849 served at a catered event. Any alcoholic beverages purchased by
 850 a licensee under this subparagraph for a catered event that are
 851 not used at that event must remain with the customer; provided
 852 that if the vendor accepts unopened alcoholic beverages, the
 853 licensee may return such alcoholic beverages to the vendor for a
 854 credit or reimbursement. Regardless of the county or counties in
 855 which the licensee operates, a licensee under this subparagraph
 856 shall pay the annual state license tax set forth in s.
 857 565.02(1)(b). A licensee under this subparagraph must maintain
 858 for a period of 3 years all records and receipts for each
 859 catered event, including all contracts, customers' names, event
 860 locations, event dates, food purchases and sales, alcoholic
 861 beverage purchases and sales, nonalcoholic beverage purchases
 862 and sales, and any other records required by the department by
 863 rule to demonstrate compliance with the requirements of this
 864 subparagraph. Notwithstanding any law to the contrary, any
 865 vendor licensed under s. 565.02(1) subject to the limitation
 866 imposed in subsection (1), may, without any additional licensure
 867 under this subparagraph, serve or sell alcoholic beverages for
 868 consumption on the premises of a catered event at which prepared
 869 food is provided by a caterer licensed under chapter 509. If a
 870 licensee under this subparagraph also possesses any other

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871 license under the Beverage Law, the license issued under this
 872 subparagraph ~~may shall~~ not authorize the holder to conduct
 873 activities on the premises to which the other license or
 874 licenses apply that would otherwise be prohibited by the terms
 875 of that license or the Beverage Law. Nothing in this section
 876 shall permit the licensee to conduct activities that are
 877 otherwise prohibited by the Beverage Law or local law. The
 878 Division of Alcoholic Beverages and Tobacco is hereby authorized
 879 to adopt rules to administer the license created in this
 880 subparagraph, to include rules governing licensure,
 881 recordkeeping, and enforcement. The first \$300,000 in fees
 882 collected by the division each fiscal year pursuant to this
 883 subparagraph shall be deposited in the Department of Children
 884 and Families' Operations and Maintenance Trust Fund to be used
 885 only for alcohol and drug abuse education, treatment, and
 886 prevention programs. The remainder of the fees collected shall
 887 be deposited into the Hotel and Restaurant Trust Fund created
 888 pursuant to s. 509.072; or

889 6. A culinary education program as defined in s.
 890 381.0072(2) which is licensed as a public food service
 891 establishment by the Division of Hotels and Restaurants.

892 a. This special license shall allow the sale and
 893 consumption of alcoholic beverages on the licensed premises of
 894 the culinary education program. The culinary education program
 895 shall specify designated areas in the facility where the
 896 alcoholic beverages may be consumed at the time of application.
 897 Alcoholic beverages sold for consumption on the premises may be
 898 consumed only in areas designated pursuant to s. 561.01(11) and
 899 may not be removed from the designated area. Such license shall

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900 be applicable only in and for designated areas used by the
 901 culinary education program.

902 b. If the culinary education program provides catering
 903 services, this special license shall also allow the sale and
 904 consumption of alcoholic beverages on the premises of a catered
 905 event at which the licensee is also providing prepared food. A
 906 culinary education program that provides catering services is
 907 not required to derive at least 51 percent of its gross revenue
 908 from the sale of food and nonalcoholic beverages.

909 Notwithstanding any law to the contrary, a licensee that
 910 provides catering services under this sub-subparagraph shall
 911 prominently display its beverage license at any catered event at
 912 which the caterer is selling or serving alcoholic beverages.
 913 Regardless of the county or counties in which the licensee
 914 operates, a licensee under this sub-subparagraph shall pay the
 915 annual state license tax set forth in s. 565.02(1)(b). A
 916 licensee under this sub-subparagraph must maintain for a period
 917 of 3 years all records required by the department by rule to
 918 demonstrate compliance with the requirements of this sub-
 919 subparagraph.

920 c. If a licensee under this subparagraph also possesses any
 921 other license under the Beverage Law, the license issued under
 922 this subparagraph does not authorize the holder to conduct
 923 activities on the premises to which the other license or
 924 licenses apply that would otherwise be prohibited by the terms
 925 of that license or the Beverage Law. Nothing in this
 926 subparagraph shall permit the licensee to conduct activities
 927 that are otherwise prohibited by the Beverage Law or local law.
 928 Any culinary education program that holds a license to sell

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929 alcoholic beverages shall comply with the age requirements set
930 forth in ss. 562.11(4), 562.111(2), and 562.13.

931 d. The Division of Alcoholic Beverages and Tobacco may
932 adopt rules to administer the license created in this
933 subparagraph, to include rules governing licensure,
934 recordkeeping, and enforcement.

935 e. A license issued pursuant to this subparagraph does not
936 permit the licensee to sell alcoholic beverages by the package
937 for off-premises consumption.

938
939 However, any license heretofore issued to any such hotel, motel,
940 motor court, or restaurant or hereafter issued to any such
941 hotel, motel, or motor court, including a condominium
942 accommodation, under the general law shall not be moved to a new
943 location, such license being valid only on the premises of such
944 hotel, motel, motor court, or restaurant. Licenses issued to
945 hotels, motels, motor courts, or restaurants under the general
946 law and held by such hotels, motels, motor courts, or
947 restaurants on May 24, 1947, shall be counted in the quota
948 limitation contained in subsection (1). Any license issued for
949 any hotel, motel, or motor court under this law shall be issued
950 only to the owner of the hotel, motel, or motor court or, in the
951 event the hotel, motel, or motor court is leased, to the lessee
952 of the hotel, motel, or motor court; and the license shall
953 remain in the name of the owner or lessee so long as the license
954 is in existence. Any special license now in existence heretofore
955 issued under this law cannot be renewed except in the name of
956 the owner of the hotel, motel, motor court, or restaurant or, in
957 the event the hotel, motel, motor court, or restaurant is

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958 leased, in the name of the lessee of the hotel, motel, motor
959 court, or restaurant in which the license is located and must
960 remain in the name of the owner or lessee so long as the license
961 is in existence. Any license issued under this section shall be
962 marked "Special," and nothing herein provided shall limit,
963 restrict, or prevent the issuance of a special license for any
964 restaurant or motel which shall hereafter meet the requirements
965 of the law existing immediately prior to the effective date of
966 this act, if construction of such restaurant has commenced prior
967 to the effective date of this act and is completed within 30
968 days thereafter, or if an application is on file for such
969 special license at the time this act takes effect; and any such
970 licenses issued under this proviso may be annually renewed as
971 now provided by law. Nothing herein prevents an application for
972 transfer of a license to a bona fide purchaser of any hotel,
973 motel, motor court, or restaurant by the purchaser of such
974 facility or the transfer of such license pursuant to law.

975 Section 17. Subsection (4) of section 561.42, Florida
976 Statutes, is amended to read:

977 561.42 Tied house evil; financial aid and assistance to
978 vendor by manufacturer, distributor, importer, primary American
979 source of supply, brand owner or registrant, or any broker,
980 sales agent, or sales person thereof, prohibited; procedure for
981 enforcement; exception.—

982 (4) Before the division shall so declare and prohibit such
983 sales to such vendor, ~~it shall~~, within 2 days after receipt of
984 such notice, the division shall give ~~written~~ notice to such
985 vendor by electronic mail of the receipt by the division of such
986 notification of delinquency and such vendor shall be directed to

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987 forthwith make payment thereof or, upon failure to do so, to
 988 show cause before the division why further sales to such vendor
 989 ~~may shall~~ not be prohibited. Good and sufficient cause to
 990 prevent such action by the division may be made by showing
 991 payment, failure of consideration, or any other defense which
 992 would be considered sufficient in a common-law action. The
 993 vendor shall have 5 days after service receipt of such notice
 994 via electronic mail within which to show such cause, and he or
 995 she may demand a hearing thereon, provided he or she does so in
 996 writing within said 5 days, such written demand to be delivered
 997 to the division either in person, by electronic mail, or by due
 998 course of mail within such 5 days. If no such demand for hearing
 999 is made, the division shall thereupon declare in writing to such
 1000 vendor and to all manufacturers and distributors within the
 1001 state that all further sales to such vendor are prohibited until
 1002 such time as the division certifies in writing that such vendor
 1003 has fully paid for all liquors previously purchased. In the
 1004 event such prohibition of sales and declaration thereof to the
 1005 vendor, manufacturers, and distributors is ordered by the
 1006 division, the vendor may seek review of such decision by the
 1007 Department of Business and Professional Regulation within 5
 1008 days. In the event application for such review is filed within
 1009 such time, such prohibition of sales ~~may shall~~ not be made,
 1010 published, or declared until final disposition of such review by
 1011 the department.

1012 Section 18. Subsection (2) of section 561.55, Florida
 1013 Statutes, is amended to read:

1014 561.55 Manufacturers', distributors', brokers', sales
 1015 agents', importers', vendors', and exporters' records and

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1016 reports.-
 1017 (2) Each manufacturer, distributor, broker, sales agent,
 1018 and importer shall make a full and complete report by the 10th
 1019 day of each month for the previous calendar month. The report
 1020 ~~must be shall be made out in triplicate, two copies shall be~~
 1021 ~~sent to the division, and the third copy shall be retained for~~
 1022 ~~the manufacturer's, distributor's, broker's, sales agent's, or~~
 1023 ~~importer's record. Reports shall be made on forms prepared and~~
 1024 ~~furnished by the division and filed with the division through~~
 1025 ~~the division's electronic data submission system.~~

1026 Section 19. Section 562.455, Florida Statutes, is amended
 1027 to read:

1028 562.455 Adulterating liquor; penalty.—Whoever adulterates,
 1029 for the purpose of sale, any liquor, used or intended for drink,
 1030 with cocculus indicus, vitriol, ~~grains of paradise~~, opium, alum,
 1031 capsicum, copperas, laurel water, logwood, brazil wood,
 1032 cochineal, sugar of lead, or any other substance which is
 1033 poisonous or injurious to health, and whoever knowingly sells
 1034 any liquor so adulterated, commits shall be guilty of a felony
 1035 of the third degree, punishable as provided in s. 775.082, s.
 1036 775.083, or s. 775.084.

1037 Section 20. Paragraphs (d) and (f) of subsection (2) of
 1038 section 718.112, Florida Statutes, are amended to read:

1039 718.112 Bylaws.—

1040 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
 1041 following and, if they do not do so, shall be deemed to include
 1042 the following:

1043 (d) *Unit owner meetings*.—

1044 1. An annual meeting of the unit owners must be held at the

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1045 location provided in the association bylaws and, if the bylaws
 1046 are silent as to the location, the meeting must be held within
 1047 45 miles of the condominium property. However, such distance
 1048 requirement does not apply to an association governing a
 1049 timeshare condominium.

1050 2. Unless the bylaws provide otherwise, a vacancy on the
 1051 board caused by the expiration of a director's term must be
 1052 filled by electing a new board member, and the election must be
 1053 by secret ballot. An election is not required if the number of
 1054 vacancies equals or exceeds the number of candidates. For
 1055 purposes of this paragraph, the term "candidate" means an
 1056 eligible person who has timely submitted the written notice, as
 1057 described in sub-subparagraph 4.a., of his or her intention to
 1058 become a candidate. Except in a timeshare or nonresidential
 1059 condominium, or if the staggered term of a board member does not
 1060 expire until a later annual meeting, or if all members' terms
 1061 would otherwise expire but there are no candidates, the terms of
 1062 all board members expire at the annual meeting, and such members
 1063 may stand for reelection unless prohibited by the bylaws. Board
 1064 members may serve terms longer than 1 year if permitted by the
 1065 bylaws or articles of incorporation. A board member may not
 1066 serve more than 8 consecutive years unless approved by an
 1067 affirmative vote of unit owners representing two-thirds of all
 1068 votes cast in the election or unless there are not enough
 1069 eligible candidates to fill the vacancies on the board at the
 1070 time of the vacancy. If the number of board members whose terms
 1071 expire at the annual meeting equals or exceeds the number of
 1072 candidates, the candidates become members of the board effective
 1073 upon the adjournment of the annual meeting. Unless the bylaws

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1074 provide otherwise, any remaining vacancies shall be filled by
 1075 the affirmative vote of the majority of the directors making up
 1076 the newly constituted board even if the directors constitute
 1077 less than a quorum or there is only one director. In a
 1078 residential condominium association of more than 10 units or in
 1079 a residential condominium association that does not include
 1080 timeshare units or timeshare interests, co-owners of a unit may
 1081 not serve as members of the board of directors at the same time
 1082 unless they own more than one unit or unless there are not
 1083 enough eligible candidates to fill the vacancies on the board at
 1084 the time of the vacancy. A unit owner in a residential
 1085 condominium desiring to be a candidate for board membership must
 1086 comply with sub-subparagraph 4.a. and must be eligible to be a
 1087 candidate to serve on the board of directors at the time of the
 1088 deadline for submitting a notice of intent to run in order to
 1089 have his or her name listed as a proper candidate on the ballot
 1090 or to serve on the board. A person who has been suspended or
 1091 removed by the division under this chapter, or who is delinquent
 1092 in the payment of any ~~assessment monetary obligation~~ due to the
 1093 association, is not eligible to be a candidate for board
 1094 membership and may not be listed on the ballot. For purposes of
 1095 this paragraph, a person is delinquent if a payment is not made
 1096 by the due date as specifically identified in the declaration of
 1097 condominium, bylaws, or articles of incorporation. If a due date
 1098 is not specifically identified in the declaration of
 1099 condominium, bylaws, or articles of incorporation, the due date
 1100 is the first day of the assessment period. A person who has been
 1101 convicted of any felony in this state or in a United States
 1102 District or Territorial Court, or who has been convicted of any

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1103 offense in another jurisdiction which would be considered a
 1104 felony if committed in this state, is not eligible for board
 1105 membership unless such felon's civil rights have been restored
 1106 for at least 5 years as of the date such person seeks election
 1107 to the board. The validity of an action by the board is not
 1108 affected if it is later determined that a board member is
 1109 ineligible for board membership due to having been convicted of
 1110 a felony. This subparagraph does not limit the term of a member
 1111 of the board of a nonresidential or timeshare condominium.

1112 3. The bylaws must provide the method of calling meetings
 1113 of unit owners, including annual meetings. Written notice must
 1114 include an agenda, must be mailed, hand delivered, or
 1115 electronically transmitted to each unit owner at least 14 days
 1116 before the annual meeting, and must be posted in a conspicuous
 1117 place on the condominium property at least 14 continuous days
 1118 before the annual meeting. Upon notice to the unit owners, the
 1119 board shall, by duly adopted rule, designate a specific location
 1120 on the condominium property where all notices of unit owner
 1121 meetings must be posted. This requirement does not apply if
 1122 there is no condominium property for posting notices. In lieu
 1123 of, or in addition to, the physical posting of meeting notices,
 1124 the association may, by reasonable rule, adopt a procedure for
 1125 conspicuously posting and repeatedly broadcasting the notice and
 1126 the agenda on a closed-circuit cable television system serving
 1127 the condominium association. However, if broadcast notice is
 1128 used in lieu of a notice posted physically on the condominium
 1129 property, the notice and agenda must be broadcast at least four
 1130 times every broadcast hour of each day that a posted notice is
 1131 otherwise required under this section. If broadcast notice is

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1132 provided, the notice and agenda must be broadcast in a manner
 1133 and for a sufficient continuous length of time so as to allow an
 1134 average reader to observe the notice and read and comprehend the
 1135 entire content of the notice and the agenda. In addition to any
 1136 of the authorized means of providing notice of a meeting of the
 1137 board, the association may, by rule, adopt a procedure for
 1138 conspicuously posting the meeting notice and the agenda on a
 1139 website serving the condominium association for at least the
 1140 minimum period of time for which a notice of a meeting is also
 1141 required to be physically posted on the condominium property.
 1142 Any rule adopted shall, in addition to other matters, include a
 1143 requirement that the association send an electronic notice in
 1144 the same manner as a notice for a meeting of the members, which
 1145 must include a hyperlink to the website where the notice is
 1146 posted, to unit owners whose e-mail addresses are included in
 1147 the association's official records. Unless a unit owner waives
 1148 in writing the right to receive notice of the annual meeting,
 1149 such notice must be hand delivered, mailed, or electronically
 1150 transmitted to each unit owner. Notice for meetings and notice
 1151 for all other purposes must be mailed to each unit owner at the
 1152 address last furnished to the association by the unit owner, or
 1153 hand delivered to each unit owner. However, if a unit is owned
 1154 by more than one person, the association must provide notice to
 1155 the address that the developer identifies for that purpose and
 1156 thereafter as one or more of the owners of the unit advise the
 1157 association in writing, or if no address is given or the owners
 1158 of the unit do not agree, to the address provided on the deed of
 1159 record. An officer of the association, or the manager or other
 1160 person providing notice of the association meeting, must provide

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1161 an affidavit or United States Postal Service certificate of
 1162 mailing, to be included in the official records of the
 1163 association affirming that the notice was mailed or hand
 1164 delivered in accordance with this provision.

1165 4. The members of the board of a residential condominium
 1166 shall be elected by written ballot or voting machine. Proxies
 1167 may not be used in electing the board in general elections or
 1168 elections to fill vacancies caused by recall, resignation, or
 1169 otherwise, unless otherwise provided in this chapter. This
 1170 subparagraph does not apply to an association governing a
 1171 timeshare condominium.

1172 a. At least 60 days before a scheduled election, the
 1173 association shall mail, deliver, or electronically transmit, by
 1174 separate association mailing or included in another association
 1175 mailing, delivery, or transmission, including regularly
 1176 published newsletters, to each unit owner entitled to a vote, a
 1177 first notice of the date of the election. A unit owner or other
 1178 eligible person desiring to be a candidate for the board must
 1179 give written notice of his or her intent to be a candidate to
 1180 the association at least 40 days before a scheduled election.
 1181 Together with the written notice and agenda as set forth in
 1182 subparagraph 3., the association shall mail, deliver, or
 1183 electronically transmit a second notice of the election to all
 1184 unit owners entitled to vote, together with a ballot that lists
 1185 all candidates. Upon request of a candidate, an information
 1186 sheet, no larger than 8 1/2 inches by 11 inches, which must be
 1187 furnished by the candidate at least 35 days before the election,
 1188 must be included with the mailing, delivery, or transmission of
 1189 the ballot, with the costs of mailing, delivery, or electronic

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1190 transmission and copying to be borne by the association. The
 1191 association is not liable for the contents of the information
 1192 sheets prepared by the candidates. In order to reduce costs, the
 1193 association may print or duplicate the information sheets on
 1194 both sides of the paper. The division shall by rule establish
 1195 voting procedures consistent with this sub-subparagraph,
 1196 including rules establishing procedures for giving notice by
 1197 electronic transmission and rules providing for the secrecy of
 1198 ballots. Elections shall be decided by a plurality of ballots
 1199 cast. There is no quorum requirement; however, at least 20
 1200 percent of the eligible voters must cast a ballot in order to
 1201 have a valid election. A unit owner may not authorize any other
 1202 person to vote his or her ballot, and any ballots improperly
 1203 cast are invalid. A unit owner who violates this provision may
 1204 be fined by the association in accordance with s. 718.303. A
 1205 unit owner who needs assistance in casting the ballot for the
 1206 reasons stated in s. 101.051 may obtain such assistance. The
 1207 regular election must occur on the date of the annual meeting.
 1208 Notwithstanding this sub-subparagraph, an election is not
 1209 required unless more candidates file notices of intent to run or
 1210 are nominated than board vacancies exist.

1211 b. Within 90 days after being elected or appointed to the
 1212 board of an association of a residential condominium, each newly
 1213 elected or appointed director shall certify in writing to the
 1214 secretary of the association that he or she has read the
 1215 association's declaration of condominium, articles of
 1216 incorporation, bylaws, and current written policies; that he or
 1217 she will work to uphold such documents and policies to the best
 1218 of his or her ability; and that he or she will faithfully

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1219 discharge his or her fiduciary responsibility to the
 1220 association's members. In lieu of this written certification,
 1221 within 90 days after being elected or appointed to the board,
 1222 the newly elected or appointed director may submit a certificate
 1223 of having satisfactorily completed the educational curriculum
 1224 administered by a division-approved condominium education
 1225 provider within 1 year before or 90 days after the date of
 1226 election or appointment. The written certification or
 1227 educational certificate is valid and does not have to be
 1228 resubmitted as long as the director serves on the board without
 1229 interruption. A director of an association of a residential
 1230 condominium who fails to timely file the written certification
 1231 or educational certificate is suspended from service on the
 1232 board until he or she complies with this sub-subparagraph. The
 1233 board may temporarily fill the vacancy during the period of
 1234 suspension. The secretary shall cause the association to retain
 1235 a director's written certification or educational certificate
 1236 for inspection by the members for 5 years after a director's
 1237 election or the duration of the director's uninterrupted tenure,
 1238 whichever is longer. Failure to have such written certification
 1239 or educational certificate on file does not affect the validity
 1240 of any board action.

1241 c. Any challenge to the election process must be commenced
 1242 within 60 days after the election results are announced.

1243 5. Any approval by unit owners called for by this chapter
 1244 or the applicable declaration or bylaws, including, but not
 1245 limited to, the approval requirement in s. 718.111(8), must be
 1246 made at a duly noticed meeting of unit owners and is subject to
 1247 all requirements of this chapter or the applicable condominium

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1248 documents relating to unit owner decisionmaking, except that
 1249 unit owners may take action by written agreement, without
 1250 meetings, on matters for which action by written agreement
 1251 without meetings is expressly allowed by the applicable bylaws
 1252 or declaration or any law that provides for such action.

1253 6. Unit owners may waive notice of specific meetings if
 1254 allowed by the applicable bylaws or declaration or any law.
 1255 Notice of meetings of the board of administration, unit owner
 1256 meetings, except unit owner meetings called to recall board
 1257 members under paragraph (j), and committee meetings may be given
 1258 by electronic transmission to unit owners who consent to receive
 1259 notice by electronic transmission. A unit owner who consents to
 1260 receiving notices by electronic transmission is solely
 1261 responsible for removing or bypassing filters that block receipt
 1262 of mass emails sent to members on behalf of the association in
 1263 the course of giving electronic notices.

1264 7. Unit owners have the right to participate in meetings of
 1265 unit owners with reference to all designated agenda items.
 1266 However, the association may adopt reasonable rules governing
 1267 the frequency, duration, and manner of unit owner participation.

1268 8. A unit owner may tape record or videotape a meeting of
 1269 the unit owners subject to reasonable rules adopted by the
 1270 division.

1271 9. Unless otherwise provided in the bylaws, any vacancy
 1272 occurring on the board before the expiration of a term may be
 1273 filled by the affirmative vote of the majority of the remaining
 1274 directors, even if the remaining directors constitute less than
 1275 a quorum, or by the sole remaining director. In the alternative,
 1276 a board may hold an election to fill the vacancy, in which case

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1277 the election procedures must conform to sub-subparagraph 4.a.
 1278 unless the association governs 10 units or fewer and has opted
 1279 out of the statutory election process, in which case the bylaws
 1280 of the association control. Unless otherwise provided in the
 1281 bylaws, a board member appointed or elected under this section
 1282 shall fill the vacancy for the unexpired term of the seat being
 1283 filled. Filling vacancies created by recall is governed by
 1284 paragraph (j) and rules adopted by the division.

1285 10. This chapter does not limit the use of general or
 1286 limited proxies, require the use of general or limited proxies,
 1287 or require the use of a written ballot or voting machine for any
 1288 agenda item or election at any meeting of a timeshare
 1289 condominium association or nonresidential condominium
 1290 association.

1291
 1292 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
 1293 association of 10 or fewer units may, by affirmative vote of a
 1294 majority of the total voting interests, provide for different
 1295 voting and election procedures in its bylaws, which may be by a
 1296 proxy specifically delineating the different voting and election
 1297 procedures. The different voting and election procedures may
 1298 provide for elections to be conducted by limited or general
 1299 proxy.

1300 (f) *Annual budget.*—

1301 1. The proposed annual budget of estimated revenues and
 1302 expenses must be detailed and must show the amounts budgeted by
 1303 accounts and expense classifications, including, at a minimum,
 1304 any applicable expenses listed in s. 718.504(21). The board
 1305 shall adopt the annual budget at least 14 days prior to the

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1306 start of the association's fiscal year. In the event that the
 1307 board fails to timely adopt the annual budget a second time, it
 1308 shall be deemed a minor violation and the prior year's budget
 1309 shall continue in effect until a new budget is adopted. A
 1310 multicondominium association shall adopt a separate budget of
 1311 common expenses for each condominium the association operates
 1312 and shall adopt a separate budget of common expenses for the
 1313 association. In addition, if the association maintains limited
 1314 common elements with the cost to be shared only by those
 1315 entitled to use the limited common elements as provided for in
 1316 s. 718.113(1), the budget or a schedule attached to it must show
 1317 the amount budgeted for this maintenance. If, after turnover of
 1318 control of the association to the unit owners, any of the
 1319 expenses listed in s. 718.504(21) are not applicable, they need
 1320 not be listed.

1321 2.a. In addition to annual operating expenses, the budget
 1322 must include reserve accounts for capital expenditures and
 1323 deferred maintenance. These accounts must include, but are not
 1324 limited to, roof replacement, building painting, and pavement
 1325 resurfacing, regardless of the amount of deferred maintenance
 1326 expense or replacement cost, and any other item that has a
 1327 deferred maintenance expense or replacement cost that exceeds
 1328 \$10,000. The amount to be reserved must be computed using a
 1329 formula based upon estimated remaining useful life and estimated
 1330 replacement cost or deferred maintenance expense of each reserve
 1331 item. The association may adjust replacement reserve assessments
 1332 annually to take into account any changes in estimates or
 1333 extension of the useful life of a reserve item caused by
 1334 deferred maintenance. This subsection does not apply to an

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1335 adopted budget in which the members of an association have
 1336 determined, by a majority vote at a duly called meeting of the
 1337 association, to provide no reserves or less reserves than
 1338 required by this subsection.

1339 b. Before turnover of control of an association by a
 1340 developer to unit owners other than a developer pursuant to s.
 1341 718.301, the developer may vote the voting interests allocated
 1342 to its units to waive the reserves or reduce the funding of
 1343 reserves through the period expiring at the end of the second
 1344 fiscal year after the fiscal year in which the certificate of a
 1345 surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or
 1346 an instrument that transfers title to a unit in the condominium
 1347 which is not accompanied by a recorded assignment of developer
 1348 rights in favor of the grantee of such unit is recorded,
 1349 whichever occurs first, after which time reserves may be waived
 1350 or reduced only upon the vote of a majority of all nondeveloper
 1351 voting interests voting in person or by limited proxy at a duly
 1352 called meeting of the association. If a meeting of the unit
 1353 owners has been called to determine whether to waive or reduce
 1354 the funding of reserves and no such result is achieved or a
 1355 quorum is not attained, the reserves included in the budget
 1356 shall go into effect. After the turnover, the developer may vote
 1357 its voting interest to waive or reduce the funding of reserves.

1358 3. Reserve funds and any interest accruing thereon shall
 1359 remain in the reserve account or accounts, and may be used only
 1360 for authorized reserve expenditures unless their use for other
 1361 purposes is approved in advance by a majority vote at a duly
 1362 called meeting of the association. Before turnover of control of
 1363 an association by a developer to unit owners other than the

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1364 developer pursuant to s. 718.301, the developer-controlled
 1365 association may not vote to use reserves for purposes other than
 1366 those for which they were intended without the approval of a
 1367 majority of all nondeveloper voting interests, voting in person
 1368 or by limited proxy at a duly called meeting of the association.

1369 4. The only voting interests that are eligible to vote on
 1370 questions that involve waiving or reducing the funding of
 1371 reserves, or using existing reserve funds for purposes other
 1372 than purposes for which the reserves were intended, are the
 1373 voting interests of the units subject to assessment to fund the
 1374 reserves in question. Proxy questions relating to waiving or
 1375 reducing the funding of reserves or using existing reserve funds
 1376 for purposes other than purposes for which the reserves were
 1377 intended must contain the following statement in capitalized,
 1378 bold letters in a font size larger than any other used on the
 1379 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
 1380 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
 1381 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
 1382 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

1383 Section 21. Paragraph (m) of subsection (1) of section
 1384 718.501, Florida Statutes, is amended to read:

1385 718.501 Authority, responsibility, and duties of Division
 1386 of Florida Condominiums, Timeshares, and Mobile Homes.—

1387 (1) The division may enforce and ensure compliance with the
 1388 provisions of this chapter and rules relating to the
 1389 development, construction, sale, lease, ownership, operation,
 1390 and management of residential condominium units. In performing
 1391 its duties, the division has complete jurisdiction to
 1392 investigate complaints and enforce compliance with respect to

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1393 associations that are still under developer control or the
 1394 control of a bulk assignee or bulk buyer pursuant to part VII of
 1395 this chapter and complaints against developers, bulk assignees,
 1396 or bulk buyers involving improper turnover or failure to
 1397 turnover, pursuant to s. 718.301. However, after turnover has
 1398 occurred, the division has jurisdiction to investigate
 1399 complaints related only to financial issues, elections, and unit
 1400 owner access to association records pursuant to s. 718.111(12).

(m) If a complaint is made, the division must conduct its
 1402 inquiry with due regard for the interests of the affected
 1403 parties. Within 30 days after receipt of a complaint, the
 1404 division shall acknowledge the complaint in writing and notify
 1405 the complainant whether the complaint is within the jurisdiction
 1406 of the division and whether additional information is needed by
 1407 the division from the complainant. The division shall conduct
 1408 its investigation and, within 90 days after receipt of the
 1409 original complaint or of timely requested additional
 1410 information, take action upon the complaint. However, the
 1411 failure to complete the investigation within 90 days does not
 1412 prevent the division from continuing the investigation,
 1413 accepting or considering evidence obtained or received after 90
 1414 days, or taking administrative action if reasonable cause exists
 1415 to believe that a violation of this chapter or a rule has
 1416 occurred. If an investigation is not completed within the time
 1417 limits established in this paragraph, the division shall, on a
 1418 monthly basis, notify the complainant in writing of the status
 1419 of the investigation. When reporting its action to the
 1420 complainant, the division shall inform the complainant of any
 1421 right to a hearing pursuant to ss. 120.569 and 120.57. The

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1422 division may adopt rules regarding the submission of a complaint
 1423 against an association.

1424 Section 22. Section 718.5014, Florida Statutes, is amended
 1425 to read:

1426 718.5014 Ombudsman location.—The ombudsman shall maintain
 1427 his or her principal office at a in Leon County on the premises
 1428 of the division or, if suitable space cannot be provided there,
 1429 at another place convenient to the offices of the division which
 1430 will enable the ombudsman to expeditiously carry out the duties
 1431 and functions of his or her office. The ombudsman may establish
 1432 branch offices elsewhere in the state upon the concurrence of
 1433 the Governor.

1434 Section 23. Paragraph (j) of subsection (1) of section
 1435 719.106, Florida Statutes, is amended to read:

1436 719.106 Bylaws; cooperative ownership.—

1437 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1438 documents shall provide for the following, and if they do not,
 1439 they shall be deemed to include the following:

1440 (j) Annual budget.—

1441 1. The proposed annual budget of common expenses shall be
 1442 detailed and shall show the amounts budgeted by accounts and
 1443 expense classifications, including, if applicable, but not
 1444 limited to, those expenses listed in s. 719.504(20). The board
 1445 of administration shall adopt the annual budget at least 14 days
 1446 prior to the start of the association's fiscal year. In the
 1447 event that the board fails to timely adopt the annual budget a
 1448 second time, it shall be deemed a minor violation and the prior
 1449 year's budget shall continue in effect until a new budget is
 1450 adopted.

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1451 2. In addition to annual operating expenses, the budget
 1452 shall include reserve accounts for capital expenditures and
 1453 deferred maintenance. These accounts shall include, but not be
 1454 limited to, roof replacement, building painting, and pavement
 1455 resurfacing, regardless of the amount of deferred maintenance
 1456 expense or replacement cost, and for any other items for which
 1457 the deferred maintenance expense or replacement cost exceeds
 1458 \$10,000. The amount to be reserved shall be computed by means of
 1459 a formula which is based upon estimated remaining useful life
 1460 and estimated replacement cost or deferred maintenance expense
 1461 of each reserve item. The association may adjust replacement
 1462 reserve assessments annually to take into account any changes in
 1463 estimates or extension of the useful life of a reserve item
 1464 caused by deferred maintenance. This paragraph shall not apply
 1465 to any budget in which the members of an association have, at a
 1466 duly called meeting of the association, determined for a fiscal
 1467 year to provide no reserves or reserves less adequate than
 1468 required by this subsection. However, prior to turnover of
 1469 control of an association by a developer to unit owners other
 1470 than a developer pursuant to s. 719.301, the developer may vote
 1471 to waive the reserves or reduce the funding of reserves for the
 1472 first 2 years of the operation of the association after which
 1473 time reserves may only be waived or reduced upon the vote of a
 1474 majority of all nondeveloper voting interests voting in person
 1475 or by limited proxy at a duly called meeting of the association.
 1476 If a meeting of the unit owners has been called to determine to
 1477 provide no reserves, or reserves less adequate than required,
 1478 and such result is not attained or a quorum is not attained, the
 1479 reserves as included in the budget shall go into effect.

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1480 3. Reserve funds and any interest accruing thereon shall
 1481 remain in the reserve account or accounts, and shall be used
 1482 only for authorized reserve expenditures unless their use for
 1483 other purposes is approved in advance by a vote of the majority
 1484 of the voting interests, voting in person or by limited proxy at
 1485 a duly called meeting of the association. Prior to turnover of
 1486 control of an association by a developer to unit owners other
 1487 than the developer under s. 719.301, the developer may not vote
 1488 to use reserves for purposes other than that for which they were
 1489 intended without the approval of a majority of all nondeveloper
 1490 voting interests, voting in person or by limited proxy at a duly
 1491 called meeting of the association.

1492 Section 24. Subsection (1) of section 455.219, Florida
 1493 Statutes, is amended to read:

1494 455.219 Fees; receipts; disposition; periodic management
 1495 reports.—

1496 (1) Each board within the department shall determine by
 1497 rule the amount of license fees for its profession, based upon
 1498 department-prepared long-range estimates of the revenue required
 1499 to implement all provisions of law relating to the regulation of
 1500 professions by the department and any board; however, when the
 1501 department has determined, based on the long-range estimates of
 1502 such revenue, that a profession's trust fund moneys are in
 1503 excess of the amount required to cover the necessary functions
 1504 of the board, or the department when there is no board, the
 1505 department may adopt rules to implement a waiver of license
 1506 renewal fees for that profession for a period not to exceed 2
 1507 years, as determined by the department. Each board, or the
 1508 department when there is no board, shall ensure license fees are

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1509 adequate to cover all anticipated costs and to maintain a
 1510 reasonable cash balance, as determined by rule of the
 1511 department, with advice of the applicable board. If sufficient
 1512 action is not taken by a board within 1 year of notification by
 1513 the department that license fees are projected to be inadequate,
 1514 the department shall set license fees on behalf of the
 1515 applicable board to cover anticipated costs and to maintain the
 1516 required cash balance. The department shall include recommended
 1517 fee cap increases in its annual report to the Legislature.
 1518 Further, it is legislative intent that no regulated profession
 1519 operate with a negative cash balance. The department may provide
 1520 by rule for the advancement of sufficient funds to any
 1521 profession or the Florida Athletic State Boxing Commission
 1522 operating with a negative cash balance. Such advancement may be
 1523 for a period not to exceed 2 consecutive years and shall require
 1524 interest to be paid by the regulated profession. Interest shall
 1525 be calculated at the current rate earned on Professional
 1526 Regulation Trust Fund investments. Interest earned shall be
 1527 allocated to the various funds in accordance with the allocation
 1528 of investment earnings during the period of the advance.

1529 Section 25. Subsection (4) of section 548.002, Florida
 1530 Statutes, is amended to read:

1531 548.002 Definitions.—As used in this chapter, the term:

1532 (4) "Commission" means the Florida Athletic State Boxing
 1533 Commission.

1534 Section 26. Subsections (3) and (4) of section 548.05,
 1535 Florida Statutes, are amended to read:

1536 548.05 Control of contracts.—

1537 (3) The commission may require that each contract contain

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1538 language authorizing the ~~Florida State Boxing~~ commission to
 1539 withhold any or all of any manager's share of a purse in the
 1540 event of a contractual dispute as to entitlement to any portion
 1541 of a purse. The commission may establish rules governing the
 1542 manner of resolution of such dispute. In addition, if the
 1543 commission deems it appropriate, the commission is hereby
 1544 authorized to implead interested parties over any disputed funds
 1545 into the appropriate circuit court for resolution of the dispute
 1546 before ~~prior to~~ release of all or any part of the funds.

1547 (4) Each contract subject to this section shall contain the
 1548 following clause: "This agreement is subject to the provisions
 1549 of chapter 548, Florida Statutes, and to the rules of the
 1550 Florida Athletic State Boxing Commission and to any future
 1551 amendments of either."

1552 Section 27. Subsection (12) of section 548.071, Florida
 1553 Statutes, is amended to read:

1554 548.071 Suspension or revocation of license or permit by
 1555 commission.—The commission may suspend or revoke a license or
 1556 permit if the commission finds that the licensee or permittee:

1557 (12) Has been disciplined by the ~~Florida State Boxing~~
 1558 commission or similar agency or body of any jurisdiction.

1559 Section 28. Section 548.077, Florida Statutes, is amended
 1560 to read:

1561 548.077 Florida Athletic State Boxing Commission;
 1562 collection and disposition of moneys.—All fees, fines,
 1563 forfeitures, and other moneys collected under the provisions of
 1564 this chapter shall be paid by the commission to the Chief
 1565 Financial Officer who, after the expenses of the commission are
 1566 paid, shall deposit them in the Professional Regulation Trust

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1567 Fund to be used for the administration and operation of the
1568 commission and to enforce the laws and rules under its
1569 jurisdiction. In the event the unexpended balance of such moneys
1570 collected under the provisions of this chapter exceeds \$250,000,
1571 any excess of that amount shall be deposited in the General
1572 Revenue Fund.

1573 Section 29. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

1966

Bill Number (if applicable)

425248

Amendment Barcode (if applicable)

Topic Amendment 425248 on SB 1966

Name Mark Anderson

Job Title Lobbyist

Address 1100 S Monroe St
Street

Phone 813-205-0658

Tallahassee FL 32301
City State Zip

Email mark@consultanderson.com

Speaking: For Against Information

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

Representing C.E.O.M.C.

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)

4/15/21

Meeting Date

1966

Bill Number (if applicable)

Topic SB 1966 (As amended)

Amendment Barcode (if applicable)

Name Colton Madill

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Speaking: For Against Information

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

Representing DBPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 2004

INTRODUCER: Commerce and Tourism Committee and Senator Burgess

SUBJECT: Broadband Internet

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.	Hrdlicka	Hrdlicka	ATD	Recommend: Favorable
3.	Hrdlicka	Sadberry	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 2004 requires the Office of Broadband (Office) within the Department of Economic Opportunity to address additional areas in its strategic plan. Specifically, the Office must develop short-term and long-term goals and strategies to increase the availability of and access to broadband Internet service in Florida; incorporate federal broadband activities that may improve Florida's broadband Internet service; and identify available federal funding for the expansion or improvement of broadband Internet service. The bill requires the Office to complete and submit its strategic plan by June 30, 2022.

Additionally, the bill requires the Office to provide technical and planning assistance to Florida's rural communities' broadband Internet infrastructure projects.

The bill provides an appropriation of \$1.4 million in nonrecurring funds for Fiscal Year 2021-2022.

II. Present Situation:

Broadband Internet Deployment

Fixed and mobile broadband Internet services provide access to numerous employment, education, entertainment, and health care opportunities.¹ Access to a sufficient internet connection has only grown more important during the COVID-19 pandemic, which requires many Americans to connect to their family and friends, schooling, work, and even medical appointments over the internet.²

While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 78.6 percent.³ This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.⁴ Communities that lack broadband access can have difficulty attracting new capital investment.⁵ Additionally, data indicates that low-income households disproportionately lack access to broadband Internet service, which puts children in those households at risk of falling behind.⁶

Broadband internet is a high speed internet that is faster than dial-up access and is always on; in 2015, the Federal Communications Commission (FCC) defined broadband as 25/3 megabits per second (Mbps), i.e., 25 Mbps (download rate) and 3 Mbps (upload rate).⁷ Consumers can receive Broadband internet through several different technologies, including a digital subscriber line (DSL), a cable modem, fiber, wireless, satellite, and broadband over power lines.⁸

Other State Action

All 50 states have created either a task force, commission, or authority to coordinate broadband expansion.⁹ One organization has studied the work of several state broadband offices authorities

¹ U.S. Federal Communications Commission (FCC), *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), available at <https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf> (last visited Mar. 28, 2021).

² FCC, *Emergency Broadband Benefit Report and Order*, at 2-3 (Feb. 26, 2021), available at <https://docs.fcc.gov/public/attachments/FCC-21-29A1.pdf> (last visited Mar. 28, 2021).

³ FCC, *2021 Broadband Deployment Report*, at 58 (Jan. 19, 2021), available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf> (last visited Mar. 28, 2021). For purposes of this data, "fixed broadband services" are measured at 25 megabits per second downstream and 3 megabits per second upstream.

⁴ National Telecommunications and Information Administration, American Broadband Initiative, *Milestones Report*, at 11 (Feb. 13, 2019), available at https://broadbandusa.ntia.doc.gov/sites/default/files/resource-files/american_broadband_initiative_milestones_report_feb_2019_0.pdf (last visited Mar. 28, 2021). See also Congressional Research Service (CRS), *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, at 7 (Oct. 25, 2019), available at <https://fas.org/sgp/crs/misc/RL30719.pdf> (last visited Mar. 28, 2021).

⁵ CRS, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, *supra* note 4 at 8.

⁶ New American Economy Research Fund, *Back to School: A Look at the Internet Access Gap* (Aug. 6, 2020), available at <https://research.newamericaneconomy.org/report/internet-access-covid-19/> (last visited Mar. 28, 2021).

⁷ CRS, *State Broadband Initiatives: Selected State and Local Approaches as Potential Models for Federal Initiatives to Address the Digital Divide*, at 2-3 (Apr. 6, 2020), available at <https://crsreports.congress.gov/product/pdf/R/R46307> (last visited Mar. 28, 2021).

⁸ CRS, *Broadband Internet Access and the Digital Divide: Federal Assistance Programs*, *supra* note 4 at 1.

⁹ National Conference of State Legislatures (NCSL), *State Broadband Task Forces, Commissions or Authorities and Other Broadband Resources* (June 2020), <https://www.ncsl.org/research/telecommunications-and-information-technology/state-broadband-task-forces-commissions.aspx> (last visited Mar. 28, 2021).

and determined that effective practices include stakeholder outreach and engagement at both the state and local levels; thorough development of a policy framework with well-defined goals; adoption of a state broadband plan; and helping communities identify their broadband goals and needs to better connect them with satisfactory resources.¹⁰

Florida's Office of Broadband

In 2020 the Legislature created the Florida Office of Broadband (Office) within the Department of Economic Opportunity (DEO).¹¹ The Office is tasked with developing, marketing, and promoting broadband Internet service in the state.

Specifically, the Office must:

- Create a strategic plan for increasing the use of broadband Internet service in Florida which must include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- Build local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture;
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved¹² areas of the state through grant programs; and
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida's rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs.¹³

The DEO may apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to further the above goals.¹⁴

Federal Broadband Initiatives

FCC Digital Opportunity Data Collection Program

The FCC collects and monitors data on broadband deployment in order to identify underserved and unserved localities in the United States.¹⁵ In August 2019, the FCC adopted the Digital Opportunity Data Collection Program, which modernized the collection of broadband deployment data by creating granular coverage maps, as opposed to census tract maps, and by

¹⁰ Kathryn de Wit, Pew Charitable Trusts, *How States are Expanding Broadband Access* (Feb. 27, 2020), available at <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/02/how-states-are-expanding-broadband-access> (last visited Mar. 28, 2021).

¹¹ Chapter 2020-26, Laws of Fla.

¹² Section 364.0135(2)(d), F.S., defines the term "underserved" to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream

¹³ Section 364.0135(4), F.S.

¹⁴ Section 364.0135(5), F.S.

¹⁵ FCC, *Establishing the Digital Opportunity Data Collection*, at 1-2 (Jan. 19, 2021), available at <https://www.fcc.gov/document/fcc-takes-next-step-collect-more-precise-broadband-mapping-data> (last visited Mar. 28, 2021).

implementing a process to accept public data to confirm the maps' accuracy.¹⁶ In March 2020, Congress ratified the FCC's Data Collection Program with passage of the Broadband Data Act, which requires the FCC to establish a semiannual collection of geographically granular broadband coverage data to use to create coverage maps.¹⁷ Congress allocated \$65 million to the FCC to achieve this mapping project in December 2020.¹⁸

To create these geographic service maps, the FCC collects information from service providers according to specific reporting standards. The service providers must report their service coverage areas, including where their services were available to residences or businesses, and the speed and latency at which their services are delivered.¹⁹ The FCC also set up a website to allow for public input regarding consumers' experiences with broadband.²⁰ The FCC anticipates completing initial, targeted mapping by July 2021.²¹

FCC's Rural Digital Opportunity Fund

In January 2020, the FCC established the Rural Digital Opportunity Fund to fund the deployment of broadband networks in rural America over the next decade. The first phase of the fund began in 2020 and made available up to \$16 billion to target census blocks that are wholly unserved by fixed broadband speeds of at least 25 Mbps downstream and 3 Mbps upstream (25/3 Mbps).²² Florida entities received over \$190 million (to be distributed over the next 10 years) in this first round of funding.²³

Phase II of the Fund will target underserved localities, as identified by the FCC's Digital Opportunity Data Collection Program.²⁴ Using this more precise data, the second phase of FCC grants will make available at least \$4.4 billion to target geographic areas where some locations lack access to 25/3 Mbps broadband.²⁵

FCC's Emergency Broadband Benefit Program

Congress appropriated \$3.2 billion in December 2020 to expand broadband access via subsidies for broadband service to students, families, and unemployed workers.²⁶ Eligible households can receive a discount of up to \$50 per month off their broadband service bill for service and associated equipment. A household is eligible to receive a subsidy if any member of the

¹⁶ *Id.* at 3.

¹⁷ 47 U.S.C. 642(a)(1)(A) and (a)(2) (2020).

¹⁸ Marguerite Reardon, CNET, *FCC Chair Rosenworcel Launches Broadband Mapping Taskforce* (Feb. 17, 2021), available at <https://www.cnet.com/news/fcc-chair-rosenworcel-launches-broadband-mapping-task-force/> (last visited Mar. 28, 2021).

¹⁹ FCC, *Establishing the Digital Opportunity Data Collection*, *supra* note 15 at 5, 8-16.

²⁰ FCC, *Broadband Data Collection Consumer Information*, available at <https://www.fcc.gov/BroadbandData/consumers> (last visited Apr. 1, 2021).

²¹ FCC, *Carr Welcomes New, Four-Month Timeline for Broadband Maps*, available at <https://docs.fcc.gov/public/attachments/DOC-370911A1.pdf> (last visited Apr. 1, 2021).

²² FCC, *FCC Launches \$20 Billion Rural Digital Opportunity Fund* (Feb. 7, 2020), available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0> (last visited Mar. 28, 2021).

²³ Federal Communications Commission, *Auction 904 Winning Bidders: Attachment A*, available at <https://www.fcc.gov/document/auction-904-winning-bidders> (last visited Mar. 28, 2021).

²⁴ *See*, FCC, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, *supra* note 20 at 3.

²⁵ FCC, *FCC Launches \$20 Billion Rural Digital Opportunity Fund*, *supra* note 20 at 4.

²⁶ NCSL, *COVID-19 Economic Relief Bill: Broadband Provisions* (Jan. 4, 2021), available at <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx> (last visited Mar. 28, 2021).

household: qualifies for the Lifeline program, receives benefits under the free or reduce-price school lunch program, received a Federal Pell Grant, experienced a substantial loss of income in the last year and had a total household income in 2020 below \$99,000 for single filers and \$198,000 for joint filers, or meets criteria to participate in service providers' existing low-income or COVID-19 programs.²⁷ The program will conclude when all the funding has been expended or six months after the end of the public health emergency.²⁸

U.S. Department of Agriculture Programs

The U.S. Department of Agriculture (USDA) has several rural utilities programs to provide a variety of loans and grants to build and expand broadband networks.²⁹ The ReConnect Program offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service. Eligible entities include cooperatives and nonprofits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants for a grant or a loan/grant combination under the ReConnect Program must submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.³⁰

Miscellaneous Federal Broadband Initiatives

Federal assets to assist with the expansion and promotion of broadband comes from a variety of sources, for example:³¹

- The FCC's E-Rate Universal Service Fund subsidizes telephone service (including broadband Internet access) to low-income households, high-cost areas, rural healthcare providers, and eligible schools and libraries;³²
- The U.S. Department of Housing and Urban Development³³ and Department of Education³⁴ offer block grants that can support broadband infrastructure;
- The Department of the Interior launched a mapping tool to allow service providers to locate federal property available for infrastructure development;³⁵ and

²⁷ FCC, *Emergency Broadband Benefit Program*, <https://www.fcc.gov/broadbandbenefit> (last visited Mar. 28, 2021).

²⁸ See FCC, *FCC Adopts Report and Order for Emergency Broadband Benefit Program*, available at <https://www.fcc.gov/document/fcc-adopts-report-and-order-emergency-broadband-benefit-program-0> (last visited Mar. 31, 2021).

²⁹ USDA, *Telecom Programs*, available at <https://www.rd.usda.gov/programs-services/all-programs/telecom-programs> (last visited Mar. 28, 2021).

³⁰ See USDA, *ReConnect Loan and Grant Program*, available at <https://www.usda.gov/reconnect#anchor1> (last visited Mar. 28, 2021).

³¹ See generally, National Telecommunications and Information Administration (NTIA), *American Broadband Initiative, Progress Report* (June 2020), available at https://www.ntia.doc.gov/files/ntia/publications/abi_progress_report_june2020.pdf (last visited Mar. 28, 2021).

³² FCC, *E-Rate: Universal Service Program for Schools and Libraries* (Sep. 16, 2020), <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate> (last visited Mar. 28, 2021).

³³ U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), <https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf> (last visited Mar. 28, 2021).

³⁴ U.S. Department of Education, *Rural and Low-Income School Program*, available at <https://www2.ed.gov/programs/reaprlisp/index.html> (last visited Mar. 28, 2021).

³⁵ U.S. Department of Interior, *Supporting Broadband Tower Facilities in Rural America on Federal Properties Managed at Interior*, available at <https://www.doi.gov/broadband> (last visited Mar. 28, 2021).

- The National Telecommunications and Information Administration within the U.S. Department of Commerce is working to improve coordination between federal programs that fund broadband and statewide efforts.³⁶

Additionally, the latest COVID-19 relief bill passed by Congress in December 2020³⁷ included the following funding to expand broadband Internet access for students, families, and unemployed workers:³⁸

- \$300 million for rural broadband;³⁹
- \$250 million for the FCC’s telehealth program;⁴⁰
- \$285 million to fund a pilot program to assist with broadband issues at historically Black colleges and universities;⁴¹
- \$10 billion for the Capital Projects Fund to provide grants to states for the costs of capital projects, like broadband infrastructure.⁴²
- \$1.9 billion for “rip and replace” efforts related to Huawei and ZTE equipment in U.S. networks;⁴³ and
- \$1 billion in grants for tribal broadband programs.⁴⁴

Additionally, the American Rescue Plan, signed into law on March 11, 2021, includes multiple appropriations that can be used for broadband infrastructure, such as \$10 billion for the Capital Projects Fund to provide grants to states for the costs of capital projects, like broadband infrastructure and \$130.2 billion for Community Development Block Grants that can be used for community development projects, including broadband infrastructure.⁴⁵

³⁶ Broadband USA, *State Broadband Leaders Network* (Dec. 19, 2018), <https://broadbandusa.ntia.doc.gov/ntia-resources/state-broadband-leaders-network-sbln> (last visited Mar. 28, 2021).

³⁷ Consolidated Appropriations Act of 2021, H.R. 133, 116th Cong. (2021).

³⁸ NCSL, *COVID-19 Economic Relief Bill: Broadband*, *supra* note 24.

³⁹ See generally, NTIA, *Overview of Consolidated Appropriations Act, 2021: Broadband Infrastructure Deployment Grants*, available at <https://broadbandusa.ntia.doc.gov/ntia-common-content/overview-consolidated-appropriations-act-2021> (last visited Mar. 28, 2021). These grants will be available to support infrastructure for the deployment of fixed broadband service in a census block with at least one household or business that does not have access to internet at a speed of 25/3Mbps or higher.

⁴⁰ FCC, *COVID-19 Telehealth Program* (Feb. 9, 2021), available at <https://www.fcc.gov/covid-19-telehealth-program> (last visited Mar. 28, 2021).

⁴¹ See generally, NTIA, *Minority Broadband Initiative*, <https://www.ntia.doc.gov/category/minority-broadband-initiative> (last visited Mar. 28, 2021).

⁴² U.S. Treasury, *FACT SHEET: The American Rescue Plan Will Deliver Immediate Economic Relief to Families*, available at <https://home.treasury.gov/news/press-releases/jy0069> (last visited Apr. 2, 2021).

⁴³ B. Braverman, M. Browne, and J. Mark, *Let Her Rip! FCC Adopts Remove-and-Replace Rules* (Jan. 15, 2021), <https://www.dwt.com/insights/2021/01/fcc-huawei-zte-rip-and-replace-rules> (last visited Mar. 28, 2021). See also, FCC, *Second Report and Order in re: Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs* (Dec. 10, 2020), available at <https://docs.fcc.gov/public/attachments/FCC-20-176A1.pdf> (last visited Mar. 28, 2021).

⁴⁴ See generally, NTIA, *NTIA Announces Tribal Consultations on New Program to Increase Broadband Access Across Indian Country* (Feb. 5, 2021), <https://www.ntia.gov/blog/2021/ntia-announces-tribal-consultations-new-program-increase-broadband-access-across-indian> (last visited Mar. 28, 2021).

⁴⁵ Pub. L. No. 112-2, ss. 603 and 604 (117th Congress) (H.R. 1319). U.S. Treasury, *FACT SHEET: The American Rescue Plan Will Deliver Immediate Economic Relief to Families*, available at <https://home.treasury.gov/news/press-releases/jy0069> (last visited Apr. 2, 2021).

III. Effect of Proposed Changes:

The Office is currently required to draft a strategic plan for increasing the use of broadband Internet service in Florida. **Section 1** of the bill adds additional subject matter areas that the Office must address in the strategic plan, specifically:

- Short and long-term goals that increase and improve the availability of and access to broadband Internet service in Florida;
- Federal broadband activities, specifically those implemented by the FCC, that may improve broadband Internet service in Florida; and
- Federal funding sources that may be used to expand or improve broadband Internet service in Florida.

The bill requires that the Office complete and submit its strategic plan to the Governor, Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2022. The plan must be updated biennially thereafter.

Section 1 of the bill also expands the Office's duties to include the provision of technical and planning assistance relating to broadband infrastructure to rural communities.

Section 2 appropriates \$1.4 million in nonrecurring funds from the State Economic Enhancement and Development Trust Fund to the Department of Economic Opportunity for the 2021-2022 fiscal year. The department must use these funds to commission a broadband feasibility study and to develop a strategic plan as required by s. 364.0135, F.S.

Section 3 provides that 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:

None identified.

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

None.

B. Private Sector Impact:

The Office's planning and execution of its duties may help localities secure funding for broadband Internet service, which will positively impact citizens' business and personal needs. Additionally, communities with sufficient broadband Internet service may better attract or retain business.

C. Government Sector Impact:

The bill appropriates \$1.4 million in nonrecurring funds from the State Economic Enhancement and Development Trust Fund to the DEO to commission a broadband feasibility study and develop a broadband strategic plan, as required by s. 364.0135, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 364.0135 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 Commerce and Tourism on March 15, 2021:**

The CS appropriates \$1.4 million in nonrecurring funds for the fiscal year 2021-2022 from the State Economic Enhancement and Development Trust Fund to the DEO for the specific purposes of commissioning a broadband feasibility study and developing a strategic plan.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

.
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. .

House

The Committee on Appropriations (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Part XV of chapter 288, Florida Statutes,
consisting of sections 288.9960, 288.9961, and 288.9962 is
created and entitled "Florida Office of Broadband."

Section 2. Section 288.9960, Florida Statutes, is created
to read:



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10 288.9960 Promotion of broadband adoption; definitions.-

11 (1) LEGISLATIVE FINDINGS.-The Legislature finds that the
12 sustainable adoption of broadband Internet service is critical
13 to the economic and business development of this state, is
14 essential for all residents of this state, and is beneficial for
15 libraries, schools, colleges and universities, health care
16 providers, and community organizations.

17 (2) DEFINITIONS.-As used in this part section, the term:

18 (a) "Department" means the Department of Economic
19 Opportunity.

20 (b) "Office" means the Florida Office of Broadband.

21 (c) "Sustainable adoption" means the ability for
22 communications service providers to offer broadband Internet
23 services in all areas of this state by encouraging adoption and
24 utilization levels that allow for these services to be offered
25 in the free market absent the need for governmental subsidy.

26 (d) "Underserved" means a geographic area of this state in
27 which there is no provider of broadband Internet service that
28 offers a connection to the Internet with a capacity for
29 transmission at a consistent speed of at least 100 10 megabits
30 per second downstream and at least 10 megabits 1 megabit per
31 second upstream.

32 (e) "Unserved" means a geographic area of this state in
33 which there is no provider of broadband Internet service that
34 offers a connection to the Internet with a capacity for
35 transmission at a consistent speed of at least 25 megabits per
36 second downstream and at least 3 megabits per second upstream.

37 Section 3. Section 364.0135, Florida Statutes, is
38 transferred, renumbered as section 288.9961, Florida Statutes,



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39 and amended to read:

40 288.9961 ~~364.0135~~ ~~Promotion of broadband adoption~~; Florida
41 Office of Broadband.—

42 ~~(1) LEGISLATIVE FINDINGS. The Legislature finds that the~~
43 ~~sustainable adoption of broadband Internet service is critical~~
44 ~~to the economic and business development of the state and is~~
45 ~~beneficial for libraries, schools, colleges and universities,~~
46 ~~health care providers, and community organizations.~~

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

48 ~~(a) "Department" means the Department of Economic~~
49 ~~Opportunity.~~

50 ~~(b) "Office" means the Florida Office of Broadband.~~

51 ~~(c) "Sustainable adoption" means the ability for~~
52 ~~communications service providers to offer broadband services in~~
53 ~~all areas of the state by encouraging adoption and utilization~~
54 ~~levels that allow for these services to be offered in the free~~
55 ~~market absent the need for governmental subsidy.~~

56 ~~(d) "Underserved" means a geographic area of the state in~~
57 ~~which there is no provider of broadband Internet service that~~
58 ~~offers a connection to the Internet with a capacity for~~
59 ~~transmission at a consistent speed of at least 10 megabits per~~
60 ~~second downstream and at least 1 megabit per second upstream.~~

61 (1) ~~(3)~~ STATE AGENCY.—The department is designated as the
62 lead state agency to facilitate the expansion of broadband
63 Internet service in this ~~the~~ state. The department shall work
64 collaboratively with private businesses and receive staffing
65 support and other resources from Enterprise Florida, Inc., state
66 agencies, local governments, and community organizations.

67 (2) ~~(4)~~ FLORIDA OFFICE OF BROADBAND.—The Florida Office of



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68 Broadband is created within the Division of Community
69 Development in the department for the purpose of developing,
70 marketing, and promoting broadband Internet services in this ~~the~~
71 state. The office, in the performance of its duties, shall do
72 all of the following:

73 (a) Create a strategic plan that has short-term and long-
74 term goals and strategies for increasing and improving the
75 availability of and access to ~~use of~~ broadband Internet service
76 in this ~~the~~ state. In development of the plan, the department
77 shall incorporate applicable federal broadband activities,
78 including any efforts or initiatives of the Federal
79 Communications Commission, to improve broadband Internet service
80 in this state. The plan must include a process to review and
81 verify public input regarding transmission speeds and
82 availability of broadband Internet service throughout the state.
83 The plan must also identify available federal funding sources
84 for the expansion or improvement of broadband. The strategic
85 plan must be submitted to the Governor, the Chief Justice of the
86 Supreme Court, the President of the Senate, and the Speaker of
87 the House of Representatives by June 30, 2022. The strategic
88 plan must be updated biennially thereafter.

89 (b) Build and facilitate local technology planning teams or
90 partnerships with members representing cross-sections of the
91 community, which may include, but are not limited to,
92 representatives from the following organizations and industries:
93 libraries, K-12 education, colleges and universities, local
94 health care providers, private businesses, community
95 organizations, economic development organizations, local
96 governments, tourism, parks and recreation, and agriculture.



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97 (c) Provide technical and planning assistance related to
98 broadband infrastructure to rural communities.

99 (d)~~(e)~~ Encourage the use of broadband Internet service,
100 especially in the rural, unserved, or underserved communities of
101 this ~~the~~ state through grant programs having effective
102 strategies to facilitate the statewide deployment of broadband
103 Internet service. For any grants to be awarded, priority must be
104 given to projects that:

105 1. Provide access to broadband education, awareness,
106 training, access, equipment, and support to libraries, schools,
107 colleges and universities, health care providers, and community
108 support organizations.

109 2. Encourage the sustainable adoption of broadband Internet
110 service ~~in primarily underserved areas~~ by removing barriers to
111 entry.

112 3. Work toward encouraging investments in establishing
113 affordable and sustainable broadband Internet service in
114 ~~underserved areas of~~ this ~~the~~ state.

115 4. Facilitate the development of applications, programs,
116 and services, including, but not limited to, telework,
117 telemedicine, and e-learning to increase the usage of, and
118 demand for, broadband Internet service in this ~~the~~ state.

119 (e)~~(d)~~ Monitor, participate in, and provide input in
120 proceedings of the Federal Communications Commission and other
121 federal agencies related to the geographic availability and
122 deployment of broadband Internet service in this ~~the~~ state as
123 necessary to ensure that this information is accurately
124 presented and that rural, unserved, and underserved areas of the
125 state are best positioned to benefit from federal and state



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126 broadband deployment programs.

127 (e) Administer the Broadband Opportunity Program
128 established in s. 288.9962.

129 (3)(5) ADMINISTRATION.—The department may:

130 (a) Apply for and accept federal funds for purposes of this
131 section.

132 (b) Enter into contracts necessary or useful to carry out
133 the purposes of this section.

134 (c) Establish any committee or workgroup to administer and
135 carry out the purposes of this section.

136 (d) Adopt rules to implement this part.

137 Section 3. Section 288.9962, Florida Statutes, is created
138 to read:

139 288.9962 Broadband Opportunity Program.—

140 (1) The Broadband Opportunity Program is established within
141 the office to award grants to applicants who seek to expand
142 broadband Internet service to unserved areas of this state. The
143 office must administer and act as fiscal agent for the program
144 and is responsible for receiving and reviewing applications and
145 awarding grants. Funding for the program shall be subject to
146 appropriation.

147 (2)(a) Grants awarded under this section shall fund the
148 installation or deployment of infrastructure that supports the
149 provision of broadband Internet service that provides access to
150 the Internet at a consistent speed of at least 25 megabits per
151 second download and 3 megabits per second upload. State funds
152 may not be used to install or deploy broadband Internet service
153 to a geographic area in which broadband Internet service is
154 already deployed by at least one provider.



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155 (b) For purposes of this section, "deployed" means that a
156 provider meets either of the following:

157 1. Currently provides broadband Internet service in a
158 specific geographic area with access to the Internet at a
159 consistent speed of at least 25 megabits per second download and
160 3 megabits per second upload; or

161 2. Is able to provide broadband Internet service in a
162 specific geographic area with such access to a customer that
163 requests that service not later than 30 days after the customer
164 requests installation of that service and without an
165 extraordinary commitment of resources or construction charges or
166 fees exceeding an ordinary service activation fee. The 30-day
167 time period shall be extended to 60 days if permits are needed
168 before the broadband Internet service is installed and
169 activated.

170 (3) Applicants eligible for grant awards include:

171 (a) Corporations, limited liability companies, general
172 partnerships, and limited partnerships that are organized under
173 the laws of this state or otherwise authorized to transact
174 business in this state.

175 (b) Indian tribes.

176 (4) The office may not award, directly or indirectly,
177 grants under this section to a governmental entity, a rural
178 electric cooperative or its broadband affiliate, or an
179 educational institution or affiliate to provide broadband
180 Internet service to any residential or commercial premises,
181 unless other broadband Internet service providers have not
182 deployed service to an unserved area.

183 (5) An eligible applicant shall submit a grant application



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184 to the office on a form prescribed by the office. A grant
185 application must include the following information:

186 (a) A description of the project area.

187 (b) A description of the kind and amount of broadband
188 Internet service infrastructure that is proposed.

189 (c) Evidence demonstrating the unserved nature of the
190 project area.

191 (d) The number of households and businesses that would have
192 access to broadband Internet service as a result of the grant.

193 (e) A list of significant community institutions that would
194 benefit from the grant.

195 (f) The total cost of the project and the timeframe in
196 which it would be completed.

197 (g) A list identifying sources of funding or in-kind
198 contributions that would supplement any awarded grant.

199 (h) Any other information required by the office.

200 (6) (a) At least 30 days before the first day grant
201 applications may be submitted each fiscal year, the office shall
202 publish on its website the specific criteria and quantitative
203 scoring system it will use to evaluate or rank grant
204 applications. Such criteria and quantitative scoring system must
205 include the criteria set forth in subsection (8).

206 (7) (a) Within 3 business days after the close of the grant
207 application process, the office shall publish on its website,
208 from each grant application submitted, the proposed unserved
209 areas to be served and the proposed broadband Internet speeds of
210 the areas to be served.

211 (b) A broadband Internet service provider that provides
212 existing service in or adjacent to a proposed project area or a



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213 broadband Internet service provider that has been designated to
214 receive a federal broadband award in this state may submit to
215 the office, within 45 days after publication of the information
216 under paragraph (a), a written challenge to an application. The
217 challenge must contain information demonstrating that:

218 1. The provider currently has deployed broadband Internet
219 service to retail customers within the project area;

220 2. The provider has begun construction to provide broadband
221 Internet service to retail customers within the proposed project
222 area within the timeframe proposed by the applicant;

223 3. The provider commits to providing broadband Internet
224 service to retail customers within the proposed project area
225 within the timeframe proposed by the applicant; or

226 4. The provider has been awarded federal funding pursuant
227 to the Rural Digital Opportunity Fund or other federal program
228 specifically to support the deployment or expansion of broadband
229 networks within the proposed project area.

230 (c) Within 3 business days after the submission of a
231 written challenge, the office shall notify the applicant, in
232 writing, of the challenge.

233 (d) The office shall evaluate each challenge submitted
234 under this subsection. If the office determines that the
235 provider currently has deployed, has begun construction to
236 provide, or commits to provide broadband Internet service in the
237 proposed project area, the office may not fund the challenged
238 project.

239 (e) If the office denies funding to an applicant as a
240 result of a broadband Internet service provider's challenge and
241 the provider does not fulfill its commitment to provide



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242 broadband Internet service in the unserved area, the office may
243 not consider another challenge from the provider for the next
244 two grant application cycles, unless the office determines that
245 the failure to fulfill the commitment was due to circumstances
246 beyond the provider's control.

247 (8) (a) Notwithstanding s. 288.9961(2) (d), in evaluating
248 grant applications and awarding grants, the office must give
249 priority to applications that:

250 1. Offer broadband Internet service to important community
251 institutions, including, but not limited to, libraries,
252 educational institutions, public safety facilities, and health
253 care facilities;

254 2. Facilitate the use of telemedicine and electronic health
255 records;

256 3. Serve economically distressed areas of this state, as
257 measured by indices of unemployment, poverty, or population loss
258 that are significantly greater than the statewide average;

259 4. Provide for scalability to transmission speeds of at
260 least 100 megabits per second download and 10 megabits per
261 second upload;

262 5. Include a component to actively promote the adoption of
263 the newly available broadband Internet service in the community;

264 6. Provide evidence of strong support for the project from
265 residents, government, businesses, and institutions in the
266 community;

267 7. Provide access to broadband Internet service to the
268 greatest number of unserved households and businesses;

269 8. Leverage greater amounts of funding for a project from
270 private sources; or



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271 9. Demonstrate consistency with the strategic plan adopted
272 under s. 288.9961.

273 (b) The office must endeavor to award grants to qualified
274 applications serving all regions of this state.

275 (9) (a) The office may not award any grant to an otherwise
276 eligible grant applicant to provide broadband Internet service
277 in a project area for which any other federal funding has been
278 awarded for a broadband project.

279 (b) A grant awarded under this section may not be used to
280 serve any retail end user that already has access to broadband
281 Internet service.

282 (c) A grant awarded under this section, when combined with
283 any state or local funds, may not fund more than 50 percent of
284 the total cost of a project.

285 (d) A single project may not be awarded a grant in excess
286 of \$5 million.

287 (10) For each grant awarded, the office shall enter into an
288 agreement with the applicant. The agreement must specify the
289 total amount of the grant, performance conditions that must be
290 met to obtain the grant, the schedule of payment, and sanctions
291 that would apply for failure to meet performance conditions,
292 including, but not limited to, requiring the return of grant
293 funds.

294 (11) By October 15, 2022, and each year thereafter, the
295 office shall publish on its website and include in the
296 department's annual report required under s. 20.60 all of the
297 following information:

298 (a) A list of all grant applications received during the
299 previous fiscal year and for each application:



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300 1. The results of any quantitative weighting or scoring
301 system the office used to award grants or rank the applications.

302 2. The grant amounts requested.

303 3. The grant amounts awarded, if any.

304 4. A report on the progress of each grant recipient in
305 acquiring and installing infrastructure that supports the
306 provision of broadband Internet service in the project areas for
307 which that grant was awarded and in securing adoption of such
308 service in each project area.

309 (b) All written challenges filed during the previous fiscal
310 year and the results of those challenges.

311 Section 4. This act shall take effect July 1, 2021.

312
313 ===== T I T L E A M E N D M E N T =====

314 And the title is amended as follows:

315 Delete everything before the enacting clause
316 and insert:

317 A bill to be entitled
318 An act relating to broadband Internet deployment;
319 creating pt. XV of ch. 288, F.S.; relating to the
320 Florida Office of Broadband; creating s. 288.8862,
321 F.S.; providing for legislative intent; creating
322 definitions relating to broadband Internet service;
323 transferring, renumbering, and amending s. 364.0135,
324 F.S.; revising duties of the Florida Office of
325 Broadband; requiring the office's strategic plan to
326 include short-term and long-term goals for increasing
327 the availability of and access to broadband Internet
328 service in this state; providing requirements for the



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329 development of the plan; requiring the updated plan to
330 be submitted to the Governor, the Chief Justice of the
331 Supreme Court, and the Legislature by a specified
332 date; requiring the plan to be updated biennially;
333 requiring the office to provide technical and planning
334 assistance related to broadband infrastructure to
335 rural communities; providing rulemaking authority;
336 creating s. 288.9962, F.S.; creating the Broadband
337 Opportunity Program within the office; providing for
338 administration of the program; providing requirements
339 for grant awards; providing eligibility requirements;
340 providing application requirements; requiring the
341 publication of certain information related to grant
342 applications and grant awards on a website;
343 authorizing grant applications to be challenged under
344 certain circumstances; specifying contents of a
345 challenge; providing procedures to be used by the
346 office in evaluating challenges; providing direction
347 for prioritizing grant funding; specifying conditions
348 for the award of grants; requiring that office to
349 enter into an agreement containing specified
350 information with each grant recipient; requiring the
351 office to publish specified information annually on
352 its website; requiring the office to publish specified
353 information annually on its website and include the
354 information in the department's annual report;
355 providing an effective date.

By the Committee on Commerce and Tourism; and Senator Burgess

577-02868-21

20212004c1

1 A bill to be entitled
 2 An act relating to broadband Internet; amending s.
 3 364.0135, F.S.; requiring the Florida Office of
 4 Broadband's strategic plan to include short-term and
 5 long-term goals for increasing the availability of and
 6 access to broadband Internet service in this state;
 7 providing requirements for the development of the
 8 plan; requiring the updated plan to be submitted to
 9 the Governor, the Chief Justice of the Supreme Court,
 10 and the Legislature by a specified date; requiring the
 11 plan to be updated biennially; requiring the office to
 12 provide technical and planning assistance related to
 13 broadband infrastructure to rural communities;
 14 providing an appropriation; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (4) of section 364.0135, Florida
 20 Statutes, is amended to read:

21 364.0135 Promotion of broadband adoption; Florida Office of
 22 Broadband.—

23 (4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of
 24 Broadband is created within the Division of Community
 25 Development in the department for the purpose of developing,
 26 marketing, and promoting broadband Internet services in the
 27 state. The office, in the performance of its duties, shall do
 28 all of the following:

29 (a) Create a strategic plan that has short-term and long-

Page 1 of 4

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

577-02868-21

20212004c1

30 term goals and strategies for increasing and improving the
 31 availability of and access to use of broadband Internet service
 32 in this the state. In development of the plan, the department
 33 shall incorporate applicable federal broadband activities,
 34 including any efforts or initiatives of the Federal
 35 Communications Commission, to improve broadband Internet service
 36 in this state. The plan must include a process to review and
 37 verify public input regarding transmission speeds and
 38 availability of broadband Internet service throughout the state.
 39 The plan must also identify available federal funding sources
 40 for the expansion or improvement of broadband. The strategic
 41 plan must be submitted to the Governor, the Chief Justice of the
 42 Supreme Court, the President of the Senate, and the Speaker of
 43 the House of Representatives by June 30, 2022. The strategic
 44 plan must be updated biennially thereafter.

45 (b) Build and facilitate local technology planning teams or
 46 partnerships with members representing cross-sections of the
 47 community, which may include, but are not limited to,
 48 representatives from the following organizations and industries:
 49 libraries, K-12 education, colleges and universities, local
 50 health care providers, private businesses, community
 51 organizations, economic development organizations, local
 52 governments, tourism, parks and recreation, and agriculture.

53 (c) Provide technical and planning assistance related to
 54 broadband infrastructure to rural communities.

55 (d)-(e) Encourage the use of broadband Internet service,
 56 especially in the rural, unserved, or underserved communities of
 57 the state through grant programs having effective strategies to
 58 facilitate the statewide deployment of broadband Internet

Page 2 of 4

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

577-02868-21 20212004c1

59 service. For any grants to be awarded, priority must be given to
60 projects that:

61 1. Provide access to broadband education, awareness,
62 training, access, equipment, and support to libraries, schools,
63 colleges and universities, health care providers, and community
64 support organizations.

65 2. Encourage the sustainable adoption of broadband in
66 primarily underserved areas by removing barriers to entry.

67 3. Work toward encouraging investments in establishing
68 affordable and sustainable broadband Internet service in
69 underserved areas of the state.

70 4. Facilitate the development of applications, programs,
71 and services, including, but not limited to, telework,
72 telemedicine, and e-learning to increase the usage of, and
73 demand for, broadband Internet service in the state.

74 (e)~~(d)~~ Monitor, participate in, and provide input in
75 proceedings of the Federal Communications Commission and other
76 federal agencies related to the geographic availability and
77 deployment of broadband Internet service in the state as
78 necessary to ensure that this information is accurately
79 presented and that rural, unserved, and underserved areas of the
80 state are best positioned to benefit from federal and state
81 broadband deployment programs.

82 Section 2. For the 2021-2022 fiscal year, the sum of \$1.4
83 million in nonrecurring funds is appropriated from the State
84 Economic Enhancement and Development Trust Fund to the
85 Department of Economic Opportunity for the purpose of
86 commissioning a broadband feasibility study and developing a
87 strategic plan as required in s. 364.0135, Florida Statutes.

Page 3 of 4

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

577-02868-21 20212004c1

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

Page 4 of 4

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/15/21

Meeting Date

SB 2004

Bill Number (if applicable)

547780

Amendment Barcode (if applicable)

Topic Amendment

Name JEFF SCALA

Job Title Associate Director of Public Policy

Address 100 S Monroe Street

Phone (850) 922-4300

Street

Tallahassee

FL

32301

Email jscala@fl-counties.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Counties

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

4/15/2021

Meeting Date

2004

Bill Number (if applicable)

Topic Broadband Internet

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title Florida Advocacy Director

Address 215 S Monroe Street, Suite 420

Phone 850-391-4090

Street

Tallahassee

FL

32301

Email Debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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 Appropriations

BILL: CS/CS/SB 2010

INTRODUCER: Appropriations Committee; Education Committee; and Senator Diaz

SUBJECT: Foreign Influence

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
2.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 2010 provides safeguards against foreign influence through establishing processes that govern screening and disclosure of foreign gifts, contracts, employment, travel, and research arrangements, as well as cultural agreements, with countries of concern. Specifically, the bill:

- Requires specified entities that apply for or receive any gift or grant with a value of \$50,000 or more from any foreign source to disclose such gift or grant to the appropriate agency, along with additional specified information.
- Requires the Department of Financial Services (DFS) to manage a website to publish required disclosures and maintain an active and current list of ineligible entities on the website, and requires DFS to investigate an allegation of a disclosure violation.
- Requires the Department of Management Services to, at least once every five years, screen specified vendors participating in the online procurement system.
- Subjects an institution of higher education that knowingly, willfully, or negligently fails to disclose to a civil penalty of 105 percent of the amount of the undisclosed gift.
- Provides protections for a whistle-blower who reports an undisclosed foreign gift to the appropriate inspector general, Attorney General, or Chief Financial Officer.
- Requires each state university or specified entity that receives state appropriations or state tax revenue and has a research budget of \$10 million or more to screen applicants for research or research-related support positions who are citizens of a foreign country and who are not permanent residents of the United States, or who are citizens or permanent residents of the United States who have any affiliation with an institution or program, or at least one year of prior employment or training, in a specified foreign country of concern.

- Requires the state university or entity to maintain records of applications, expenses, and payments or honoraria related to approved international travel. Such records must be retained for at least three years.
- Prohibits specified participation in cultural agreements with or acceptance of any grant from a foreign country of concern, or any entity controlled by such a country, for specified activities and requires sharing, prior to the execution of any cultural exchange agreement with a foreign country of concern, the substance of such agreement with appropriate federal agencies.

The bill has an indeterminate fiscal impact. See Section V.

The bill takes effect July 1, 2021.

II. Present Situation:

In March 2021, Governor Ron DeSantis and members of the Florida House and Senate highlighted proposed legislation to combat foreign influence, in response to the Communist Party of China's deliberate attempts to economically infiltrate the United States. Among the purposes of the proposed legislation were to place strategic safeguards against foreign influence through strengthening institutional vetting and applying protections for Florida's institutions of higher education, public entities, and recipients of public grants or contracts.¹

Legislative Background – Select Committee on Integrity of Research Institutions

In 2020, the Florida House of Representatives Select Committee on the Integrity of Research Institutions (Select Committee) undertook an extensive review of Florida's university-based research programs. This investigation arose out of revelations that the CEO of H. Lee Moffitt Cancer Center and Research Institute and three other officers or research scientists had failed to disclose support from relationships with Chinese talent and research programs. Following that disclosure, the University of Florida (UF) disclosed to the Select Committee that three of its research staff were under similar investigations. The Select Committee learned of additional investigations, some of which remain confidential due to active law enforcement investigations.

The Select Committee learned that Florida-based research institutions had a combined annual budget of \$2.7 billion with Florida's public universities accounting for \$2.3 billion of that research spending. Eight of Florida's State University System universities had research budgets of \$10 million or more. Four private institutions had budgets exceeding \$10 million. Research grants from public sources fund the vast majority of this research and universities receive generous shares of research grants for administration. Consequently, research activity generates significant profits for many institutions.²

¹ Florida Governor Ron DeSantis, *Governor Ron DeSantis and House Speaker Chris Sprowls Highlight Proposed Legislation to Combat Foreign Influence and Corporate Espionage* (March 1, 2021), available at <https://www.flgov.com/2021/03/01/governor-ron-desantis-and-house-speaker-chris-sprows-highlight-proposed-legislation-to-combat-foreign-influence-and-corporate-espionage/>.

² Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 7.

The open and collaborative research environment in the free world depends on the honesty and integrity of individual scientists, technicians, and administrators. The Select Committee in 2020 learned that federal officials were investigating about 200 cases across the U.S. involving federal grant recipients of research funds who had failed to disclose professional, academic, and business relationships in violation of various grant requirements. The Select Committee also ascertained that Florida state research grants often lacked similar requirements deemed reasonably necessary to ensure research integrity.³

In 2020, Florida law⁴ required that any person engaged in the design, conduct, or reporting of research and employed by a state university or specified entity engaging in research, is required by the policies of such university or entity to disclose and receive a determination that the outside activity⁵ or financial interest⁶ does not affect the integrity of the state university or entity. An employee who does not disclose any outside activity or financial interest as required must be suspended without pay pending the outcome of an investigation, which must not exceed 60 days. Additionally, upon conclusion of the investigation, the university or entity may terminate the contract of the employee.⁷

The Select Committee also learned that a U.S. visa to study or teach in the U.S. does not adequately screen foreign scientists' and students' security risk or trustworthiness. As with many employment or enrollment decisions, verifying representations made by an applicant regarding experience and credentials is a significant tool to protect an institution's integrity.⁸

In addition, the Select Committee learned that many undisclosed activities relate to foreign travel of U.S.-based faculty. International travel by faculty and graduate students creates opportunities for recruitment to engage in unethical conduct and for misappropriation of property and theft of university research. If an institution does not scrutinize and monitor foreign travel, it can expect compromising activities to take place.⁹

As part of its investigation, the Select Committee reviewed studies indicating that sister cities programs, academic language and culture centers, foreign funding of domestic institutions and foreign-influenced employment of domestic scientists and engineers are all means to influence domestic policy, advance hostile foreign interests, and limit academic freedom. Such activities project foreign interests into domestic affairs.¹⁰

³ Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 7.

⁴ Section 18, ch. 2020-117, L.O.F.

⁵ "Outside activity" is defined to include anything an employee does for an organization or an individual, other than the university or entity, that is related to the employee's expertise. Section 1012.977(2)(b), F.S.

⁶ "Financial interest" is defined to include anything of value other than that provided directly by the university or entity. Section 1012.977(2)(a), F.S.

⁷ Section 1012.977, F.S.

⁸ Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 7.

⁹ *Id.*

¹⁰ *Id.*

Federal Law and Recommended Practices

Threats to the U.S. Research Enterprise

Although state law currently imposes few limitations on relationships between foreign governments and state agencies, political subdivisions, or public contractors, federal law imposes many layers of scrutiny on certain dealings with foreigners, mostly related to science and technology having military implications, sales of arms and certain financial transactions related to terrorism, human trafficking, international drug dealing and other important national interests. Various agencies publish many lists related to various sanctions, restrictions and scrutiny imposed by federal law. In addition, many programs scrutinize transactions involving America's biggest global competitors, China and Russia. On January 19, 2021, the U.S. Department of Commerce published an interim final rule entitled: "Securing the Information and Communications Technology and Services Supply Chain." That interim rule¹¹ defined "foreign adversaries" to include Russia, China, the Nicolás Maduro government of Venezuela, Cuba, Iran, and North Korea. Along with Syria, a state sponsor of terrorism, these reflect the foreign governments most hostile to U.S. interests.¹²

As of March 2018, more than 1.4 million international students and professors were participating in America's open and collaborative academic environment. The inclusion of these international scholars at U.S. colleges and universities entails both substantial benefit—and notable risk. Some foreign actors, particularly foreign state adversaries, seek to illicitly or illegitimately acquire U.S. academic research and information to advance their scientific, economic, and military development goals. Through their exploitative efforts, they reduce U.S. competitiveness and deprive victimized parties of revenue and credit for their work.¹³

The Chinese government's strategic goals include becoming a comprehensive national power, creating innovation-driven economic growth, and modernizing its military. It aspires to equal or surpass the U.S. as a global superpower and influence the world with a value system shaped by undemocratic, totalitarian ideals. The Chinese government has historically sponsored economic espionage, and China is the world's principal infringer of intellectual property. The annual cost to the U.S. economy of counterfeit goods, pirated software, and theft of trade secrets is between \$225 billion and \$600 billion.¹⁴

A 2019 U.S. Senate report found that China prioritizes a strategy of military-civilian fusion that seeks to pool talent and financial resources to jointly develop technologies, conduct research, and attract talent that mutually reinforces both the military and civilian sectors. As of 2017, China has reportedly recruited 7,000 researchers and scientists, with U.S.-based researchers and scientists targeted specifically if they focus on or have access to cutting-edge research and

¹¹ 86 Fed. Reg. 4911 (January 19, 2021).

¹² Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 8.

¹³ Florida House of Representatives, Select Committee on the Integrity of Research Institutions, *Meeting Packet* (Jan. 21, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3075&Session=2020&DocumentType=Meeting%20Packets&FileName=sci%201-21-20.pdf>, at 253.

¹⁴ *Id.* at 254 and 255.

technology. In response to U.S. government scrutiny, China has attempted to delete online references to its talent recruitment plans and reportedly instructed Chinese institutions on how to avoid additional U.S. scrutiny. Employment contracts used by China's most prominent talent recruitment plan, the Thousand Talents Plan, contain provisions that violate U.S. research values, including non-disclosure provision related to their research and employment with Chinese institutions. In some cases, members of China's Thousand Talents Plan received both U.S. grants and Chinese grants for similar research, established "shadow labs" in China to conduct parallel research being conducted in the U.S., and stole intellectual capital and property.¹⁵

In response to these findings, recommendations from the U.S. Senate report include all of the following:

- Federal agencies should declassify and disseminate more information on foreign talent recruitment plans.
- U.S. grant-making agencies should harmonize the grant proposal process and standardize reporting requirements for disclosing all foreign conflicts of interest, conflicts of commitment, and all outside and foreign support.
- U.S. research institutions should establish best practices in monitoring scientific and research collaboration with foreign nationals.¹⁶

Presidential Memorandum on National Security

On January 14, 2021, President Donald Trump signed National Security Presidential Memorandum 33 (the Memorandum) to direct a national response to safeguard the security and integrity of federally funded research and development in the United States. Among other directives, the Memorandum:

- Prohibited federal personnel from participating in foreign government-sponsored talent recruitment programs.
- Directed specified entities to ensure that vetting processes for foreign students and researchers reflect the changing nature of the risks to the U.S. research enterprise.
- Directed departments and agencies to standardize disclosure processes, definitions, and forms related to research security across funding agencies to the maximum extent practicable.¹⁷

Strengthening the Security and Integrity of America's Research Enterprise

Also in January 2021, the National Science and Technology Council released recommended practices for strengthening the security of America's research in science and technology. Recommended practices include:¹⁸

¹⁵ U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans* (Nov. 18, 2019), available at <https://www.hsgac.senate.gov/imo/media/doc/2019-11-18%20PSI%20Staff%20Report%20-%20China's%20Talent%20Recruitment%20Plans%20Updated2.pdf>, at 7 and 8.

¹⁶ *Id.* at 11-13.

¹⁷ Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (Feb. 15, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%202-15-21.pdf>, at 7-25.

¹⁸ *Id.* at 27-48.

- Establishing and operating a comprehensive research security program.¹⁹
- Requiring disclosure to the organization of all information necessary to identify and assess potential conflicts of interest and commitment, including filing of relevant disclosures.
- Ensuring compliance with requirements for reporting foreign gifts and contracts.
- Establishing and operate a risk-based security process for foreign travel review and guidance.

Disclosure and Screening of Foreign Gifts and Contracts

Federal law restricts the receipt and disposition of foreign gifts. Any federal employee, member of the Armed Forces and their spouses may not request or accept a gift from any unit or agent of a foreign government. The Attorney General may bring a civil action against any employee who knowingly solicits or accepts an unauthorized gift from a foreign government or who fails to deposit or report such gift. The court may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.²⁰

The most critical list of foreign nations identifies “state sponsors of terrorism” as Cuba, North Korea, Iran, and Syria.²¹ Further, foreign adversaries to the United States have been defined to include Russia, China, the Nicolás Maduro government of Venezuela, Cuba, Iran, and North Korea.²²

Reporting, Inspection, and Penalties for Foreign Gifts

Current Disclosure Requirements – Institutions of Higher Education

Divisions of sponsored research at state universities must disclose the amount and source of research funding, even when the research itself involves records that are confidential and exempt from public inspection. However, university and Florida College System institutions direct support organizations (DSOs) enjoy a broad confidentiality exemption for records related to donors who wish to be anonymous and expenditures of donated funds other than travel expenditures.²³

The Higher Education Act of 1965 requires education institutions to report foreign gifts and grants valued at \$250,000 or more. Between 2018 and 2021, the U.S. Department of Education

¹⁹ According to the recommendation, research security programs should include, at a minimum, elements of cyber security, foreign travel security, insider threat awareness and education, and export control training. Depending on the organization’s individual risk profile and resources, cyber security elements can include robust access and device registration protocols, hardware encryption, and incorporating use of commercial threat management and commercial compliance solutions into internal due diligence programs. Economies of scale often can be realized by coordinating with other organizations to leverage physical and intellectual assets and avoid unnecessary duplication.

²⁰ 5 U.S. Code § 7342.

²¹ U.S. Department of State, *State Sponsors of Terrorism*, <https://www.state.gov/statesponsors-of-terrorism/> (last visited March 18, 2021).

²² See 86 Fed. Reg. 4911 (January 19, 2021). State law further prohibits certain business interactions with specified vendors, including those on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and vendors engaged in business operations with Cuba or Syria. Department of Management Services (DMS), *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021)(on file with Senate Committee on Education), at 2. See also Rule 60A-1.006(2), F.A.C.

²³ Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 10.

carefully scrutinized the reporting program and discovered billions of dollars of unreported foreign gifts from many of the best-funded institutions. At the same time, it became evident that the federal mandate does not extend to foreign donations to foundations and other non-profit entities controlled by, or formed or operated for the exclusive benefit of, the reporting institutions.²⁴

From 1984 to 1994, Florida law required universities and community colleges to report foreign receipts valued \$100,000 or more to the Commissioner of Education and legislative leaders.²⁵ As with the federal law, the statute did not extend to university foundations and DSOs, and the requirement appears to have generated few such reports.²⁶

The Whistle-blower's Act

Florida law prevents agencies²⁷ or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. The information disclosed must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act.²⁸ The name or identity of any individual who discloses in good faith to the appropriate official information that alleges that an employee or agent has violated or is suspected of having violated any law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, except as specified in law.²⁹

Applicant Screening and Research Integrity of Foreign Researchers

At present, state law imposes no responsibility on research institutions to screen foreign applicants. Universities conduct background screening on faculty hires in general, not only on foreign researchers.³⁰

²⁴ U.S. Department of Education Office of General Counsel, *Institutional Compliance with Section 117 of the Higher Education Act of 1965* (Oct. 2020), available at <https://www2.ed.gov/policy/highered/leg/institutional-compliance-section-117.pdf>.

²⁵ Section 240.138, F.S. 1994 (repealed ch. 95-196 and ch.95-392, L.O.F.).

²⁶ Florida House Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 10.

²⁷ Defined to mean any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university. Section 112.3187(3)(a), F.S.

²⁸ Section 112.3187(2) and (6), F.S.

²⁹ Section 112.3188(1), F.S.

³⁰ Board of Governors (BOG), *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021)(on file with the Senate Committee on Education), at 4. This screening consists of checks such as criminal background screening, reference checks, experience verification, and education verification. For example, Florida State University conducts international criminal history background checks for candidates who have lived outside the United States for six months or more within the past seven years. *Id.*

Approval Processes for International Travel

UF has implemented an active registration and screening program for international travel, including specific prohibitions and limitations on activities with Iran and Cuba. The program provides faculty and travelers clear guidance on legal and ethical restrictions. It also ensures protection of UF property including intellectual property.³¹ Other institutions may also have international travel screening and monitoring in place.

State Law and Regulations

Code of Ethics for Public Officers and Employees

The Florida constitution requires a code of ethics for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.³² The Code of Ethics for Public Officers and Employees (the Code) is outlined in Florida law,³³ and includes standards of conduct for public officers, employees of agencies, and local government attorneys;³⁴ full and public disclosure of financial interests;³⁵ and investigative procedures in response to prohibited personnel actions.³⁶

Ethics laws generally consist of two types of provisions, either prohibiting certain actions or conduct or requiring that certain disclosures be made to the public. Prohibited actions or conduct include solicitation and acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure or use of specified information, and solicitation or acceptance of honoraria. Prohibited employment and business relationships include doing business with one's agency, and conflicting contractual relationship, among others. Public officers and employees are required to publicly disclose their financial interests to prevent conflicts of interests.³⁷

International Cultural Agreements

Florida law provides for coordination of certain international relationships, including those between sister states and sister cities. Florida's economic development programs emphasize commerce with foreign jurisdictions.³⁸ However, such agreements may impose the public policy of foreign competitors upon local U.S. governments; it has been reported that China requires sister city agreements to enforce its "One China" policy.³⁹ According to the Tampa Bay Protocol

³¹ See UF Research, *International Travel*, <https://research.ufl.edu/compliance/export-controls/international-travel.html> (last visited March 15, 2021).

³² State of Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2021), available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>, at 1.

³³ See ss. 112.311 - 112.3261, F.S.

³⁴ Section 112.313, F.S.

³⁵ Sections 112.3144 and 112.31445, F.S. There is currently no disclosure requirement for any gift or grant of any value for state agencies, political subdivisions, or entities that apply to a grant or propose a contract. There are also no penalties for failure to disclose such information. DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021), at 2.

³⁶ Section 112.31895, F.S.

³⁷ State of Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2021), available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>, at 2-5, 11.

³⁸ See ss. 288.816 and 288.826, F.S.

³⁹ See Matej Šimalčík and Adam Kalivoda, *Sister-City Relations and Identity Politics: The Case of Prague, Beijing, Taipei, and Shanghai*, *The Diplomat*, Feb. 25, 2020, available at <https://thediplomat.com/2020/02/sister-city-relations-and-identity-politics-the-case-of-prague-beijing-taipei-and-shanghai/>.

and Trade Council, there are a number of sister city agreements with jurisdictions in nations described above as “foreign adversaries”: eleven with political subdivisions of China, six with Russian jurisdictions and three with Venezuelan cities.⁴⁰

In the past decade, the University of North Florida, the University of West Florida, the University of South Florida, and Miami-Dade College each were home to a Confucius Institute under a program of the Communist Party of China promoting Chinese language and culture, funded by significant Chinese grants. By 2014, there were at least 90 Confucius Institutes in the U.S. and more than 400 worldwide.⁴¹ By September 2019, each of the four above-named Florida institutions had closed its Confucius Institute following significant criticism by U.S. Senator Marco Rubio and others. A U.S. Senate Subcommittee found that the limitations on Confucius Institutes “export China’s censorship of political debate to the United States and prevent the academic community from discussing topics” sensitive to the Communist Party of China,⁴² and some Confucius Institute agreements apply law of the Communist Party of China to activities on U.S. campuses.⁴³

Linkage Institutes

Beginning in 1987, Florida law established linkage institutions between Florida postsecondary institutions and foreign countries to assist in the development of stronger economic, cultural, educational, and social ties between this state and strategic foreign countries, through the promotion of the following specified activities between the postsecondary institutions in this state and those of selected foreign countries:⁴⁴

- Expanded public and private dialogue on cooperative research and technical assistance activities;
- Increased bilateral commerce;
- Student and faculty exchange;
- Cultural exchange; and
- The enhancement of language training skills.⁴⁵

A Florida-China Institute is currently authorized by law for three postsecondary institutions in Florida,⁴⁶ and ten other institutes are established by law.⁴⁷

⁴⁰ Tampa Bay Protocol & Trade, *Florida Sister Cities Database*, <https://tampabayprotocol.com/sister-cities-database> (last visited March 15, 2021).

⁴¹ UWF Newsroom, *UWF to Host Opening Ceremony of Confucius Institute* (April 28, 2014), available at <https://news.uwf.edu/uwf-host-opening-ceremony-confucius-institute/>.

⁴² U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Threats to the U.S. Research Enterprise: China’s Talent Recruitment Plans* (Nov. 18, 2019).

⁴³ See also U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *China’s Impact on the U.S. Education System* (Feb 29, 2019), available at <https://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf>.

⁴⁴ Section 288.8175(1), F.S.

⁴⁵ The BOG has noted that several foreign languages have been designated by the U.S. government as “critical languages” with respect to national security. These include Chinese or Mandarin, Russian, Arabic, and Persian. BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021)(on file with the Senate Committee on Education), at 6.

⁴⁶ Section 288.8175(4)(e), F.S.

⁴⁷ The BOG has also identified student exchange agreements between the University of North Florida and the Saint Petersburg State University of Economics in Russia, and student recruitment agreements between Florida International

As of March 4, 2021, the U.S. Senate passed a bill restricting federal departmental funding from institutions of higher education or other postsecondary educational institutions that maintain any contract or agreement with a Confucius Institute, unless such agreement includes clear provisions that protect academic freedom, prohibit the application of any foreign law on any campus of such institution, and grant full managerial authority, including full control over what is being taught, to such institution.⁴⁸

III. Effect of Proposed Changes:

The bill provides safeguards against foreign influence through establishing processes that govern screening and disclosure of foreign gifts, contracts, employment, travel, and research arrangements, as well as cultural agreements, with countries of concern.

Disclosure and Screening of Foreign Gifts and Contracts

The bill creates s. 286.101, F.S., to require any state agency or political subdivision⁴⁹ that receives directly or indirectly any gift or grant with a value of \$50,000 or more from any foreign source to disclose such gift or grant to the Department of Financial Services (DFS) within 30 days after its receipt.⁵⁰ Such disclosure must include the date of the gift or grant, the amount of the gift or grant, and the name and country of residence or domicile of the foreign source.

The bill requires any entity that applies to a state agency or political subdivision for a grant or proposes a contract⁵¹ of \$100,000 or more to disclose to the state agency or political subdivision any current, or for the past five years, any prior interest of, any contract with, or any grant or gift received from a foreign country of concern⁵² of \$50,000 or more. The bill also specifies requirements for updates to the disclosure during the gift, grant, or contract. Such disclosure must include the name and mailing address of the disclosing entity, the amount of the contract, grant or gift or the value of the interest disclosed, the applicable foreign country of concern and, if applicable, the date of termination of the contract or interest, the date of receipt of the grant or gift, and the name of the agent or controlled entity that is the source or interest holder. Within one year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to DFS.⁵³

University and entities in Venezuela. BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021)(on file with the Senate Committee on Education), at 3.

⁴⁸ CONFUCIUS Act, S. 590, 117th Cong. (2021).

⁴⁹ The bill defines “political subdivision” as having the same meaning as s. 1.01(8), F.S., to include counties, cities, towns, village, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state, including any entity under the control of or established for the benefit of a political subdivision.

⁵⁰ Disclosure is not required if such gift or grant is disclosed under s. 1010.25, F.S., established in the bill.

⁵¹ The Department of Management Services (DMS) has noted that it is unclear if proposing a contract, as used in this bill, refers to bids, proposals, or replies. DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021), at 3.

⁵² “Foreign country of concern” is defined in the bill to mean the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.

⁵³ It is unclear if the language requires such disclosure a year before an application, or if the bill requires only that a disclosure not be more than a year old. Additionally, the BOG identified the need for clarification in language requiring entities to disclose specified items to DFS “within 1 year before applying for any grant or proposing any contract,” since universities

Disclosure is not required with respect to:

- A proposal to sell commodities through the online procurement program;
- A proposal to sell commodities to a university pursuant to Board of Governors (BOG) Regulation 18.001;
- An application or proposal from an entity that discloses foreign gifts or grants under provisions for institutions of higher education and affiliated organizations;
- An application or proposal from a foreign source that, if granted or accepted, would be disclosed under provisions for institutions of higher education and affiliated organizations; or
- An application or proposal from a public or not-for-profit research institution with respect to research funded by any federal agency.

The bill deems a disclosure published online to a DFS online site as a disclosure to every state agency and political subdivision. From the time a disclosure is made through the term of any awarded state grant or contract, the entity must revise its disclosure within 30 days after entering into a contract with or receiving a grant or gift from a foreign country of concern or within 30 days after the acquisition of any interest in the entity by a foreign country of concern. In addition, the bill requires, at least once every five years, the Department of Management Services (DMS) to screen each vendor of commodities participating in the online procurement system if the vendor has the capacity to fill an order of \$100,000 or more. Screening must be conducted through federal agencies responsible for identifying persons and organizations subject to trade sanctions, embargoes, or other restrictions under federal law.⁵⁴

If a vendor is identified as being subject to sanctions, embargoes, or other restrictions, the vendor must make the required disclosures until such restriction expires. A notification regarding the applicability of the disclosure requirement to the vendor must be included on the online procurement system when applicable. DMS must ensure that purchasers made by vendors using the online procurement system are easily accessible by the system's participants.

The bill requires DFS to establish and maintain a website to publish the disclosures. Upon receiving a referral from an inspector general or other compliance officer of a state agency or political subdivision or any sworn complaint based upon substantive information and reasonable belief, DFS must investigate an allegation of a violation of disclosure requirements.

The bill also:

- Authorizes DFS, an inspector general, or any other agent or compliance officer authorized by a state agency or political subdivision to request records relevant to any reasonable suspicion of a violation. Records must be provided within 30 days or at a later agreed upon time.
- Specifies that failures to disclose or provide records constitutes a civil violation and fine of \$5,000 for a first violation or \$10,000 for any subsequent violation.

might not be aware of grant or contractual opportunities a year before they take place, BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021), at 11.

⁵⁴ DMS has pointed out that the bill does not provide authority for DMS to specify in rule "other restrictions under federal law" that DMS would be required to screen for, which could be more specifically defined. DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021), at 6.

The bill specifies, in addition to any fine assessed, a final order determining a third or subsequent violation:

- By a state agency or political subdivision, must include a determination of the identity of the officer responsible for acceptance of the undisclosed grant or gift. DFS must send the order to the Governor or other authorized officer able to suspend or remove a public officer. The referral must also be provided to the President of the Senate and the Speaker of the House of Representatives for oversight of such suspension and removal authority.
- By an entity other than a state agency or political subdivision, must automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.

The bill specifies that information disclosed according to specified foreign gift reporting requirements for institutions of higher education, and specified gift, grant, and contract disclosure requirements for a grant or contract except for information protected by any statute that is a trade secret as defined in s. 688.002(4) or s. 812.081(1)(c), F.S, is not confidential or exempt.

The bill authorizes DMS and DFS to adopt rules necessary to carry out their responsibilities as specified. Specifically:

- DMS may identify the federal agencies to be consulted as specified and the procedure for notifying a vendor of the disclosure requirements when applicable.
- DMS may adopt rules to apply requirements as specified to the online procurement system.
- Any rules necessary for implementation must be published by December 1, 2021,⁵⁵ subject to certain exceptions.

Reporting, Inspection, and Penalties for Foreign Gifts

The bill creates s. 1010.25, F.S., to require each institution of higher education (IHE)⁵⁶ to semiannually report, each January 31 and July 31, any gift received directly or indirectly from a foreign source with a value of \$50,000 or more during the fiscal year.⁵⁷ If a foreign source provides more than one gift directly or indirectly to an IHE in a single fiscal year and the total value of those gifts is \$50,000 or more, all gifts received from that foreign source must be reported. A gift received from a foreign source through an intermediary is considered an indirect gift to the IHE. An IHE is authorized to consolidate its report with that of all its affiliate organizations.

⁵⁵ According to DMS, the term used in the bill does not specify if the publication by this deadline refers to the publication of the Notice of Rule Development, Notice of Proposed Rule, or adoption of the rule. DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021), at 6. Currently, ss. 120.74(4)-(5), F.S., require publication of a Notice of Rule Development by November 1 and a notice of Proposed Rule by the following April 1.

⁵⁶ The bill defines “Institution of higher education” as a state university; an entity listed in law that has its own governing board; a Florida College System institution; an independent nonprofit college or university that is located in and chartered by the state and grants baccalaureate or higher degrees; any other institution that has a physical presence in the state and is required to report foreign gifts or contracts pursuant to 20 U.S.C. s. 1011(f); or an affiliate organization of an institution of higher education.

⁵⁷ Pursuant to 20 U.S.C. s. 1101(f), universities report gifts of \$250,000 or more from foreign sources to the U.S. Department of Education within a calendar year, on January 31 or July 31, whichever is sooner.

A report is required to be made to the following entities:

- The Board of Governors (BOG), if the recipient is a state university, a branch campus, center, institute, or special program as specified in law,⁵⁸ that has its own governing board or DSO.
- Unless already reported to the BOG, the State Board of Education (SBE), if the recipient is any other IHE or an affiliated DSO.

For each gift subject to the reporting requirement, the IHE is required to provide to the BOG or SBE, as applicable, all of the following information, unless otherwise prohibited or deemed confidential under federal or state law:

- The amount of the gift and the date it was received.
- The contract start and end dates if the gift is a contract.
- The name of the foreign source and, if not a foreign government, the country of citizenship, if known, and the principal residence or domicile of the foreign source.
- A copy of a gift agreement between the foreign source and the IHE, signed by the foreign source and the chief administrative officer of the IHE, which must include the purpose, terms, and conditions of the gift. With respect to an agreement containing information from a division of sponsored research protected from disclosure by specified law, an abstract and redacted copy providing all required information that is not so protected may be submitted in lieu of a copy of the agreement.

Beginning July 1, 2022, the Inspector General of the BOG or the Inspector General of the Department of Education (DOE), as applicable, is required to randomly inspect or audit at least five percent of the total number of gifts or gift agreements received from IHEs during the previous year. However, upon the request of the Governor, the President of the Senate, or the Speaker of the House of Representatives, the Inspector General of the BOG or the Inspector General of the DOE, as applicable, must inspect or audit a gift or gift agreement.

The BOG or SBE, as applicable, is required to exercise the oversight and enforcement authority provided in law⁵⁹ to sanction an IHE that fails to report a reportable gift within 60 days after the reporting deadlines established as specified.

The bill subjects an IHE that knowingly, willfully, or negligently fails to disclose the information to a civil penalty of 105 percent of the amount of the undisclosed gift, payable only from nonstate funds of the IHE or the affiliate organization that received such gift. The BOG and SBE, as applicable, is authorized to administratively enforce and impose the civil penalty.

In the absence of enforcement by the BOG or SBE, as applicable, the bill authorizes the Attorney General or Chief Financial Officer (CFO) to bring a civil action to enforce as specified.

⁵⁸ See ss. 1004.33-1004.64991, F.S. The Board of Governors has identified entities with governing boards listed in subpart B of part II of chapter 1004, F.S., as including the Florida Industrial and Phosphate Research Institute, Shands Teaching Hospital and Clinics, H. Lee Moffitt Cancer Center and Research Institute, Medical Marijuana Research Board, and the Florida Institute for Human and Machine Cognition. BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021), at 1.

⁵⁹ Section 1008.322 or 1008.32, F.S., respectively,

The bill provides whistle-blower protection⁶⁰ for a whistle-blower who reports an undisclosed foreign gift to the appropriate inspector general, Attorney General, or CFO. The bill states that such a whistle-blower is entitled to receive a reward in the amount of 25 percent of any penalty recovered by the BOG, the SBE, the Attorney General, or the CFO, who is authorized to incur expenditures to provide such reward from the penalty recovery. The reward may be paid through an intermediary attorney or trustee which the whistle-blower designates.

The bill specifies that information reported relating to a gift from a foreign source is not confidential or exempt,⁶¹ except as provided in specified law regarding divisions of sponsored research, or unless protected by any statute as a trade secret as defined in law.

The bill authorizes the BOG to adopt regulations and the SBE to adopt appropriate rules.

Applicant Screening and Research Integrity of Foreign Researchers

The bill creates s. 1010.35, F.S., to require, beginning July 1, 2021, each state university or entity listed as specified in law⁶² which receives state appropriations or state tax revenue and has a research budget of \$10 million or more to screen applicants for research or research-related support positions, and applicants for positions of visiting researcher, who are citizens of a foreign country and who are not permanent residents of the United States, or who are citizens or permanent residents of the United States who have any affiliation with an institution or program, or at least one year of prior employment or training, excepting employment or training by an agency of the United States government, in a specified foreign country of concern. Such screening is required prior to interviewing such applicant or offering a position of employment or of visiting researcher. At the discretion of the university or entity, other applicants for such positions may be screened.

In addition to satisfying all federal employment and enrollment qualifications, the BOG or the governing board of the applicable entity must require a foreign applicant to submit:

- A complete copy of his or her most recently submitted Nonimmigrant Visa Application, DS-160. After extraction of all information relevant to these requirements a university or entity may destroy or return the copy of the DS-160 submitted by an applicant.
- A complete resume and curriculum vitae, including every institution of higher education attended; all previous employment since the applicant's 18th birthday; and a list of all published material for which the applicant received credit as an author, a researcher, or otherwise, or to which the applicant contributed significant research, writing, or editorial support; a list of the applicant's current and pending research funding from any source, including funder, amount, applicant's role on the project, and brief description of the research; and a full disclosure of non-university professional activities including any affiliation with an institution or program in a foreign country of concern. For applicants who have been continually employed or enrolled in a postsecondary education institution in the United States for 20 years or more, the resume may include employment history before the most recent 20 years.

⁶⁰ Under s. 112.3188, F.S.

⁶¹ As defined in s. 119.07(1), F.S., and Art. 1, s. 24(a), Fla. Const.

⁶² See ss. 1004.22-1004.64991, F.S.

The president or chief administrative officer of the state university or applicable entity is required to designate a research integrity office to review all required materials and take reasonable steps to verify all attendance, employment, publications, and contributions listed in the application required prior to any interview of or offer of a position to the applicant.

The bill specifies “reasonable steps” that must be taken by a research integrity office to include:

- Searching public databases for research publications and presentations and public conflict of interest records to identify any research publication or presentation that may have been omitted from the application;
- Contacting all employers of the most recent 10 years to verify employment;
- Contacting all institutions of higher education attended to verify enrollment and educational progress;
- Searching public listings of persons subject to sanctions or restrictions under federal law;
- Submitting the applicant's name and other identifying information to the Federal Bureau of Investigation (FBI) or any federal agency reasonably willing to scrutinize such applicant for national security or counterespionage purposes; and
- Any other steps deemed appropriate to the office.

The university or applicable entity may also direct the office to approve applicants for hire based on a risk-based determination considering the nature of the research and the background and ongoing affiliations of the applicant. These requirements must be completed before interviewing or offering any position to an individual described in any research or research-related support position and before granting such applicant any access to research data or activities or other sensitive data.

An applicant who must be screened may not be employed in any research or research-related support position if he or she fails to disclose a substantial educational, employment, or research-related activity or publication or presentation at the time of submitting the application required, unless the department head, or his or designee, certifies in writing the substance of the nondisclosure and the reasons for disregarding such failure to disclose. A copy of such certification must be kept in the investigative file of the research integrity office and must be submitted to the nearest FBI field office.

The research integrity office is required to report to the nearest FBI office, and to any law enforcement agency designated by the Governor or the BOG and the governing board of the applicable entity described, the identity of any applicant who was rejected for employment based on the scrutiny required or other security-related screening.

By July 1, 2025, the Inspector General of the BOG, the inspector general of an entity described, or the Auditor General is required to perform an operational audit regarding such implementation of screening requirements.

Approval Processes for International Travel

The bill creates s. 1010.36, F.S., to require, by January 1, 2022, each state university or associated entity listed in specified law⁶³ that receives state appropriations or state tax revenue and has a research budget of \$10 million or more to establish an international travel approval and monitoring program. The program must require preapproval and screening by the research integrity office designated by the president or chief administrative officer of the state university or entity for any employment-related foreign travel and employment-related foreign activities engaged in by all faculty, researchers, and research department staff.

Preapproval by the research integrity office must be based on the applicant's review and acknowledgement of guidance published by the employing state university or entity that relates to countries under sanctions or other restrictions of the state or the U.S. government. In addition, the preapproval must be based on the binding commitment of the individual traveler not to violate the state university's or entity's limitations on travel and activities abroad and to obey all applicable federal laws.

The state university or entity is required to maintain records of all applications for foreign travel and activities; expenses reimbursed by the university incurred during such travel and activities; and payments and honoraria received during such travel and activities. The state university or entity must also keep records of all teaching, presentations, and other activities related to the individual traveler's professional, research, and academic activities undertaken during foreign travel. Such records must be retained for at least three years or any longer period of time required by any other applicable state or federal law.

The state university or entity is required to provide an annual report of foreign travel to countries of concern listing individual travelers, foreign locations visited, and foreign institutions visited to the BOG or the governing board of the applicable entity.

In addition, by July 1, 2025, the Inspector General of the BOG, the inspector general of a described entity, or the Auditor General is required to perform an operation audit regarding implementation of foreign travel reporting.

International Cultural Agreements

The bill creates s. 288.860, F.S., to specify that a state agency, political subdivision, public school, state college, or state university, which includes any direct support organizations, authorized to expend state-appropriated funds or levy ad valorem taxes may not participate in any agreement with or accept any grant from a foreign country of concern, or any entity controlled by a foreign country of concern, which establishes a program or other endeavor to promote the language or culture of a foreign country of concern, which:

- Constrains the freedom of contract of such public entity;

⁶³ See ss. 1004.22-1004.64991, F.S. BOG has identified entities with governing boards listed in subpart B of part II of chapter 1004, F.S., which receive state funds and have a research budget of \$10 million or more as encompassing all state universities besides Florida Gulf Coast University, Florida Polytechnic University, and New College of Florida. BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021), at 2.

- Allows the curriculum or values of a program in Florida to be directed or controlled by the foreign country of concern; or
- Promotes an agenda detrimental to the safety or security of the United States or its residents.

The bill specifies that, prior to the execution of any cultural exchange agreement with a foreign country of concern, the substance of the agreement must be shared with federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law. If such federal agency provides information suggesting such agreement promotes an agenda detrimental to the safety or security of the U.S. or its residents, the public entity may not enter the agreement.

The bill specifies that a state agency, political subdivision, public school, state college, or state university may not or accept anything of value conditioned upon participation in a program or other endeavor to promote the language or culture of a foreign country of concern.⁶⁴

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:

The Board of Governors (BOG) has identified that its constitutional duties under Art. IX, s. 7 of the Florida Constitution extend to establishing personnel programs for the universities. BOG Regulation 1.001(5) delegates constitutional authority from the BOG to its university boards of trustees to establish university personnel programs, which includes establishing policies regarding recruitment and selection of employees and employee travel.⁶⁵

⁶⁴ The BOG cites several institutes or agreements that address Cuban or Russian language or culture, including at the University of South Florida, the University of North Florida, and Florida Agricultural and Mechanical University. BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021), at 6.

⁶⁵ BOG, *Senate Bill 2010 Agency Bill Analysis* (March 9, 2021) (on file with Senate Committee on Education), at 10.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Compliance with gift reporting, applicant screening, and travel approval as specified may result in indeterminate costs to institutions required to arrange or conduct these activities. Implementing travel review and approval processes and eliminating existing cultural agreements with countries of concern may reduce business and academic exchange between Florida and such countries. Given that the annual cost to the U.S. economy of counterfeit goods, pirated software, and theft of trade secrets is between \$225 billion and \$600 billion; however, enhanced integrity and security of Florida's research environment should offset any reduction in foreign donations or contracts the bill may cause.

The Board of Governors (BOG) has identified incremental costs to state universities in order to comply with foreign gift tracking and reporting, application screening, and travel approval provisions as specified. In addition, the BOG has identified the need for one auditor position to begin initial work to implement the requirements of this bill, at the estimated cost of \$129,900 to cover salary, benefits, and expenses.⁶⁶

Requiring state agencies or political subdivisions to report to the Department of Financial Services (DFS) any gift or grant of \$50,000 or more from a foreign source as specified may result in increases in workload or personnel costs. Workload and personnel costs for the Department of Management Services to screen each vendor as specified every five years in the online procurement system could also increase, and publishing disclosures as specified could generate additional expenditures.⁶⁷

In addition, requirements to disclose to DFS any gifts or grants of \$50,000 or more from any foreign source may remove confidentiality of donors, with the potential to discourage some foreign donations or grants if anonymity or secrecy is important to the donor.⁶⁸

Failure of a state agency or political subdivision to provide records requested due to reasonable suspicion of a violation of obtaining the disclosures constitutes a \$5,000 fine for the first violation and a \$10,000 fine for any subsequent violation.⁶⁹

⁶⁶ *Id.*, at 9.

⁶⁷ DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021) (on file with Senate Committee on Education), at 4.

⁶⁸ Florida House of Representatives, *Staff Analysis of HB 7017* (2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7017a.EEC.DOCX&DocumentType=Analysis&BillNumber=7017&Session=2021>, at 7.

⁶⁹ DMS, *Senate Bill 2010 Agency Bill Analysis* (March 22, 2021) (on file with Senate Committee on Education), at 5.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 286.101, 288.860, 1010.25, 1010.35, and 1010.36.

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 April 15, 2021:

The committee substitute modifies requirements concerning disclosure and reporting of foreign gifts and grants, international cultural agreements, and foreign travel.

Specifically, the committee substitute:

- Adds to the exemption from disclosure requirements a proposal to sell commodities to a university pursuant to Board of Governors (BOG) Regulation 18.001.
- Modifies the provision related to sponsored research and trade secrets in the section relating to university foreign gift reporting, to remove the exception relating to divisions of sponsored research or trade secrets and specify that information as a part of required disclosures are not confidential and exempt.
- Modifies a definition to clarify that political subdivision includes counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.
- Modifies the provision that a state agency, political subdivision, public school, state college, or state university authorized to expend state-appropriated funds or levy ad valorem taxes may not participate in any agreement with or accept any grant from a foreign country of concern, or any entity controlled by a foreign country of concern, if such agreement:
 - Constrains the freedom of contract of such public entity;
 - Allows the curriculum or values of a program in Florida to be directed or controlled by the foreign country of concern; or
 - Promotes an agenda detrimental to the safety or security of the United States or its residents.
- Additionally specifies that, prior to the execution of any cultural exchange agreement with a foreign country of concern, the substance of the agreement must be shared with federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law. If such federal agency provides information suggesting such agreement promotes an agenda detrimental to

the safety or security of the U.S. or its residents, the public entity may not enter the agreement.

- Modifies the requirement for the Inspector General of BOG or of the Department of Education, to, within existing resources, randomly inspect or audit at least 10 percent of the total number of gifts or gift agreements received from institutions of higher education during the previous year, changing the audit amount to a minimum of 5 percent.
- Removes the requirement for the inspection or audit to examine the extent to which the institution of higher education exercised due diligence with respect to whether the gift was received from a foreign source, as well as the institution of higher education's compliance with the requirements.
- Modifies the civil penalty of 105 percent of the amount of the undisclosed gifts to which an institution of higher education that knowingly, willfully, or negligently fails to disclose required information must be subjected, to exclude the lesser penalty of at least 5 percent of the amount of the undisclosed gift imposed if a negligent failure is not a result of negligent management or is de minimis.
- Modifies provisions around disclosure of gifts to add a provision protecting a whistleblower who reports a failure to disclose a gift to the appropriate inspector general, Attorney General, or CFO. The bill states that such a whistle-blower is entitled to receive a reward in the amount of 25 percent of any penalty recovered by the BOG, the State Board of Education, the Attorney General, or the CFO, who is authorized to incur expenditures to provide such reward from the penalty recovery.
- Modifies the exception on information and records that may be confidential or exempt, to specify that information reported under disclosure requirements for gifts from a foreign source is not confidential or exempt from specified law, except for information protected by any statute that is a trade secret as defined in s. 688.002(4) or s. 812.081(1)(c), F.S.
- Modifies the requirement that each state university, or entity specified in law, with a research budget of \$10 million or more, establish an international travel approval and monitoring program, which must require preapproval and screening by a designated research integrity office for any foreign travel and activities that are employment-related.

CS by Education on March 30, 2021:

The committee substitute modifies requirements concerning disclosure and reporting of foreign gifts and grants, screening of foreign researchers, and foreign travel.

The committee substitute adds:

- To the requirement that entities applying for a contract or grant disclose foreign contracts, gifts, or grants a specification of items to report, including the name and mailing address of the disclosing entity, amount, source country, and contract terms.
- Exemptions to the disclosure requirements including gifts or grants that would already be reported by a state agency or political subdivision, and an application or proposal by a public or not-for-profit research institution.
- To the provision relating to an exemption from public records to allow university divisions of research records or trade secrets to remain confidential.

- DSOs as entities with restrictions on foreign gifts and grants.
- Authorization for colleges and universities to consolidate gift reporting with all affiliate organizations.
- Authorization for a division of sponsored research to submit an abstract and redacted copy providing all required information related to a gift report.
- A lesser penalty for failure to disclose, if the failure is not negligent management or if the gift amount is minimal.
- University divisions of sponsored research to screening requirements.
- Detailed criteria to determine those under screening requirements, to replace general language, and authorizes the university or entity to screen others for such research positions.
- Authorization for the university to destroy the copy of the visa application after extraction of all relevant information.
- Application requirements to include additional information about past research and disclosure of non-university professional activities.
- Additional requirements to “reasonable steps” taken by the research integrity office.
- Authorization for the university or entity to direct approval of an applicant based on a risk-based determination.

The committee substitute further specifies that:

- The disclosure requirements for a gift or grant of \$50,000 is a direct or indirect gift or grant.
- Information to be included in the gift or grant disclosure must include the amount and name and country of residence or domicile of the foreign source.
- The provision relating to an exemption from public records to allow university divisions of research records or trade secrets must remain confidential.
- Instead of keeping records of all teaching, presentations, and other activities related to the individual traveler’s professional, research, and academic activities undertaken during foreign travel, a university or entity must keep records of the purpose of the travel and any records related to the foreign activity review.
- Specified information regarding foreign travel no longer is required to be retained, and lowers retention time from 10 to 3 years.
- Annual report of foreign travel is limited to countries of concern, and removes the requirement that the report be posted on the relevant website.
- The Auditor General or specified entity is required to perform an operational audit by July 1, 2025.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 286.101, Florida Statutes, is created to
read:

286.101 Foreign gifts and contracts.-

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

(a) "Contract" means any agreement for the direct benefit
or use of any party to such agreement, including an agreement



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11 for the sale of commodities or services.

12 (b) "Foreign country of concern" means the People's
13 Republic of China, the Russian Federation, the Islamic Republic
14 of Iran, the Democratic People's Republic of Korea, the Republic
15 of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian
16 Arab Republic, including any agency of or any other entity under
17 significant control of such foreign country of concern.

18 (c) "Foreign government" means the government of any
19 country, nation, or group of nations, or any province or other
20 political subdivision of any country or nation, other than the
21 government of the United States or the government of a state or
22 political subdivision, including any agent of such foreign
23 government.

24 (d) "Foreign source" means any of the following:

25 1. A foreign government or an agency of a foreign
26 government.

27 2. A legal entity, governmental or otherwise, created
28 solely under the laws of a foreign state or states.

29 3. An individual who is not a citizen or a national of the
30 United States or a territory or protectorate of the United
31 States.

32 4. An agent, including a subsidiary or an affiliate of a
33 foreign legal entity, acting on behalf of a foreign source.

34 (e) "Gift" means any transfer of money or property from one
35 entity to another without compensation.

36 (f) "Grant" means a transfer of money for a specified
37 purpose, including a conditional gift.

38 (g) "Interest" in an entity means any direct or indirect
39 investment in or loan to the entity valued at 5 percent or more



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40 of the entity's net worth or any form of direct or indirect
41 control exerting similar or greater influence on the governance
42 of the entity.

43 (h) "State agency" means any agency or unit of state
44 government created or established by law.

45 (2) Any state agency or political subdivision that receives
46 directly or indirectly any gift or grant with a value of \$50,000
47 or more from any foreign source shall disclose such gift or
48 grant to the Department of Financial Services within 30 days
49 after receiving such gift or grant. Such disclosure shall
50 include the date of the gift or grant, the amount of the gift or
51 grant, and the name and country of residence or domicile of the
52 foreign source. Disclosure is not required if such gift or grant
53 is disclosed under s. 1010.25.

54 (3) (a) Any entity that applies to a state agency or
55 political subdivision for a grant or proposes a contract having
56 a value of \$100,000 or more shall disclose to the state agency
57 or political subdivision any current or prior interest of, any
58 contract with, or any grant or gift received from a foreign
59 country of concern if such interest, contract, or grant or gift
60 has a value of \$50,000 or more and such interest existed at any
61 time or such contract or grant or gift was received or in force
62 at any time during the previous 5 years. Such disclosure shall
63 include the name and mailing address of the disclosing entity,
64 the amount of the contract or grant or gift or the value of the
65 interest disclosed, the applicable foreign country of concern
66 and, if applicable, the date of termination of the contract or
67 interest, the date of receipt of the grant or gift, and the name
68 of the agent or controlled entity that is the source or interest



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69 holder. Within 1 year before applying for any grant or proposing
70 any contract, such entity must provide a copy of such disclosure
71 to the Department of Financial Services.

72 (b) Disclosure under this subsection is not required with
73 respect to:

74 1. A proposal to sell commodities through the online
75 procurement program established pursuant to s. 287.057(22);

76 2. A proposal to sell commodities to a university pursuant
77 to Board of Governors Regulation 18.001;

78 3. An application or proposal from an entity that discloses
79 foreign gifts or grants under subsection (2) or s. 1010.25;

80 4. An application or proposal from a foreign source that,
81 if granted or accepted, would be disclosed under subsection (2)
82 or s. 1010.25; or

83 5. An application or proposal from a public or not-for-
84 profit research institution with respect to research funded by
85 any federal agency.

86 (c) A disclosure published online pursuant to subsection
87 (5) is deemed disclosed to every state agency and political
88 subdivision for purposes of paragraph (a). From the time a
89 disclosure is made under paragraph (a) through the term of any
90 awarded state grant or contract, the entity must revise its
91 disclosure within 30 days after entering into a contract with or
92 receiving a grant or gift from a foreign country of concern or
93 within 30 days after the acquisition of any interest in the
94 entity by a foreign country of concern.

95 (4) At least once every 5 years, the Department of
96 Management Services shall screen each vendor of commodities
97 participating in the online procurement system if such vendor



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98 has the capacity to fill an order of \$100,000 or more. Screening
99 must be conducted through federal agencies responsible for
100 identifying persons and organizations subject to trade
101 sanctions, embargoes, or other restrictions under federal law.
102 If a vendor is identified as being subject to any such
103 sanctions, embargoes, or other restrictions, the vendor must
104 make the disclosures required under subsection (3) until such
105 restriction expires. A notification regarding the applicability
106 of the disclosure requirement in subsection (3) to the vendor
107 must be included on the online procurement system when
108 applicable. The Department of Management Services must ensure
109 that purchasers through the online procurement system may easily
110 access all disclosures made by vendors participating in the
111 system.

112 (5) The Department of Financial Services must establish and
113 maintain an Internet website to publish the disclosures required
114 under this section. The Department of Financial Services may
115 establish an online system for making such disclosures. The
116 Department of Management Services may coordinate with the
117 Department of Financial Services to establish the online system.

118 (6) (a) Upon receiving a referral from an inspector general
119 or other compliance officer of a state agency or political
120 subdivision or any sworn complaint based upon substantive
121 information and reasonable belief, the Department of Financial
122 Services must investigate an allegation of a violation of this
123 section.

124 (b) The Department of Financial Services, an inspector
125 general, or any other agent or compliance officer authorized by
126 a state agency or political subdivision may request records



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127 relevant to any reasonable suspicion of a violation of this
128 section. An entity must provide the required records within 30
129 days after such request or at a later time agreed to by the
130 investigating state agency or political subdivision.

131 (7) (a) Failure to make a disclosure required under this
132 section or failure to provide records requested under paragraph
133 (6) (b) constitutes a civil violation punishable upon a final
134 order of the Department of Financial Services by an
135 administrative fine of \$5,000 for a first violation or \$10,000
136 for any subsequent violation.

137 (b) In addition to any fine assessed under paragraph (a), a
138 final order determining a third or subsequent violation by a
139 state agency or political subdivision must include a
140 determination of the identity of the officer responsible for
141 acceptance of the undisclosed grant or gift. Such order must
142 also include a referral by the Department of Financial Services
143 to the Governor or other officer authorized to suspend or remove
144 the officer responsible for acceptance of the undisclosed grant
145 or gift from public office. A copy of such referral must be
146 provided to the President of the Senate and the Speaker of the
147 House of Representatives for oversight of such suspension and
148 removal authority.

149 (c) In addition to any fine assessed under paragraph (a), a
150 final order determining a third or subsequent violation by an
151 entity other than a state agency or political subdivision shall
152 automatically disqualify the entity from eligibility for any
153 grant or contract funded by a state agency or any political
154 subdivision until such ineligibility is lifted by the
155 Administration Commission for good cause. The Department of



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156 Financial Services shall include and maintain an active and
157 current list of such ineligible entities on the Internet website
158 maintained under subsection (5).

159 (8) Information disclosed under subsections (2) and (3) is
160 not confidential or exempt from s. 119.07(1) and s. 24(a), Art.
161 I of the State Constitution.

162 (9) (a) The Department of Management Services may adopt
163 rules necessary to carry out its responsibilities under this
164 section. The rules may identify the federal agencies to be
165 consulted under subsection (4) and the procedure for notifying a
166 vendor of the disclosure requirements under this section when
167 applicable. The Department of Management Services may also adopt
168 rules providing for the application of this section to the
169 online procurement system.

170 (b) The Department of Financial Services may adopt rules
171 necessary to carry out its responsibilities under this section.

172 (c) Any rules necessary to implement this section must be
173 published by December 31, 2021, unless the applicable department
174 head certifies in writing that a delay is necessary and the date
175 by which the proposed rules will be published. Such
176 certification must be published in the Florida Administrative
177 Register and a copy provided to the Joint Administrative
178 Procedures Committee.

179 Section 2. Section 288.860, Florida Statutes, is created to
180 read:

181 288.860 International cultural agreements.—

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

183 (a) "Foreign country of concern" means the People's
184 Republic of China, the Russian Federation, the Islamic Republic



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185 of Iran, the Democratic People's Republic of Korea, the Republic
186 of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian
187 Arab Republic, including any agency of or any other entity under
188 significant control of such foreign country of concern.

189 (b) "Political subdivision" has the same meaning as in s.
190 1.01(8) and includes any entity under the control of or
191 established for the benefit of the political subdivision.

192 (c) "Public school" means any education institution under
193 the supervision of a school district and any entity under the
194 control of or established for the benefit of a public school or
195 school district.

196 (d) "State agency" means any agency or unit of state
197 government created or established by law and any entity under
198 the control of or established for the benefit of a state agency.

199 (e) "State college" means any postsecondary education
200 institution under the supervision of the State Board of
201 Education, including any entity under the control of or
202 established for the benefit of a state college.

203 (f) "State university" means any state university under the
204 supervision of the Board of Governors, including any entity
205 under the control of or established for the benefit of a state
206 university.

207 (2) A state agency, political subdivision, public school,
208 state college, or state university authorized to expend state-
209 appropriated funds or levy ad valorem taxes may not participate
210 in any agreement with or accept any grant from a foreign country
211 of concern, or any entity controlled by a foreign country of
212 concern, which:

213 (a) Constrains the freedom of contract of such public



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214 entity;

215 (b) Allows the curriculum or values of a program in the
216 state to be directed or controlled by the foreign country of
217 concern; or

218 (c) Promotes an agenda detrimental to the safety or
219 security of the United States or its residents. Prior to the
220 execution of any cultural exchange agreement with a foreign
221 country of concern, the substance of the agreement shall be
222 shared with federal agencies concerned with protecting national
223 security or enforcing trade sanctions, embargoes, or other
224 restrictions under federal law. If such federal agency provides
225 information suggesting that such agreement promotes an agenda
226 detrimental to the safety or security of the United States or
227 its residents, the public entity may not enter into the
228 agreement.

229 (3) A state agency, political subdivision, public school,
230 state college, or state university may not accept anything of
231 value conditioned upon participation in a program or other
232 endeavor to promote the language or culture of a foreign country
233 of concern.

234 Section 3. Section 1010.25, Florida Statutes, is created to
235 read:

236 1010.25 Foreign gift reporting.-

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

238 (a) "Affiliate organization" means any entity under the
239 control of or established for the benefit of an organization
240 required to report under this section, including a direct-
241 support organization.

242 (b) "Contract" means any agreement for the acquisition by



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243 purchase, lease, or barter of property or services by the
244 foreign source, for the direct benefit or use of either of the
245 parties, and any purchase, lease, or barter of property or
246 services from a foreign country of concern as defined in s.
247 286.101(1)(b).

248 (c) "Direct-support organization" has the same meaning as
249 provided in ss. 1004.28(1)(a), 1004.70(1)(a), and 1004.71(1)(a).

250 (d) "Foreign government" means the government of any
251 country, nation, or group of nations, or any province or other
252 political subdivision of any country or nation, other than the
253 government of the United States or the government of a state or
254 political subdivision, including any agent of such foreign
255 government.

256 (e) "Foreign source" means any of the following:

257 1. A foreign government or an agency of a foreign
258 government.

259 2. A legal entity, governmental or otherwise, created
260 solely under the laws of a foreign state or states.

261 3. An individual who is not a citizen or a national of the
262 United States or a territory or protectorate of the United
263 States.

264 4. An agent, including a subsidiary or an affiliate of a
265 foreign legal entity, acting on behalf of a foreign source.

266 (f) "Gift" means any contract, gift, grant, endowment,
267 award, or donation of money or property of any kind, or any
268 combination thereof, including a conditional or an unconditional
269 pledge of such contract, gift, grant, endowment, award, or
270 donation. For purposes of this paragraph, the term "pledge"
271 means a promise, an agreement, or an expressed intention to give



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272 a gift.

273 (g) "Institution of higher education" means a state
274 university, an entity listed in subpart B of part II of chapter
275 1004 that has its own governing board, a Florida College System
276 institution, an independent nonprofit college or university that
277 is located in and chartered by the state and grants
278 baccalaureate or higher degrees, any other institution that has
279 a physical presence in the state and is required to report
280 foreign gifts or contracts pursuant to 20 U.S.C. s. 1011f, or an
281 affiliate organization of an institution of higher education.

282 (2) Each institution of higher education must semiannually
283 report, each January 31 and July 31, any gift received directly
284 or indirectly from a foreign source with a value of \$50,000 or
285 more during the fiscal year. If a foreign source provides more
286 than one gift directly or indirectly to an institution of higher
287 education in a single fiscal year and the total value of those
288 gifts is \$50,000 or more, all gifts received from that foreign
289 source must be reported. For purposes of this subsection, a gift
290 received from a foreign source through an intermediary shall be
291 considered an indirect gift to the institution of higher
292 education. An institution of higher education may consolidate
293 its report with that of all its affiliate organizations. A
294 report required under this subsection must be made to the
295 following entities:

296 (a) The Board of Governors, if the recipient is a state
297 university, an entity listed in subpart B of part II of chapter
298 1004 that has its own governing board, or an affiliate
299 organization of such university or entity.

300 (b) Unless already reported to the Board of Governors



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301 pursuant to paragraph (a), the State Board of Education, if the
302 recipient is any other institution of higher education or an
303 affiliate organization of such institution.

304 (3) For each gift subject to the reporting requirement in
305 subsection (2), the report of the institution of higher
306 education must provide all of the following information, unless
307 otherwise prohibited or deemed confidential under federal law
308 having no exemption applicable to such reporting:

309 (a) The amount of the gift and the date it was received.

310 (b) The contract start and end date if the gift is a
311 contract.

312 (c) The name of the foreign source and, if not a foreign
313 government, the country of citizenship, if known, and the
314 country of principal residence or domicile of the foreign
315 source.

316 (d)1. A copy of a gift agreement between the foreign source
317 and the institution of higher education, signed by the foreign
318 source and the chief administrative officer of the institution
319 of higher education, or their respective designees, which must
320 include a detailed description of the purpose for which the gift
321 will be used by the institution of higher education, the
322 identification of the persons for whom the gift is explicitly
323 intended to benefit, and any applicable conditions,
324 requirements, restrictions, or terms made a part of the gift
325 regarding the control of curricula, faculty, student admissions,
326 student fees, or contingencies placed upon the institution of
327 higher education to take a specific public position or to award
328 an honorary degree. With respect to an agreement containing
329 information protected from disclosure under s. 1004.22(2), an



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330 abstract and redacted copy providing all required information
331 that is not so protected may be submitted in lieu of a copy of
332 the agreement.

333 2. Beginning July 1, 2022, the Inspector General of the
334 Board of Governors or the Inspector General of the Department of
335 Education, as applicable, shall annually, within existing
336 resources, randomly inspect or audit at least 5 percent of the
337 total number of gifts disclosed by or gift agreements received
338 from institutions of higher education pursuant to this paragraph
339 during the previous year to determine an institution's
340 compliance with the requirements of this section with respect to
341 the gifts and gift agreements reviewed.

342 3. Upon the request of the Governor, the President of the
343 Senate, or the Speaker of the House of Representatives, the
344 Inspector General of the Board of Governors or the Inspector
345 General of the Department of Education, as applicable, must
346 inspect or audit a gift or gift agreement.

347 (4) The State Board of Education or the Board of Governors,
348 as applicable, shall exercise the authority provided pursuant to
349 s. 1008.32 or s. 1008.322, respectively, to sanction an
350 institution of higher education that fails to report a
351 reportable gift within 60 days after the reporting deadlines
352 established in subsection (2).

353 (5) (a) An institution of higher education that knowingly,
354 willfully, or negligently fails to disclose the information
355 required by this section shall be subject to a civil penalty of
356 105 percent of the amount of the undisclosed gift, payable only
357 from nonstate funds of the institution of higher education or
358 the affiliate organization that received such gift. The



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359 recovered funds must be deposited into the General Revenue Fund.
360 The Board of Governors and the State Board of Education, as
361 applicable, may administratively enforce this section and impose
362 the civil penalty as an administrative penalty.

363 (b) In the absence of enforcement by the Board of Governors
364 or the State Board of Education, as applicable, the Attorney
365 General or the Chief Financial Officer may bring a civil action
366 to enforce this section. If such action is successful, the
367 Attorney General or the Chief Financial Officer, as applicable,
368 is entitled to reasonable attorney fees and costs.

369 (c) A whistle-blower who reports an undisclosed foreign
370 gift to the appropriate inspector general may also report such
371 undisclosed foreign gift to the Attorney General or the Chief
372 Financial Officer and retain whistle-blower protection under s.
373 112.3188. Such whistle-blower shall be entitled to receive a
374 reward in the amount of 25 percent of any penalty recovered by
375 the Board of Governors, the State Board of Education, the
376 Attorney General, or the Chief Financial Officer under this
377 section. The Chief Financial Officer is authorized to incur
378 expenditures to provide such reward from the penalty recovery.
379 The reward may be paid through an intermediary attorney or
380 trustee designated by the whistle-blower.

381 (6) Information reported under subsection (3) is not
382 confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of
383 the State Constitution, except as provided in s. 1004.22(2) or
384 unless protected by any statute as a trade secret as defined in
385 s. 688.002 or s. 812.081(1)(c).

386 (7) The Board of Governors may adopt regulations, and the
387 State Board of Education may adopt rules, to implement this



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388 section.

389 Section 4. Section 1010.35, Florida Statutes, is created to
390 read:

391 1010.35 Screening foreign researchers.-

392 (1) Each state university or entity listed in subpart A or
393 subpart B of part II of chapter 1004 that receives state
394 appropriations or state tax revenue and has a research budget of
395 \$10 million or more must screen applicants seeking employment in
396 research or research-related support positions, graduate and
397 undergraduate students applying for research or research-related
398 support positions, and applicants for positions of visiting
399 researcher who are citizens of a foreign country and who are not
400 permanent residents of the United States, or who are citizens or
401 permanent residents of the United States who have any
402 affiliation with an institution or program, or at least 1 year
403 of prior employment or training, excepting employment or
404 training by an agency of the United States government, in a
405 foreign country of concern as defined in s. 286.101. Such
406 screening is required prior to interviewing such applicant or
407 offering to such applicant a position of employment or of
408 visiting researcher. At the discretion of the university or
409 entity, other applicants for such positions may be screened.

410 (2) In addition to satisfying all employment and enrollment
411 qualifications imposed by federal law, the Board of Governors or
412 the governing board of the applicable entity must require the
413 following of applicants included in subsection (1):

414 (a) A foreign applicant must submit a complete copy of the
415 applicant's passport and most recently submitted Online
416 Nonimmigrant Visa Application, DS-160. After extraction of all



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417 information relevant to the requirements of this section, a
418 university or entity may destroy or return the copy of the DS-
419 160 submitted by an applicant.

420 (b) All applicants described in subsection (1) must submit
421 a complete resume and curriculum vitae, including every
422 institution of higher education attended; all previous
423 employment since the applicant's 18th birthday; a list of all
424 published material for which the applicant received credit as an
425 author, a researcher, or otherwise or to which the applicant
426 contributed significant research, writing, or editorial support;
427 a list of the applicant's current and pending research funding
428 from any source, including funder, amount, applicant's role on
429 the project, and brief description of the research; and a full
430 disclosure of nonuniversity professional activities, including
431 any affiliation with an institution or program in a foreign
432 country of concern. For applicants who have been continually
433 employed or enrolled in a postsecondary education institution in
434 the United States for 20 years or more, the resume may, but need
435 not, include employment history before the most recent 20 years.

436 (3) The president or chief administrative officer of the
437 state university or applicable entity shall designate a research
438 integrity office to review all materials required in subsection
439 (2) and take reasonable steps to verify all attendance,
440 employment, publications, and contributions listed in the
441 application required in subsection (2) prior to any interview of
442 or offer of a position to the applicant. Reasonable steps
443 include searching public databases for research publications and
444 presentations and public conflict of interest records to
445 identify any research publication or presentation that may have



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446 been omitted from the application, contacting all employers of
447 the most recent 10 years to verify employment, contacting all
448 institutions of higher education attended to verify enrollment
449 and educational progress, searching public listings of persons
450 subject to sanctions or restrictions under federal law,
451 submitting the applicant's name and other identifying
452 information to the Federal Bureau of Investigation or any
453 federal agency reasonably willing to scrutinize such applicant
454 for national security or counterespionage purposes, and any
455 other steps deemed appropriate to the office. The state
456 university or applicable entity may also direct the office to
457 approve applicants for hire based on a risk-based determination
458 considering the nature of the research and the background and
459 ongoing affiliations of the applicant.

460 (4) The requirements of this section must be completed
461 before interviewing or offering any position to an individual
462 described in subsection (1) in any research or research-related
463 support position and before granting such individual any access
464 to research data or activities or other sensitive data. An
465 applicant who must be screened under this section may not be
466 employed in any research or research-related support position if
467 he or she fails to disclose a substantial educational,
468 employment, or research-related activity or publication or
469 presentation at the time of submitting the application required
470 in subsection (2), unless the department head, or a designee,
471 certifies in writing the substance of the nondisclosure and the
472 reasons for disregarding such failure to disclose. A copy of
473 such certification must be kept in the investigative file of the
474 research integrity office and must be submitted to the nearest



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475 Federal Bureau of Investigation field office.

476 (5) The research integrity office must report to the
477 nearest Federal Bureau of Investigation field office, and to any
478 law enforcement agency designated by the Governor or the Board
479 of Governors and the governing board of the applicable entity
480 described in subsection (1), the identity of any applicant who
481 was rejected for employment based on the scrutiny required by
482 this section or other risk-based screening.

483 (6) By July 1, 2025, the Inspector General of the Board of
484 Governors, the inspector general of an entity described in
485 subsection (1), or the Auditor General must perform an
486 operational audit regarding the implementation of this section.

487 Section 5. Section 1010.36, Florida Statutes, is created to
488 read:

489 1010.36 Foreign travel; research institutions.—

490 (1) By January 1, 2022, each state university or entity
491 listed in subpart A or subpart B of part II of chapter 1004 that
492 receives state appropriations or state tax revenue and has a
493 research budget of \$10 million or more must establish an
494 international travel approval and monitoring program. The
495 program must require preapproval and screening by a research
496 integrity office designated by the president or chief
497 administrative officer of the state university or entity for any
498 employment-related foreign travel and employment-related foreign
499 activities engaged in by all faculty, researchers, and research
500 department staff. Such requirement is in addition to any other
501 travel approval process applicable to the state university or
502 entity.

503 (2) (a) Preapproval by the research integrity office must be



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504 based on the applicant's review and acknowledgement of guidance
505 published by the employing state university or entity which
506 relates to countries under sanctions or other restrictions of
507 the state or the United States government, including any federal
508 license requirement; customs rules; export controls;
509 restrictions on taking state university or entity property,
510 including intellectual property, abroad; restrictions on
511 presentations, teaching, and interactions with foreign
512 colleagues; and other subjects important to the research and
513 academic integrity of the state university or entity.

514 (b) Preapproval must be based on the binding commitment of
515 the individual traveler not to violate the state university's or
516 entity's limitations on travel and activities abroad and to obey
517 all applicable federal laws.

518 (3) The state university or entity must maintain records of
519 all foreign travel requests and approvals; expenses reimbursed
520 by the university or entity during such travel, including for
521 travel, food, and lodging; and payments and honoraria received
522 during such travel and activities, including for travel, food,
523 and lodging. The state university or entity must also keep
524 records of the purpose of the travel and any records related to
525 the foreign activity review. Such records must be retained for
526 at least 3 years or any longer period of time required by any
527 other applicable state or federal law.

528 (4) The state university or entity must provide an annual
529 report of foreign travel to countries of concern listing
530 individual travelers, foreign locations visited, and foreign
531 institutions visited to the Board of Governors or the governing
532 board of the applicable entity.



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533 (5) By July 1, 2025, the Inspector General of the Board of
534 Governors, the inspector general of an entity described in
535 subsection (1), or the Auditor General must perform an
536 operational audit regarding the implementation of this section.

537 Section 6. This act shall take effect July 1, 2021.

538
539 ===== T I T L E A M E N D M E N T =====

540 And the title is amended as follows:

541 Delete everything before the enacting clause
542 and insert:

543 A bill to be entitled
544 An act relating to foreign influence; creating s.
545 286.101, F.S.; providing definitions; requiring any
546 state agency or political subdivision to disclose
547 certain gifts or grants received from any foreign
548 source to the Department of Financial Services within
549 a specified timeframe; providing an exception;
550 requiring any entity that applies for a certain grant
551 or proposes a certain contract to disclose to a state
552 agency or political subdivision any current or prior
553 interest of, contract with, or grant or gift received
554 from a foreign country of concern under certain
555 circumstances; specifying information to be included
556 in the disclosure; requiring such entity to provide a
557 copy of such disclosure to the department within a
558 specified timeframe before applying for any grant or
559 proposing any contract; requiring such entity to
560 revise its disclosure within a specified timeframe
561 under certain circumstances; providing exceptions to



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562 disclosure requirements; requiring the Department of
563 Management Services to periodically screen certain
564 vendors; requiring certain notification on the online
565 procurement system; requiring the Department of
566 Financial Services to establish and maintain an
567 Internet website to publish the disclosures;
568 authorizing the department to establish an online
569 system for making such disclosures; authorizing the
570 Department of Management Services to coordinate with
571 the Department of Financial Services to establish such
572 online system; requiring the Department of Financial
573 Services to investigate allegations of certain
574 violations under certain circumstances; authorizing
575 the department or specified persons to request certain
576 records; providing for the assessment of fines and
577 penalties under certain circumstances; requiring the
578 department to include and maintain a list of
579 ineligible entities on a certain Internet website;
580 providing that certain information relating to a gift
581 or grant from a foreign source is not confidential or
582 exempt from public records requirements; authorizing
583 rulemaking; creating s. 288.860, F.S.; providing
584 definitions; prohibiting certain agencies and entities
585 from participating in agreements with or accepting
586 grants received from foreign countries of concern
587 under certain circumstances; prohibiting such agencies
588 and entities from accepting anything of value as a
589 condition for participation in certain programs or
590 endeavors that promote the language or culture of



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591 foreign countries of concern; creating s. 1010.25,
592 F.S.; providing definitions; requiring institutions of
593 higher education to semiannually report to certain
594 entities regarding certain gifts they received
595 directly or indirectly from a foreign source;
596 authorizing the report to be consolidated with
597 affiliate organizations; requiring such institutions
598 to provide certain information regarding such gifts;
599 requiring random annual inspections or audits of gifts
600 or gift agreements by certain inspectors general;
601 providing requirements for such inspections or audits;
602 requiring the Board of Governors or State Board of
603 Education, as applicable, to sanction institutions
604 that fail to report certain gifts within a specified
605 timeframe; providing for a civil penalty for willful
606 violations; requiring that the proceeds from such
607 penalty be deposited in a specified fund; authorizing
608 the Attorney General or the Chief Financial Officer to
609 bring a civil action under certain circumstances;
610 providing for attorney fees and costs; authorizing a
611 whistle-blower to report an undisclosed foreign gift
612 to the Attorney General or the Chief Financial
613 Officer; providing that such whistle-blower retains
614 certain protections and is entitled to a reward;
615 authorizing the Chief Financial Officer to incur
616 expenditures to provide such reward from the penalty
617 recovery; authorizing payment of such reward through
618 an intermediary attorney or trustee designated by the
619 whistle-blower; providing that certain information



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620 relating to a gift from a foreign source is not
621 confidential or exempt from public records
622 requirements; providing exceptions; authorizing the
623 Board of Governors and State Board of Education to
624 adopt regulations and rules, respectively; creating s.
625 1010.35, F.S.; requiring certain state universities
626 and other entities to screen certain foreign
627 applicants seeking employment in specified research
628 positions; requiring such applicants to provide
629 additional specified information as part of the
630 application process; requiring screening to be
631 completed before an interview or offer of employment;
632 requiring the president or chief administrative
633 officer of the state university or entity to designate
634 a research integrity office to verify certain
635 information contained in such applications, search
636 certain public databases, and submit certain
637 information to specified federal agencies; specifying
638 the conditions under which a state university may
639 approve a hire based on a risk-based determination;
640 prohibiting the employment of an applicant who fails
641 to make certain disclosures; providing an exception;
642 requiring certain records to be maintained by the
643 research integrity office; requiring such office to
644 report the identity of any applicant who was rejected
645 for employment to certain law enforcement agencies;
646 requiring certain inspectors general or the Auditor
647 General to perform an operational audit by a specified
648 date; creating s. 1010.36, F.S.; requiring certain



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649 state universities and other entities to establish an
650 international travel approval and monitoring program;
651 providing requirements for such program; providing
652 requirements for preapproval and screening for
653 employment-related foreign travel and employment-
654 related foreign activities engaged in by faculty,
655 researchers, and research department staff; requiring
656 state universities and entities to maintain certain
657 records relating to foreign travel and activities for
658 at least 3 years; requiring a state university or
659 entity to provide a certain annual report to the Board
660 of Governors or the governing board of the applicable
661 entity; requiring certain inspectors general or the
662 Auditor General to perform an operational audit by a
663 specified date; providing an effective date.

By the Committee on Education; and Senator Diaz

581-03563A-21

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1 A bill to be entitled
 2 An act relating to foreign influence; creating s.
 3 286.101, F.S.; providing definitions; requiring any
 4 state agency or political subdivision to disclose
 5 certain gifts or grants received from any foreign
 6 source to the Department of Financial Services within
 7 a specified timeframe; providing an exception;
 8 requiring any entity that applies for a certain grant
 9 or proposes a certain contract to disclose to a state
 10 agency or political subdivision any current or prior
 11 interest of, contract with, or grant or gift received
 12 from a foreign country of concern under certain
 13 circumstances; specifying information to be included
 14 in the disclosure; requiring such entity to provide a
 15 copy of such disclosure to the department within a
 16 specified timeframe before applying for any grant or
 17 proposing any contract; requiring such entity to
 18 revise its disclosure within a specified timeframe
 19 under certain circumstances; providing exceptions to
 20 disclosure requirements; requiring the Department of
 21 Management Services to screen certain vendors
 22 periodically; requiring certain notification on the
 23 online procurement system; requiring the Department of
 24 Financial Services to establish and maintain an
 25 Internet website to publish the disclosures;
 26 authorizing the department to establish an online
 27 system for making such disclosures; authorizing the
 28 Department of Management Services to coordinate with
 29 the Department of Financial Services to establish such

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

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30 online system; requiring the Department of Financial
 31 Services to investigate allegations of certain
 32 violations under certain circumstances; authorizing
 33 the department or specified persons to request certain
 34 records; providing for the assessment of fines and
 35 penalties under certain circumstances; requiring the
 36 department to include and maintain a list of
 37 ineligible entities on a certain Internet website;
 38 providing that certain information and records
 39 relating to a gift or grant from a foreign source are
 40 not confidential or exempt from public records
 41 requirements; providing exceptions; authorizing
 42 rulemaking; creating s. 288.860, F.S.; providing
 43 definitions; prohibiting certain agencies and entities
 44 from participating in agreements with or accepting
 45 grants received from foreign countries of concern
 46 under certain circumstances; prohibiting such agencies
 47 and entities from accepting anything of value as a
 48 condition for participation in certain programs or
 49 endeavors that promote the language or culture of
 50 foreign countries of concern; creating s. 1010.25,
 51 F.S.; providing definitions; requiring institutions of
 52 higher education to semiannually report to certain
 53 entities regarding certain gifts they received
 54 directly or indirectly from a foreign source;
 55 authorizing the report to be consolidated with
 56 affiliate organizations; requiring such institutions
 57 to provide certain information regarding such gifts;
 58 requiring random inspections or audits of gifts or

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59 gift agreements by certain inspectors general;
 60 providing requirements for such inspections or audits;
 61 requiring the Board of Governors or State Board of
 62 Education, as applicable, to sanction institutions
 63 that fail to report certain gifts within a specified
 64 timeframe; providing for a civil penalty for willful
 65 violations; requiring that the proceeds from such
 66 penalty be deposited in a specified fund; providing a
 67 lesser civil penalty under specified conditions;
 68 authorizing the Attorney General or Chief Financial
 69 Officer to bring a civil action under certain
 70 circumstances; providing for attorney fees and costs;
 71 providing that certain information and records
 72 relating to a gift from a foreign source are not
 73 confidential or exempt from public records
 74 requirements; providing exceptions; authorizing the
 75 Board of Governors and State Board of Education to
 76 adopt regulations and rules, respectively; creating s.
 77 1010.35, F.S.; requiring certain state universities
 78 and other entities to screen certain foreign
 79 applicants seeking employment in specified research
 80 positions; requiring such applicants to provide
 81 additional specified information as part of the
 82 application process; requiring screening to be
 83 completed before an interview or offer of employment;
 84 requiring the president or chief administrative
 85 officer of the state university or entity to designate
 86 a research integrity office to verify certain
 87 information contained in such applications, search

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88 certain public databases, and submit certain
 89 information to specified federal agencies; specifying
 90 the conditions under which a university may approve a
 91 hire based on a risk-based determination; prohibiting
 92 the employment of an applicant who fails to make
 93 certain disclosures; providing an exception; requiring
 94 certain records to be maintained by the research
 95 integrity office; requiring such office to report the
 96 identity of any applicant who was rejected for
 97 employment to certain law enforcement agencies;
 98 requiring certain inspectors general or the Auditor
 99 General to perform an operational audit by a specified
 100 date; creating s. 1010.36, F.S.; requiring certain
 101 state universities and other entities to establish an
 102 international travel approval and monitoring program;
 103 providing requirements for such program; providing
 104 requirements for preapproval and screening for foreign
 105 travel and foreign employment-related activities
 106 engaged in by faculty, researchers, and research
 107 department staff; requiring state universities and
 108 entities to maintain certain records relating to
 109 foreign travel and activities for at least 3 years;
 110 requiring a state university or entity to provide a
 111 certain annual report to the Board of Governors or the
 112 governing board of the applicable entity; requiring a
 113 specified entity to conduct an operational audit of
 114 institutions by a specified date; providing an
 115 effective date.

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

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

118

119 Section 1. Section 286.101, Florida Statutes, is created to
120 read:

121 286.101 Foreign gifts and contracts.—

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

123 (a) "Contract" means any agreement for the direct benefit
124 or use of any party to such agreement, including an agreement
125 for the sale of commodities or services.

126 (b) "Foreign country of concern" means the People's
127 Republic of China, the Russian Federation, the Islamic Republic
128 of Iran, the Democratic People's Republic of Korea, the Republic
129 of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian
130 Arab Republic, including any agency of or any other entity under
131 significant control of such foreign country of concern.

132 (c) "Foreign government" means the government of any
133 country, nation, or group of nations, or any province or other
134 political subdivision of any country or nation, other than the
135 government of the United States or the government of a state or
136 political subdivision, including any agent of such foreign
137 government.

138 (d) "Foreign source" means any of the following:

139 1. A foreign government or an agency of a foreign
140 government.

141 2. A legal entity, governmental or otherwise, created
142 solely under the laws of a foreign state or states.

143 3. An individual who is not a citizen or a national of the
144 United States or a territory or protectorate of the United
145 States.

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146 4. An agent, including a subsidiary or an affiliate of a
147 foreign legal entity, acting on behalf of a foreign source.

148 (e) "Gift" means any transfer of money or property from one
149 entity to another without compensation.

150 (f) "Grant" means a transfer of money for a specified
151 purpose, including a conditional gift.

152 (g) "Interest" in an entity means any direct or indirect
153 investment in or loan to the entity valued at 5 percent or more
154 of the entity's net worth or any form of direct or indirect
155 control exerting similar or greater influence on the governance
156 of the entity.

157 (h) "State agency" means any agency or unit of state
158 government created or established by law.

159 (2) Any state agency or political subdivision that receives
160 directly or indirectly any gift or grant with a value of \$50,000
161 or more from any foreign source shall disclose such gift or
162 grant to the Department of Financial Services within 30 days
163 after receiving such gift or grant. Such disclosure shall
164 include the date of the gift or grant, the amount of the gift or
165 grant and the name and country of residence or domicile of the
166 foreign source. Disclosure is not required if such gift or grant
167 is disclosed under s. 1010.25.

168 (3) (a) Any entity that applies to a state agency or
169 political subdivision for a grant or proposes a contract having
170 a value of \$100,000 or more shall disclose to the state agency
171 or political subdivision any current or prior interest of, any
172 contract with, or any grant or gift received from a foreign
173 country of concern if such interest, contract, or grant or gift
174 has a value of \$50,000 or more and such interest existed at any

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175 time or such contract or grant or gift was received or in force
 176 at any time during the previous 5 years. Such disclosure shall
 177 include the name and mailing address of the disclosing entity,
 178 the amount of the contract, grant or gift or the value of the
 179 interest disclosed, the applicable foreign country of concern
 180 and, if applicable, the date of termination of the contract or
 181 interest, the date of receipt of the grant or gift, and the name
 182 of the agent or controlled entity that is the source or interest
 183 holder. Within 1 year before applying for any grant or proposing
 184 any contract, such entity must provide a copy of such disclosure
 185 to the Department of Financial Services.

186 (b) Disclosure under this subsection is not required with
 187 respect to:

188 1. A proposal to sell commodities through the online
 189 procurement program established pursuant to s. 287.057(22);

190 2. An application or proposal from an entity that discloses
 191 foreign gifts or grants under subsection (2) or s. 1010.25;

192 3. An application or proposal from a foreign source that,
 193 if granted or accepted, would be disclosed under subsection (2)
 194 or s. 1010.25; or

195 4. An application or proposal from a public or not-for-
 196 profit research institution with respect to research funded by
 197 any federal agency.

198 (c) A disclosure published online pursuant to subsection
 199 (5) is deemed disclosed to every state agency and political
 200 subdivision for purposes of paragraph (a). From the time a
 201 disclosure is made under paragraph (a) through the term of any
 202 awarded state grant or contract, the entity must revise its
 203 disclosure within 30 days after entering into a contract with or

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204 receiving a grant or gift from a foreign country of concern or
 205 within 30 days after the acquisition of any interest in the
 206 entity by a foreign country of concern.

207 (4) At least once every 5 years, the Department of
 208 Management Services shall screen each vendor of commodities
 209 participating in the online procurement system if such vendor
 210 has the capacity to fill an order of \$100,000 or more. Screening
 211 must be conducted through federal agencies responsible for
 212 identifying persons and organizations subject to trade
 213 sanctions, embargoes, or other restrictions under federal law.
 214 If a vendor is identified as being subject to any such
 215 sanctions, embargoes, or other restrictions, the vendor must
 216 make the disclosures required under subsection (3) until such
 217 restriction expires. A notification regarding the applicability
 218 of the disclosure requirement in subsection (3) to the vendor
 219 must be included on the online procurement system when
 220 applicable. The Department of Management Services must ensure
 221 that purchasers through the online procurement system may easily
 222 access all disclosures made by vendors participating in the
 223 system.

224 (5) The Department of Financial Services must establish and
 225 maintain an Internet website to publish the disclosures required
 226 under this section. The Department of Financial Services may
 227 establish an online system for making such disclosures. The
 228 Department of Management Services may coordinate with the
 229 Department of Financial Services to establish the online system.

230 (6) (a) Upon receiving a referral from an inspector general
 231 or other compliance officer of a state agency or political
 232 subdivision or any sworn complaint based upon substantive

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233 information and reasonable belief, the Department of Financial
 234 Services must investigate an allegation of a violation of this
 235 section.

236 (b) The Department of Financial Services, an inspector
 237 general, or any other agent or compliance officer authorized by
 238 a state agency or political subdivision may request records
 239 relevant to any reasonable suspicion of a violation of this
 240 section. An entity must provide the required records within 30
 241 days after such request or at a later time agreed to by the
 242 investigating state agency or political subdivision.

243 (7) (a) Failure to make a disclosure required under this
 244 section or failure to provide records requested under paragraph
 245 (6) (b) constitutes a civil violation punishable upon a final
 246 order of the Department of Financial Services by an
 247 administrative fine of \$5,000 for a first violation or \$10,000
 248 for any subsequent violation.

249 (b) In addition to any fine assessed under paragraph (a), a
 250 final order determining a third or subsequent violation by a
 251 state agency or political subdivision must include a
 252 determination of the identity of the officer responsible for
 253 acceptance of the undisclosed grant or gift. Such order must
 254 also include a referral by the Department of Financial Services
 255 to the Governor or other officer authorized to suspend or remove
 256 the officer responsible for acceptance of the undisclosed grant
 257 or gift from public office. A copy of such referral must be
 258 provided to the President of the Senate and the Speaker of the
 259 House of Representatives for oversight of such suspension and
 260 removal authority.

261 (c) In addition to any fine assessed under paragraph (a), a

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262 final order determining a third or subsequent violation by an
 263 entity other than a state agency or political subdivision shall
 264 automatically disqualify the entity from eligibility for any
 265 grant or contract funded by a state agency or any political
 266 subdivision until such ineligibility is lifted by the
 267 Administration Commission for good cause. The Department of
 268 Financial Services shall include and maintain an active and
 269 current list of such ineligible entities on the Internet website
 270 maintained under subsection (5).

271 (8) Except as provided in s. 1004.22(2), or information
 272 protected by any statute that is a trade secret as defined in s.
 273 812.081(1)(c) or s. 688.002(4), information and records relating
 274 to a gift or grant from a foreign source are not confidential or
 275 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 276 Constitution.

277 (9) (a) The Department of Management Services may adopt
 278 rules necessary to carry out its responsibilities under this
 279 section. The rules may identify the federal agencies to be
 280 consulted under subsection (4) and the procedure for notifying a
 281 vendor of the disclosure requirements under this section when
 282 applicable. The Department of Management Services may also adopt
 283 rules providing for the application of this section to the
 284 online procurement system.

285 (b) The Department of Financial Services may adopt rules
 286 necessary to carry out its responsibilities under this section.

287 (c) Any rules necessary to implement this section must be
 288 published by December 31, 2021, unless the applicable department
 289 head certifies in writing that a delay is necessary and the date
 290 by which the proposed rules will be published. Such

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291 certification must be published in the Florida Administrative
 292 Register and a copy provided to the Joint Administrative
 293 Procedures Committee.

294 Section 2. Section 288.860, Florida Statutes, is created to
 295 read:

296 288.860 International cultural agreements.—

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

298 (a) "Foreign country of concern" means the People's
 299 Republic of China, the Russian Federation, the Islamic Republic
 300 of Iran, the Democratic People's Republic of Korea, the Republic
 301 of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian
 302 Arab Republic, including any agency of or any other entity under
 303 significant control of such foreign country of concern.

304 (b) "Political subdivision" includes any entity under the
 305 control of or established for the benefit of a political
 306 subdivision.

307 (c) "Public school" means any education institution under
 308 the supervision of a school district and any entity under the
 309 control of or established for the benefit of a public school or
 310 school district.

311 (d) "State agency" means any agency or unit of state
 312 government created or established by law and any entity under
 313 the control of or established for the benefit of a state agency.

314 (e) "State college" means any postsecondary education
 315 institution under the supervision of the State Board of
 316 Education, including any entity under the control of or
 317 established for the benefit of a state college.

318 (f) "State university" means any state university under the
 319 supervision of the Board of Governors, including any entity

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320 under the control of or established for the benefit of a state
 321 university.

322 (2) A state agency, political subdivision, public school,
 323 state college, or state university authorized to expend state-
 324 appropriated funds or levy ad valorem taxes may not participate
 325 in any agreement with or accept any grant from a foreign country
 326 of concern, or any entity controlled by a foreign country of
 327 concern, which establishes a program or other endeavor to
 328 promote the language or culture of a foreign country of concern.

329 (3) A state agency, political subdivision, public school,
 330 state college, or state university may not accept anything of
 331 value conditioned upon participation in a program or other
 332 endeavor to promote the language or culture of a foreign country
 333 of concern.

334 Section 3. Section 1010.25, Florida Statutes, is created to
 335 read:

336 1010.25 Foreign gift reporting.—

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

338 (a) "Affiliate organization" means any entity under the
 339 control of or established for the benefit of an organization
 340 required to report under this section, including a direct-
 341 support organization.

342 (b) "Contract" means any agreement for the acquisition by
 343 purchase, lease, or barter of property or services by the
 344 foreign source, for the direct benefit or use of either of the
 345 parties, and any purchase, lease or barter of property or
 346 services from a foreign country of concern as defined in s.
 347 286.101(1)(b).

348 (c) "Direct-support organization" has the same meaning as

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349 provided in ss. 1004.28(1)(a), 1004.70(1)(a), and 1004.71(1)(a).

350 (d) "Foreign government" means the government of any
 351 country, nation, or group of nations, or any province or other
 352 political subdivision of any country or nation, other than the
 353 government of the United States or the government of a state or
 354 political subdivision, including any agent of such foreign
 355 government.

356 (e) "Foreign source" means any of the following:

357 1. A foreign government or an agency of a foreign
 358 government.

359 2. A legal entity, governmental or otherwise, created
 360 solely under the laws of a foreign state or states.

361 3. An individual who is not a citizen or a national of the
 362 United States or a territory or protectorate of the United
 363 States.

364 4. An agent, including a subsidiary or an affiliate of a
 365 foreign legal entity, acting on behalf of a foreign source.

366 (f) "Gift" means any contract, gift, grant, endowment,
 367 award, or donation of money or property of any kind, or any
 368 combination thereof, including a conditional or an unconditional
 369 pledge of such contract, gift, grant, endowment, award, or
 370 donation. For purposes of this paragraph, the term "pledge"
 371 means a promise, an agreement, or an expressed intention to give
 372 a gift.

373 (g) "Institution of higher education" means a state
 374 university, an entity listed in subpart B of part II of chapter
 375 1004 that has its own governing board, a Florida College System
 376 institution, an independent nonprofit college or university that
 377 is located in and chartered by the state and grants

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378 baccalaureate or higher degrees, any other institution that has
 379 a physical presence in the state and is required to report
 380 foreign gifts or contracts pursuant to 20 U.S.C. s. 1011f, or an
 381 affiliate organization of an institution of higher education.

382 (2) Each institution of higher education must semiannually
 383 report, each January 31 and July 31, any gift received directly
 384 or indirectly from a foreign source with a value of \$50,000 or
 385 more during the fiscal year. If a foreign source provides more
 386 than one gift directly or indirectly to an institution of higher
 387 education in a single fiscal year and the total value of those
 388 gifts is \$50,000 or more, all gifts received from that foreign
 389 source must be reported. For purposes of this subsection, a gift
 390 received from a foreign source through an intermediary shall be
 391 considered an indirect gift to the institution of higher
 392 education. An institution of higher education may consolidate
 393 its report with that of all its affiliate organizations. A
 394 report required under this subsection must be made to the
 395 following entities:

396 (a) The Board of Governors, if the recipient is a state
 397 university, an entity listed in subpart B of part II of chapter
 398 1004 that has its own governing board, or an affiliate
 399 organization of such university or entity.

400 (b) Unless already reported to the Board of Governors
 401 pursuant to paragraph (a), the State Board of Education, if the
 402 recipient is any other institution of higher education or an
 403 affiliate organization of such institution.

404 (3) For each gift subject to the reporting requirement in
 405 subsection (2), the report of the institution of higher
 406 education must provide all of the following information, unless

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407 otherwise prohibited or deemed confidential under federal law
 408 having no exemption applicable to such reporting:

409 (a) The amount of the gift and the date it was received.

410 (b) The contract start and end date if the gift is a
 411 contract.

412 (c) The name of the foreign source and, if not a foreign
 413 government, the country of citizenship, if known, and the
 414 country of principal residence or domicile of the foreign
 415 source.

416 (d)1. A copy of a gift agreement between the foreign source
 417 and the institution of higher education, signed by the foreign
 418 source and the chief administrative officer of the institution
 419 of higher education, or their respective designees, which must
 420 include a detailed description of the purpose for which the gift
 421 will be used by the institution of higher education, the
 422 identification of the persons for whom the gift is explicitly
 423 intended to benefit, and any applicable conditions,
 424 requirements, restrictions, or terms made a part of the gift
 425 regarding the control of curricula, faculty, student admissions,
 426 student fees, or contingencies placed upon the institution of
 427 higher education to take a specific public position or to award
 428 an honorary degree. With respect to an agreement containing
 429 information protected from disclosure under s. 1004.22(2), an
 430 abstract and redacted copy providing all required information
 431 that is not so protected may be submitted in lieu of a copy of
 432 the agreement.

433 2. Beginning July 1, 2022, the Inspector General of the
 434 Board of Governors or the Inspector General of the Department of
 435 Education, as applicable, shall, within existing resources,

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436 randomly inspect or audit at least 10 percent of the total
 437 number of gifts or gift agreements received from institutions of
 438 higher education pursuant to this paragraph during the previous
 439 year. The inspection or audit shall examine the extent to which
 440 the institution of higher education exercised due diligence with
 441 respect to whether the gift was received from a foreign source,
 442 as well as the institution of higher education's compliance with
 443 the requirements of this section.

444 3. Upon the request of the Governor, the President of the
 445 Senate, or the Speaker of the House of Representatives, the
 446 Inspector General of the Board of Governors or the Inspector
 447 General of the Department of Education, as applicable, must
 448 inspect or audit a gift or gift agreement.

449 (4) The State Board of Education or the Board of Governors,
 450 as applicable, shall exercise the authority provided pursuant to
 451 s. 1008.32 or s. 1008.322, respectively, to sanction an
 452 institution of higher education that fails to report a
 453 reportable gift within 60 days after the reporting deadlines
 454 established in subsection (2).

455 (5) (a) An institution of higher education that knowingly,
 456 willfully, or negligently fails to disclose the information
 457 required by this section shall be subject to a civil penalty of
 458 105 percent of the amount of the undisclosed gift, payable only
 459 from nonstate funds of the institution of higher education or
 460 the affiliate organization that received such gift. The
 461 recovered funds must be deposited into the General Revenue Fund.
 462 The Board of Governors and the State Board of Education, as
 463 applicable, may administratively enforce this section and impose
 464 the civil penalty as an administrative penalty. A lesser

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465 penalty, but at least 5 percent of the amount of the undisclosed
 466 gift may be imposed if a negligent failure is not a result of
 467 negligent management or is de minimis.

468 (b) In the absence of enforcement by the Board of Governors
 469 or the State Board of Education, as applicable, the Attorney
 470 General or Chief Financial Officer may bring a civil action to
 471 enforce this section. If such action is successful, the Attorney
 472 General or Chief Financial Officer, as applicable, is entitled
 473 to reasonable attorney fees and costs.

474 (6) Except as provided in s. 1004.22(2), or information
 475 protected by any statute that is a trade secret as defined in s.
 476 812.081(1)(c) or s. 688.002(4), information and records relating
 477 to a gift from a foreign source are not confidential or exempt
 478 from s. 119.07(1) and s. 24(a), Art. I of the State
 479 Constitution.

480 (7) The Board of Governors may adopt regulations, and the
 481 State Board of Education may adopt rules, to implement this
 482 section.

483 Section 4. Section 1010.35, Florida Statutes, is created to
 484 read:

485 1010.35 Screening foreign researchers.—

486 (1) Each state university or entity listed in subpart A or
 487 subpart B of part II of chapter 1004 that receives state
 488 appropriations or state tax revenue and has a research budget of
 489 \$10 million or more must screen applicants seeking employment in
 490 research or research-related support positions, graduate and
 491 undergraduate students applying for research or research support
 492 positions, and applicants for positions of visiting researcher,
 493 who are citizens of a foreign country and who are not permanent

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494 residents of the United States, or who are citizens or permanent
 495 residents of the United States who have any affiliation with an
 496 institution or program, or at least 1 year of prior employment
 497 or training, excepting employment or training by an agency of
 498 the United States government, in a foreign country of concern as
 499 defined in s. 286.101. Such screening is required prior to
 500 interviewing such applicant or offering to such applicant a
 501 position of employment or of visiting researcher. At the
 502 discretion of the university or entity, other applicants for
 503 such positions may be screened.

504 (2) In addition to satisfying all employment and enrollment
 505 qualifications imposed by federal law, the Board of Governors or
 506 the governing board of the applicable entity must require the
 507 following of applicants included in subsection (1):

508 (a) A foreign applicant must submit a complete copy of the
 509 applicant's passport and most recently submitted Online
 510 Nonimmigrant Visa Application, DS-160. After extraction of all
 511 information relevant to the requirements of this section a
 512 university or entity may destroy or return the copy of the DS-
 513 160 submitted by an applicant.

514 (b) All applicants described in subsection (1) must submit
 515 a complete resume and curriculum vitae, including every
 516 institution of higher education attended; all previous
 517 employment since the applicant's 18th birthday; a list of all
 518 published material for which the applicant received credit as an
 519 author, a researcher, or otherwise or to which the applicant
 520 contributed significant research, writing, or editorial support;
 521 a list of the applicant's current and pending research funding
 522 from any source, including funder, amount, applicant's role on

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523 the project, and brief description of the research; and a full
 524 disclosure of non-university professional activities including
 525 any affiliation with an institution or program in a foreign
 526 country of concern. For applicants who have been continually
 527 employed or enrolled in a postsecondary education institution in
 528 the United States for 20 years or more, the resume may, but need
 529 not, include employment history before the most recent 20 years.

530 (3) The president or chief administrative officer of the
 531 state university or applicable entity shall designate a research
 532 integrity office to review all materials required in subsection
 533 (2) and take reasonable steps to verify all attendance,
 534 employment, publications, and contributions listed in the
 535 application required in subsection (2) prior to any interview of
 536 or offer of a position to the applicant. Reasonable steps
 537 include searching public databases for research publications and
 538 presentations and public conflict of interest records to
 539 identify any research publication or presentation that may have
 540 been omitted from the application, contacting all employers of
 541 the most recent 10 years to verify employment, contacting all
 542 institutions of higher education attended to verify enrollment
 543 and educational progress, searching public listings of persons
 544 subject to sanctions or restrictions under federal law, and
 545 submitting the applicant's name and other identifying
 546 information to the Federal Bureau of Investigation or any
 547 federal agency reasonably willing to scrutinize such applicant
 548 for national security or counterespionage purposes, and any
 549 other steps deemed appropriate to the office. The university or
 550 applicable entity may also direct the office to approve
 551 applicants for hire based on a risk-based determination

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552 considering the nature of the research and the background and
 553 ongoing affiliations of the applicant.

554 (4) The requirements of this section must be completed
 555 before interviewing or offering any position to an individual
 556 described in subsection (1) in any research or research-related
 557 support position and before granting such individual any access
 558 to research data or activities or other sensitive data. An
 559 applicant who must be screened under this section may not be
 560 employed in any research or research-related support position if
 561 he or she fails to disclose a substantial educational,
 562 employment, or research-related activity or publication or
 563 presentation at the time of submitting the application required
 564 in subsection (2), unless the department head, or a designee,
 565 certifies in writing the substance of the nondisclosure and the
 566 reasons for disregarding such failure to disclose. A copy of
 567 such certification must be kept in the investigative file of the
 568 research integrity office and must be submitted to the nearest
 569 Federal Bureau of Investigation field office.

570 (5) The research integrity office must report to the
 571 nearest Federal Bureau of Investigation field office, and to any
 572 law enforcement agency designated by the Governor or the Board
 573 of Governors and the governing board of the applicable entity
 574 described in subsection (1), the identity of any applicant who
 575 was rejected for employment based on the scrutiny required by
 576 this section or other risk-based screening.

577 (6) By July 1, 2025, the Inspector General of the Board of
 578 Governors, the inspector general of an entity described in
 579 subsection (1), or the Auditor General must perform an
 580 operational audit regarding the implementation of this section.

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581 Section 5. Section 1010.36, Florida Statutes, is created to
582 read:

583 1010.36 Foreign travel; research institutions.-

584 (1) By January 1, 2022, each state university or entity
585 listed in subpart A or subpart B of part II of chapter 1004 that
586 receives state appropriations or state tax revenue and has a
587 research budget of \$10 million or more must establish an
588 international travel approval and monitoring program. The
589 program must require preapproval and screening by a research
590 integrity office designated by the president or chief
591 administrative officer of the state university or entity for any
592 foreign travel and foreign employment-related activities engaged
593 in by all faculty, researchers, and research department staff.
594 Such requirement is in addition to any other travel approval
595 process applicable to the state university or entity.

596 (2) (a) Preapproval by the research integrity office must be
597 based on the applicant's review and acknowledgement of guidance
598 published by the employing state university or entity which
599 relates to countries under sanctions or other restrictions of
600 the state or the United States government, including any federal
601 license requirement; customs rules; export controls;
602 restrictions on taking state university or entity property,
603 including intellectual property, abroad; restrictions on
604 presentations, teaching, and interactions with foreign
605 colleagues; and other subjects important to the research and
606 academic integrity of the state university or entity.

607 (b) Preapproval must be based on the binding commitment of
608 the individual traveler not to violate the state university's or
609 entity's limitations on travel and activities abroad and to obey

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610 all applicable federal laws.

611 (3) The state university or entity must maintain records of
612 all foreign travel requests and approvals; expenses reimbursed
613 by the university or entity during such travel, including for
614 travel, food, and lodging; and payments and honoraria received
615 during such travel and activities, including for travel, food,
616 and lodging. The state university or entity must also keep
617 records of the purpose of the travel and any records related to
618 the foreign activity review. Such records must be retained for
619 at least 3 years or any longer period of time required by any
620 other applicable state or federal law.

621 (4) The state university or entity must provide an annual
622 report of foreign travel to countries of concern listing
623 individual travelers, foreign locations visited, and foreign
624 institutions visited to the Board of Governors or the governing
625 board of the applicable.

626 (5) By July 1, 2025, the Inspector General of the Board of
627 Governors, the inspector general of an entity described in
628 subsection (1), or the Auditor General must perform an
629 operational audit regarding the implementation of this section.

630 Section 6. This act shall take effect July 1, 2021.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 7060 (574708)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Environment and Natural Resources Committee

SUBJECT: Biosolids

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Anderson</u>	<u>Rogers</u>		EN Submitted as Comm. Bill/Fav
1.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
2.	<u>Reagan</u>	<u>Sadberry</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7060 ratifies the Department of Environmental Protection's (DEP's) revisions to their biosolids rules, chapter 62-640 of the Florida Administrative Code. The bill exempts the rules from review and approval by the Environmental Regulation Commission.

Chapter 2020-150, Laws of Florida, required the DEP to adopt rules for biosolids management and included provisions that the rule must:

- Require a new land application site permit or permit renewal issued after July 1, 2020, to:
 - Ensure a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level at the time biosolids are applied to the soil;
 - Prohibit applying biosolids to land with a seasonal high water table within six inches of the soil surface or depth of biosolids placement unless a department-approved nutrient management plan and water quality monitoring plan provide reasonable assurances that the land application of biosolids at the site will not cause or contribute to a violation of the state's surface water quality standards or groundwater standards; and
 - Require biosolids sites to enroll in a Department of Agriculture and Consumer Services Best Management Practices program;
- Require all permits to comply with these requirements by July 1, 2022; and
- Require biosolids sites to comply with the DEP's new rule within two years of the effective date of the rule.

The Statement of Estimated Regulatory Costs (SERC) developed by the DEP determined that the proposed rule will likely increase regulatory costs in excess of \$1 million in the aggregate within five years after implementation of the rule. This amount triggers the statutory requirement for the rule to be ratified by the Legislature before it may go into effect.

The bill provides a declaratory statement and determination by the Legislature that the rule ratification fulfills an important state interest.

The act is effective upon becoming a law. At that time, the rule also becomes effective.

The bill will have an indeterminate negative fiscal impact on the DEP due to increased inspections and monitoring of application sites.

II. Present Situation:

Legislative Ratification

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.¹

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.²

Statement of Estimated Regulatory Costs Requirements

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or
- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within one year after the implementation of the rule.³

A SERC must include:

¹ Section 120.541(2)(a), F.S.

² Section 120.541(3), F.S.

³ Section 120.54(3)(b)1., F.S.

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.⁴

Biosolids

When domestic wastewater is treated, a solid, semisolid, or liquid byproduct, known as biosolids,⁵ accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.⁶ Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the Department of Environmental Protection (DEP).⁷ The collected material is high in organic content and contains moderate amounts of nutrients that are needed by plants.⁸

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.⁹ Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.¹⁰ About one-third of the total amount of biosolids produced is used for land application¹¹ and is subject to regulatory requirements established by the DEP to protect public health and the environment.¹²

⁴ Section 120.541(2), F.S.

⁵ Section 373.4595, F.S.; *see also* Fla. Admin. Code R. 62-640.200(6). Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

⁶ Department of Environmental Protection (DEP), *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Mar. 5, 2021).

⁷ Fla. Admin. Code R. 62-640.200(6).

⁸ DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Mar. 5, 2021).

⁹ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf (last visited Mar. 5, 2021); DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Mar. 5, 2021).

¹⁰ *Id.* at 4.

¹¹ *Id.* at 5.

¹² Fla. Admin. Code R. 62-640.

Biosolids may be used by land application in farming and ranching operations, forest lands, and public areas such as parks, or in land reclamation projects such as restoration of mining properties. Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.¹³ There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.¹⁴ The map below shows the permitted sites.



Typically, Class B biosolids are used in land application.¹⁵ The highest quality of biosolids, known in Florida as “Class AA,” are distributed and marketed like other commercial fertilizers. The DEP does not track the sale of commercial fertilizers.

Biosolids are regulated under chapter 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including pollutant limits and monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, applicators, and distributors¹⁶ and include permit requirements for both treatment facilities and biosolids application sites.¹⁷

¹³ *Id.* at 20.

¹⁴ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf (last visited Mar. 5, 2021); DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Mar. 5, 2021). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.

¹⁵ *Id.* at 6.

¹⁶ Fla. Admin. Code R. 62-640.100.

¹⁷ Fla. Admin. Code R. 62-640.300.

The application of Class A and Class B biosolids is banned in South Florida within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed.¹⁸ However, other communities have expressed concerns that runoff from farms and ranches that use biosolids can lead to toxic blue-green algae blooms and have sought bans locally.¹⁹

Rule 62-640, Florida Administrative Code

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to evaluate current biosolids management practices and explore opportunities to better protect Florida's water resources. The TAC convened four times in 2018 and 2019 and discussed current options for biosolids management in the state, potential improvements in biosolids management to protect our water resources, and looked at what research is necessary for successful improvements.²⁰ The DEP issued its first draft rule in October 2019 after the TAC disbanded, but withdrew the rule following the passage of the Clean Waterways Act.²¹

The Clean Waterways Act (Ch. 2020-150, Laws of Florida)

The Clean Waterways Act required the DEP to adopt rules for biosolids management and specified that any rules adopted may not take effect until ratified by the Legislature.

Section 403.0855, F.S., includes provisions that the rule must:

- Require a new land application site permit or permit renewal issued after July 1, 2020, to:
 - Ensure a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level at the time biosolids are applied to the soil;
 - Prohibit applying biosolids to land with a seasonal high water table²² within six inches of the soil surface or depth of biosolids placement unless a department-approved nutrient management plan and water quality monitoring plan provide reasonable assurances that the land application of biosolids at the site will not cause or contribute to a violation of the state's surface water quality standards or groundwater standards; and
 - Require biosolids sites to enroll in a Department of Agriculture and Consumer Services (DACS) Best Management Practices program;
- Require all permits to comply with these requirements by July 1, 2022; and

¹⁸ Section 373.4595, F.S.

¹⁹ TCPalm, *Ban biosolids use along upper St. Johns River, Indian River County administrator tells DEP*, <https://www.tcpalm.com/story/news/local/indian-river-lagoon/health/2019/06/27/ban-biosolids-use-along-upper-st-johns-river-irc-official-tells-dep/1581585001/> (last visited Mar. 6, 2021). Local bans on the land application of biosolids have been established in Indian River County and the City of Fellsmere. See Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), available at http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Mar. 6, 2021); Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf (last visited Mar. 6, 2021).

²⁰ DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 5, 2021).

²¹ Chapter 2020-150, Laws of Fla.

²² "Seasonal high water" means the elevation to which the ground and surface water may be expected to rise due to a normal wet season. Chapter 2020-150, Laws of Fla.

- Require biosolids sites to comply with the DEP's new rule within two years of the effective date of the rule.

The DEP published its proposed rule implementing the provisions of s. 403.0855, F.S., on December 3, 2020. In addition to the requirements in the Clean Waterways Act, the proposed rule issued by the DEP:

- Revises the provisions for determining biosolids land application rates to include basing rates on nitrogen and phosphorus levels;
- Imposes groundwater and surface water monitoring requirements for land application sites; and
- Considers biosolids permit applications as projects of heightened public interest.

DEP Statement of Estimated Regulatory Costs

The DEP anticipates the rule costing in excess of \$1 million in the next five years. The DEP published a SERC on December 3, 2020.²³ The DEP projects the following changes would increase costs due to the revised rule:

- A significant reduction (estimated 75 percent) in biosolids land application which could lead to permitting more land to accommodate the current quantity of biosolids;
- Longer hauling distances to newly permitted land application sites;
- Additional site monitoring requirements and increased operational costs at land application sites;
- Loss of fertilizer cost savings by not being able to land apply biosolids;²⁴ and
- Possible transfer of biosolids out-of-state for management or disposal.

The DEP estimates that the cost of the proposed rule over the next five years will be \$310,000,000 to continue land application of Class B biosolids, and \$450,000,000-\$600,000,000 to convert to Class AA biosolids (fertilizer).²⁵ There are innovative technologies to process biosolids for energy or fuel as an alternative to land application, but the DEP stated that there is limited evidence that these methods could serve as feasible alternatives and the costs are higher than the costs for conversion to Class AA biosolids.²⁶

In the SERC, the DEP states that the majority of biosolids are generated by utilities owned and operated by local government entities. Therefore, estimates for one-time capital costs and recurring costs will primarily affect local government entities. This includes 104 domestic wastewater treatment facilities that treat and land apply biosolids, and unknown numbers of small wastewater treatment facilities that send biosolids to larger treatment facilities and biosolids treatment facilities that treat and land apply biosolids.²⁷

²³ DEP, *Statement of Estimated Regulatory Costs* (Dec. 3, 2020), available at https://floridadep.gov/sites/default/files/SERC%2062-640_120320_Final.pdf (last visited Mar. 5, 2021).

²⁴ DEP states in the SERC that it is unlikely that all of the approximately 94,000 dry tons of Class B biosolids currently land applied in the state will continue to be land applied. *Id.* at 6.

²⁵ *Id.* at 4.

²⁶ *Id.* at 11. DEP states in the SERC that it does not have enough information to make an analysis on innovative technologies. *Id.* at 8.

²⁷ *Id.* at 5.

Environmental Regulation Commission

The Environmental Regulation Commission (ERC) is an unpaid seven-member board within the DEP.²⁸ Under specified statutory provisions and with certain exceptions, the ERC must exercise the standard-setting authority of the DEP – approving, modifying, or disapproving proposed rules that contain standards.²⁹ In exercising its authority to set standards, the ERC must consider scientific and technical validity, economic impacts, and relative risks and benefits to the public and the environment.³⁰

The ERC is composed of seven state residents, appointed by the Governor for four-year terms, subject to confirmation by the Senate.³¹ The appointees must provide reasonable representation from all sections of the state, and be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise related to water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering.³² Most issues that go before the ERC relate to air pollution, water quality, or waste management.³³ The ERC is scheduled to meet monthly, but has not met since 2019.³⁴ According to the DEP’s website, two of the memberships to the ERC are vacant and the terms of the five listed members have lapsed.³⁵ However, the Governor recently appointed four members to the ERC.³⁶

III. Effect of Proposed Changes:

The bill ratifies the rules comprising ch. 62-640 of the Florida Administrative Code, titled “Biosolids,” for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S. Chapter 62-640 of the Florida Administrative Code, proposed by the Department of Environmental Protection (DEP) and published on December 3, 2020, in the Florida Administrative Register, Vol. 46, No. 234, pages 5281-5297, consists of rules:

- 62-640.100, entitled Scope, Intent, Purpose, and Applicability;
- 62-640.200, entitled Definitions;
- 62-640.210, entitled General Technical Guidance and Forms;
- 62-640.300, entitled General Requirements;
- 62-640.400, entitled Prohibitions;
- 62-640.500, entitled Nutrient Management Plan (NMP);

²⁸ Section 20.255(6), F.S., DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Mar. 5, 2021).

²⁹ Sections 403.803(13), 403.804, and 403.805(1), F.S. “Standard” is defined as any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substations. The term does not include rules relating to internal management or procedural matters.

³⁰ Section 403.804, F.S.

³¹ Section 20.255(6), F.S.

³² *Id.*

³³ DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Mar. 4, 2021).

³⁴ *Id.*

³⁵ DEP, *ERC Members*, <https://floridadep.gov/ogc/ogc/content/erc-members> (last visited Mar. 5, 2021).

³⁶ News Release, Governor Ron DeSantis, *Governor Ron DeSantis Appoints Four to the Environmental Regulation Commission* (Mar. 12, 2021), <https://www.flgov.com/2021/03/12/governor-ron-desantis-appoints-four-to-the-environmental-regulation-commission/> (last visited Mar. 15, 2021).

- 62-640.600, entitled Pathogen Reduction and Vector Attraction Reduction;
- 62-640.650, entitled Monitoring, Record Keeping, Reporting, and Notification;
- 62-640.700, entitled Requirements for Land Application of Class AA, A, and B Biosolids;
- 62-640.800, entitled Additional Requirements for Land Application at Reclamation Sites;
- 62-640.850, entitled Distribution and Marketing of Class AA Biosolids; and
- 62-640.880, entitled Additional Requirements Related to Biosolids Treatment Facilities.

The bill:

- Exempts the rules from review and approval by the Environmental Regulation Commission (ERC) under s. 403.804(1), F.S.;
- Directs that section one of the bill serves no other purpose and may not be codified in the Florida Statutes;
- Requires the DEP to publish a notice of the enactment of the exemption from review and approval by the ERC in the Florida Administrative Register; and
- Provides that section one of the bill does not:
 - Alter rulemaking authority delegated by prior law;
 - Constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule cited; and
 - Does not cure any rulemaking defect or preempt any challenge on lack of authority or a violation of the legal requirements governing adoption of any rule cited.

The bill provides a declaratory statement and determination by the Legislature that section 1 of the bill fulfills an important state interest.

The act is effective upon becoming a law. At that time, the rule also becomes effective.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18(a) of the Florida Constitution may apply to this bill because local governments may be required to expend funds to manage biosolids under the new requirements of the rule. The bill includes a legislative finding that the rule ratification fulfills an important state interest. The expenditures are required to comply with rules and law that applies to all persons similarly situated. Therefore, an exception from Art. VII, s. 18(a) of the Florida Constitution likely applies.

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:

According to the Department of Environmental's (DEP's) statement of estimated regulatory costs (SERC), there will likely be increased operational costs to biosolids treatment facilities and septage management facilities. There will also likely be impacts to biosolids haulers and the ranchers and farmers who own land application sites. Utility ratepayers and homeowners may ultimately bear the increased operational costs of wastewater treatment facilities.³⁷ *See discussion of SERC in Section II on page six of the analysis.*

C. Government Sector Impact:

According to the DEP's statement of estimated regulatory costs, there will likely be increased operational costs to wastewater treatment facilities.³⁸ *See discussion of SERC in Section II on page six of the analysis.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.0855 of the Florida Statutes.

³⁷ DEP, *Statement of Estimated Regulatory Costs* (Dec. 3, 2020), available at https://floridadep.gov/sites/default/files/SERC%2062-640_120320_Final.pdf (last visited Mar. 5, 2021).

³⁸ *Id.*

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on April 8, 2021:

The committee substitute:

- Deletes the provision of the bill that requires the DEP to provide notice to and receive consent from a private property owner before entering onto his or her property to install monitoring equipment or conduct sampling for biosolids sites.

B. Amendments:

None.



574708

576-03931-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

A bill to be entitled

An act relating to ratification of Department of
Environmental Protection rules; ratifying specified
rules relating to biosolids management for the sole
and exclusive purpose of satisfying any condition on
effectiveness pursuant to s. 120.541(3), F.S., which
requires ratification of any rule exceeding any
specified thresholds for likely adverse impact or
increase in regulatory costs; exempting the rules from
certain review and approval by the Environmental
Regulation Commission; providing applicability;
providing construction; providing a declaration of
important state interest; providing an effective date.

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

Section 1. (1) The following rules are ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rules 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.400, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880, Florida Administrative Code, entitled Scope, Intent, Purpose, and Applicability; Definitions; General Technical Guidance and Forms; General Requirements; Prohibitions; Nutrient Management Plan (NMP); Pathogen Reduction and Vector Attraction Reduction; Monitoring, Record Keeping,



574708

576-03931-21

Reporting, and Notification; Requirements for Land Application of Class AA, A, and B Biosolids; Additional Requirements for Land Application at Reclamation Sites; Distribution and Marketing of Class AA Biosolids; and Additional Requirements Related to Biosolids Treatment Facilities, respectively, as published on December 3, 2020, in the Florida Administrative Register, Vol. 46, No. 234, pages 5281-5297.

(2) The rules in subsection (1) proposed by the Department of Environmental Protection pursuant to s. 403.0855(2), Florida Statutes, are exempt from review and approval by the Environmental Regulation Commission under s. 403.804(1), Florida Statutes.

(3) This section serves no other purpose and may not be codified in the Florida Statutes. At the time of filing this rule for adoption, or as soon thereafter as practicable, the department shall publish a notice of the enactment of this exemption in the Florida Administrative Register. This section does not alter rulemaking authority delegated by prior law and does not constitute legislative preemption of or exception to any other provision of law governing adoption or enforcement of the rule cited. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

(4) The Legislature determines and declares that this section fulfills an important state interest.

Section 2. 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 Appropriations

BILL: CS/SB 7060

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Environment and Natural Resources Committee

SUBJECT: Biosolids

DATE: April 16, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Anderson	Rogers		EN Submitted as Comm. Bill/Fav
1.	Reagan	Betta	AEG	Recommend: Fav/CS
2.	Reagan	Sadberry	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7060 ratifies the Department of Environmental Protection's (DEP's) revisions to their biosolids rules, chapter 62-640 of the Florida Administrative Code. The bill exempts the rules from review and approval by the Environmental Regulation Commission.

Chapter 2020-150, Laws of Florida, required the DEP to adopt rules for biosolids management and included provisions that the rule must:

- Require a new land application site permit or permit renewal issued after July 1, 2020, to:
 - Ensure a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level at the time biosolids are applied to the soil;
 - Prohibit applying biosolids to land with a seasonal high water table within six inches of the soil surface or depth of biosolids placement unless a department-approved nutrient management plan and water quality monitoring plan provide reasonable assurances that the land application of biosolids at the site will not cause or contribute to a violation of the state's surface water quality standards or groundwater standards; and
 - Require biosolids sites to enroll in a Department of Agriculture and Consumer Services Best Management Practices program;
- Require all permits to comply with these requirements by July 1, 2022; and
- Require biosolids sites to comply with the DEP's new rule within two years of the effective date of the rule.

The Statement of Estimated Regulatory Costs (SERC) developed by the DEP determined that the proposed rule will likely increase regulatory costs in excess of \$1 million in the aggregate within five years after implementation of the rule. This amount triggers the statutory requirement for the rule to be ratified by the Legislature before it may go into effect.

The bill provides a declaratory statement and determination by the Legislature that the rule ratification fulfills an important state interest.

The act is effective upon becoming a law. At that time, the rule also becomes effective.

The bill will have an indeterminate negative fiscal impact on the DEP due to increased inspections and monitoring of application sites.

II. Present Situation:

Legislative Ratification

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.¹

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.²

Statement of Estimated Regulatory Costs Requirements

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or
- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within one year after the implementation of the rule.³

A SERC must include:

¹ Section 120.541(2)(a), F.S.

² Section 120.541(3), F.S.

³ Section 120.54(3)(b)1., F.S.

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.⁴

Biosolids

When domestic wastewater is treated, a solid, semisolid, or liquid byproduct, known as biosolids,⁵ accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly.⁶ Biosolids also include products and treated material from biosolids treatment facilities and septage management facilities regulated by the Department of Environmental Protection (DEP).⁷ The collected material is high in organic content and contains moderate amounts of nutrients that are needed by plants.⁸

The DEP has stated that wastewater treatment facilities produce about 340,000 dry tons of biosolids each year.⁹ Biosolids can be disposed of in several ways: transfer to another facility, placement in a landfill, distribution and marketing as fertilizer, incineration, bioenergy, and land application to pasture or agricultural lands.¹⁰ About one-third of the total amount of biosolids produced is used for land application¹¹ and is subject to regulatory requirements established by the DEP to protect public health and the environment.¹²

⁴ Section 120.541(2), F.S.

⁵ Section 373.4595, F.S.; *see also* Fla. Admin. Code R. 62-640.200(6). Biosolids are the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility and include products and treated material from biosolids treatment facilities and septage management facilities. The term does not include the treated effluent or reclaimed water from a domestic wastewater treatment facility, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, or ash generated during the incineration of biosolids.

⁶ Department of Environmental Protection (DEP), *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Mar. 5, 2021).

⁷ Fla. Admin. Code R. 62-640.200(6).

⁸ DEP, *Domestic Wastewater Biosolids*, <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Mar. 5, 2021).

⁹ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf (last visited Mar. 5, 2021); DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 5 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Mar. 5, 2021).

¹⁰ *Id.* at 4.

¹¹ *Id.* at 5.

¹² Fla. Admin. Code R. 62-640.

Biosolids may be used by land application in farming and ranching operations, forest lands, and public areas such as parks, or in land reclamation projects such as restoration of mining properties. Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.¹³ There are approximately 140 permitted land application sites in Florida, with waste haulers being the most common site permittees.¹⁴ The map below shows the permitted sites.



Typically, Class B biosolids are used in land application.¹⁵ The highest quality of biosolids, known in Florida as “Class AA,” are distributed and marketed like other commercial fertilizers. The DEP does not track the sale of commercial fertilizers.

Biosolids are regulated under chapter 62-640 of the Florida Administrative Code. The rules provide minimum requirements, including pollutant limits and monitoring and reporting requirements, for the treatment, management, use, and disposal of biosolids. The rules are applicable to wastewater treatment facilities, applicators, and distributors¹⁶ and include permit requirements for both treatment facilities and biosolids application sites.¹⁷

¹³ *Id.* at 20.

¹⁴ DEP, *Presentation to Senate Committee on Environment and Natural Resources*, 40-62 (Nov. 13, 2019) available at http://www.flsenate.gov/Committees/Show/EN/MeetingPacket/4733/8393_MeetingPacket_4733.13.19.pdf (last visited Mar. 5, 2021); DEP Technical Advisory Committee, *Biosolids Use and Regulations in Florida Presentation*, 20 (Sept. 2018), available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Mar. 5, 2021). Wastewater treatment facilities commonly contract with waste haulers instead of applying the biosolids themselves.

¹⁵ *Id.* at 6.

¹⁶ Fla. Admin. Code R. 62-640.100.

¹⁷ Fla. Admin. Code R. 62-640.300.

The application of Class A and Class B biosolids is banned in South Florida within the Lake Okeechobee, Caloosahatchee River, and St. Lucie River watersheds unless the applicant can affirmatively demonstrate that the nutrients in the biosolids will not add to nutrient loadings in the watershed.¹⁸ However, other communities have expressed concerns that runoff from farms and ranches that use biosolids can lead to toxic blue-green algae blooms and have sought bans locally.¹⁹

Rule 62-640, Florida Administrative Code

In 2018, the DEP created a Biosolids Technical Advisory Committee (TAC) to evaluate current biosolids management practices and explore opportunities to better protect Florida's water resources. The TAC convened four times in 2018 and 2019 and discussed current options for biosolids management in the state, potential improvements in biosolids management to protect our water resources, and looked at what research is necessary for successful improvements.²⁰ The DEP issued its first draft rule in October 2019 after the TAC disbanded, but withdrew the rule following the passage of the Clean Waterways Act.²¹

The Clean Waterways Act (Ch. 2020-150, Laws of Florida)

The Clean Waterways Act required the DEP to adopt rules for biosolids management and specified that any rules adopted may not take effect until ratified by the Legislature.

Section 403.0855, F.S., includes provisions that the rule must:

- Require a new land application site permit or permit renewal issued after July 1, 2020, to:
 - Ensure a minimum unsaturated soil depth of two feet between the depth of biosolids placement and the water table level at the time biosolids are applied to the soil;
 - Prohibit applying biosolids to land with a seasonal high water table²² within six inches of the soil surface or depth of biosolids placement unless a department-approved nutrient management plan and water quality monitoring plan provide reasonable assurances that the land application of biosolids at the site will not cause or contribute to a violation of the state's surface water quality standards or groundwater standards; and
 - Require biosolids sites to enroll in a Department of Agriculture and Consumer Services (DACS) Best Management Practices program;
- Require all permits to comply with these requirements by July 1, 2022; and

¹⁸ Section 373.4595, F.S.

¹⁹ TCPalm, *Ban biosolids use along upper St. Johns River, Indian River County administrator tells DEP*, <https://www.tcpalm.com/story/news/local/indian-river-lagoon/health/2019/06/27/ban-biosolids-use-along-upper-st-johns-river-irc-official-tells-dep/1581585001/> (last visited Mar. 6, 2021). Local bans on the land application of biosolids have been established in Indian River County and the City of Fellsmere. See Indian River County Commission Ordinance 18-2642 (Jan. 14, 2019), available at http://ircgov.granicus.com/player/clip/204?view_id=1&meta_id=77302 (last visited Mar. 6, 2021); Fellsmere City Council Meeting, *Agenda* (Feb. 7, 2019), available at https://www.cityoffellsmere.org/sites/default/files/fileattachments/city_council/meeting/14391/co20190221agenda.pdf (last visited Mar. 6, 2021).

²⁰ DEP, *DEP Biosolids Technical Advisory Committee*, <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Mar. 5, 2021).

²¹ Chapter 2020-150, Laws of Fla.

²² "Seasonal high water" means the elevation to which the ground and surface water may be expected to rise due to a normal wet season. Chapter 2020-150, Laws of Fla.

- Require biosolids sites to comply with the DEP's new rule within two years of the effective date of the rule.

The DEP published its proposed rule implementing the provisions of s. 403.0855, F.S., on December 3, 2020. In addition to the requirements in the Clean Waterways Act, the proposed rule issued by the DEP:

- Revises the provisions for determining biosolids land application rates to include basing rates on nitrogen and phosphorus levels;
- Imposes groundwater and surface water monitoring requirements for land application sites; and
- Considers biosolids permit applications as projects of heightened public interest.

DEP Statement of Estimated Regulatory Costs

The DEP anticipates the rule costing in excess of \$1 million in the next five years. The DEP published a SERC on December 3, 2020.²³ The DEP projects the following changes would increase costs due to the revised rule:

- A significant reduction (estimated 75 percent) in biosolids land application which could lead to permitting more land to accommodate the current quantity of biosolids;
- Longer hauling distances to newly permitted land application sites;
- Additional site monitoring requirements and increased operational costs at land application sites;
- Loss of fertilizer cost savings by not being able to land apply biosolids;²⁴ and
- Possible transfer of biosolids out-of-state for management or disposal.

The DEP estimates that the cost of the proposed rule over the next five years will be \$310,000,000 to continue land application of Class B biosolids, and \$450,000,000-\$600,000,000 to convert to Class AA biosolids (fertilizer).²⁵ There are innovative technologies to process biosolids for energy or fuel as an alternative to land application, but the DEP stated that there is limited evidence that these methods could serve as feasible alternatives and the costs are higher than the costs for conversion to Class AA biosolids.²⁶

In the SERC, the DEP states that the majority of biosolids are generated by utilities owned and operated by local government entities. Therefore, estimates for one-time capital costs and recurring costs will primarily affect local government entities. This includes 104 domestic wastewater treatment facilities that treat and land apply biosolids, and unknown numbers of small wastewater treatment facilities that send biosolids to larger treatment facilities and biosolids treatment facilities that treat and land apply biosolids.²⁷

²³ DEP, *Statement of Estimated Regulatory Costs* (Dec. 3, 2020), available at https://floridadep.gov/sites/default/files/SERC%2062-640_120320_Final.pdf (last visited Mar. 5, 2021).

²⁴ DEP states in the SERC that it is unlikely that all of the approximately 94,000 dry tons of Class B biosolids currently land applied in the state will continue to be land applied. *Id.* at 6.

²⁵ *Id.* at 4.

²⁶ *Id.* at 11. DEP states in the SERC that it does not have enough information to make an analysis on innovative technologies. *Id.* at 8.

²⁷ *Id.* at 5.

Environmental Regulation Commission

The Environmental Regulation Commission (ERC) is an unpaid seven-member board within the DEP.²⁸ Under specified statutory provisions and with certain exceptions, the ERC must exercise the standard-setting authority of the DEP – approving, modifying, or disapproving proposed rules that contain standards.²⁹ In exercising its authority to set standards, the ERC must consider scientific and technical validity, economic impacts, and relative risks and benefits to the public and the environment.³⁰

The ERC is composed of seven state residents, appointed by the Governor for four-year terms, subject to confirmation by the Senate.³¹ The appointees must provide reasonable representation from all sections of the state, and be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise related to water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering.³² Most issues that go before the ERC relate to air pollution, water quality, or waste management.³³ The ERC is scheduled to meet monthly, but has not met since 2019.³⁴ According to the DEP’s website, two of the memberships to the ERC are vacant and the terms of the five listed members have lapsed.³⁵ However, the Governor recently appointed four members to the ERC.³⁶

III. Effect of Proposed Changes:

The bill ratifies the rules comprising ch. 62-640 of the Florida Administrative Code, titled “Biosolids,” for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S. Chapter 62-640 of the Florida Administrative Code, proposed by the Department of Environmental Protection (DEP) and published on December 3, 2020, in the Florida Administrative Register, Vol. 46, No. 234, pages 5281-5297, consists of rules:

- 62-640.100, entitled Scope, Intent, Purpose, and Applicability;
- 62-640.200, entitled Definitions;
- 62-640.210, entitled General Technical Guidance and Forms;
- 62-640.300, entitled General Requirements;
- 62-640.400, entitled Prohibitions;
- 62-640.500, entitled Nutrient Management Plan (NMP);

²⁸ Section 20.255(6), F.S., DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Mar. 5, 2021).

²⁹ Sections 403.803(13), 403.804, and 403.805(1), F.S. “Standard” is defined as any DEP rule relating to air and water quality, noise, solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substations. The term does not include rules relating to internal management or procedural matters.

³⁰ Section 403.804, F.S.

³¹ Section 20.255(6), F.S.

³² *Id.*

³³ DEP, *Environmental Regulation Commission*, <https://floridadep.gov/ogc/ogc/content/environmental-regulation-commission> (last visited Mar. 4, 2021).

³⁴ *Id.*

³⁵ DEP, *ERC Members*, <https://floridadep.gov/ogc/ogc/content/erc-members> (last visited Mar. 5, 2021).

³⁶ News Release, Governor Ron DeSantis, *Governor Ron DeSantis Appoints Four to the Environmental Regulation Commission* (Mar. 12, 2021), <https://www.flgov.com/2021/03/12/governor-ron-desantis-appoints-four-to-the-environmental-regulation-commission/> (last visited Mar. 15, 2021).

- 62-640.600, entitled Pathogen Reduction and Vector Attraction Reduction;
- 62-640.650, entitled Monitoring, Record Keeping, Reporting, and Notification;
- 62-640.700, entitled Requirements for Land Application of Class AA, A, and B Biosolids;
- 62-640.800, entitled Additional Requirements for Land Application at Reclamation Sites;
- 62-640.850, entitled Distribution and Marketing of Class AA Biosolids; and
- 62-640.880, entitled Additional Requirements Related to Biosolids Treatment Facilities.

The bill:

- Exempts the rules from review and approval by the Environmental Regulation Commission (ERC) under s. 403.804(1), F.S.;
- Directs that section one of the bill serves no other purpose and may not be codified in the Florida Statutes;
- Requires the DEP to publish a notice of the enactment of the exemption from review and approval by the ERC in the Florida Administrative Register; and
- Provides that section one of the bill does not:
 - Alter rulemaking authority delegated by prior law;
 - Constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule cited; and
 - Does not cure any rulemaking defect or preempt any challenge on lack of authority or a violation of the legal requirements governing adoption of any rule cited.

The bill provides a declaratory statement and determination by the Legislature that section 1 of the bill fulfills an important state interest.

The act is effective upon becoming a law. At that time, the rule also becomes effective.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18(a) of the Florida Constitution may apply to this bill because local governments may be required to expend funds to manage biosolids under the new requirements of the rule. The bill includes a legislative finding that the rule ratification fulfills an important state interest. The expenditures are required to comply with rules and law that applies to all persons similarly situated. Therefore, an exception from Art. VII, s. 18(a) of the Florida Constitution likely applies.

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:

According to the Department of Environmental's (DEP's) statement of estimated regulatory costs (SERC), there will likely be increased operational costs to biosolids treatment facilities and septage management facilities. There will also likely be impacts to biosolids haulers and the ranchers and farmers who own land application sites. Utility ratepayers and homeowners may ultimately bear the increased operational costs of wastewater treatment facilities.³⁷ *See discussion of SERC in Section II on page six of the analysis.*

C. Government Sector Impact:

According to the DEP's statement of estimated regulatory costs, there will likely be increased operational costs to wastewater treatment facilities.³⁸ *See discussion of SERC in Section II on page six of the analysis.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.0855 of the Florida Statutes.

³⁷ DEP, *Statement of Estimated Regulatory Costs* (Dec. 3, 2020), available at https://floridadep.gov/sites/default/files/SERC%2062-640_120320_Final.pdf (last visited Mar. 5, 2021).

³⁸ *Id.*

IX. Additional Information:

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

CS by Appropriations on April 15, 2021:

The committee substitute deletes the provision of the bill that requires the DEP to provide notice to and receive consent from a private property owner before entering onto his or her property to install monitoring equipment or conduct sampling for biosolids sites.

- B. **Amendments:**

None.

By the Committee on Environment and Natural Resources

592-02889-21

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A bill to be entitled

An act relating to biosolids; ratifying specified rules relating to biosolids management for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule exceeding any specified thresholds for likely adverse impact or increase in regulatory costs; exempting the rules from certain review and approval by the Environmental Regulation Commission; providing applicability; providing construction; providing a declaration of important state interest; amending s. 403.0855, F.S.; requiring the Department of Environmental Protection to provide notice to and receive consent from private property owners before entering onto private property for specified biosolids testing; providing an effective date.

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

Section 1. (1) The following rules are ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rules 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-640.400, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-640.800, 62-640.850, 62-640.880, Florida Administrative Code, entitled Scope, Intent, Purpose, and Applicability; Definitions; General Technical Guidance and Forms; General Requirements; Prohibitions; Nutrient Management Plan (NMP); Pathogen Reduction

Page 1 of 3

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

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and Vector Attraction Reduction; Monitoring, Record Keeping, Reporting, and Notification; Requirements for Land Application of Class AA, A, and B Biosolids; Additional Requirements for Land Application at Reclamation Sites; Distribution and Marketing of Class AA Biosolids; and Additional Requirements Related to Biosolids Treatment Facilities, respectively, as published on December 3, 2020, in the Florida Administrative Register, Vol. 46, No. 234, pages 5281-5297.

(2) The rules in subsection (1) proposed by the Department of Environmental Protection pursuant to s. 403.0855(2), Florida Statutes, are exempt from review and approval by the Environmental Regulation Commission under s. 403.804(1), Florida Statutes.

(3) This section serves no other purpose and may not be codified in the Florida Statutes. At the time of filing this rule for adoption, or as soon thereafter as practicable, the department shall publish a notice of the enactment of this exemption in the Florida Administrative Register. This section does not alter rulemaking authority delegated by prior law and does not constitute legislative preemption of or exception to any other provision of law governing adoption or enforcement of the rule cited. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

(4) The Legislature determines and declares that this section fulfills an important state interest.

Section 2. Subsection (7) is added to section 403.0855, Florida Statutes, to read:

Page 2 of 3

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59 403.0855 Biosolids management.-

60 (7) The department shall provide notice to and receive
61 consent from a private property owner before entering onto his
62 or her property to install monitoring equipment or conduct
63 sampling for biosolids sites.

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 8, 2021

I respectfully request that **Senate Bill 7060**, relating to the **Ratification of Department of Environmental Protection Rules**, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21 AP 9 A3

Meeting Date

7060

Bill Number (if applicable)

Topic Biosolids

Amendment Barcode (if applicable)

Name David Cullen

Job Title _____

Address 1934 Shelby Court

Phone 941-323-2404

Street

Tallahassee

FL

32308

Email cullenasea@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Sierra Club Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21

Meeting Date

7060

Bill Number (if applicable)

Topic SB 7060

Amendment Barcode (if applicable)

Name Alex Bickley

Job Title Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone _____

Street

Tallahassee

FL

32399

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FL Dept of Environmental Protection

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 Appropriations

BILL: CS/SB 7062

INTRODUCER: Appropriations Committee and Environment and Natural Resources Committee

SUBJECT: Central Florida Water Initiative

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>AP</u>	EN Submitted as Comm. Bill/Fav
	<u>Reagan</u>	<u>Sadberry</u>		Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7062 ratifies the Department of Environmental Protection (DEP)'s rules for the Central Florida Water Initiative (CFWI), Rules 62-41.300, 62-41.301, 62-41.302, 62-41.303, 62-41.304, and 62-41.305, Florida Administrative Code.

Chapter 2016-1, Laws of Florida, required the DEP to establish:

- Uniform processes for conducting permit reviews, setting minimum flows and minimum water levels within the boundaries of the CFWI Area, and establishing a variance process;
- Uniform methods for calculating residential per capita water use;
- A uniform definition of the term "harmful to water resources;" and
- Annual conservation and residential per capita water use goals for consumptive use permits.

The Statement of Estimated Regulatory Costs (SERC) developed by the DEP determined that the proposed rule will likely increase regulatory costs in excess of \$1 million in the aggregate within five years after implementation of the rule. This amount triggers the statutory requirement for the rule to be ratified by the Legislature before it may go into effect.

Additionally, the bill:

- Provides a declaratory statement and determination by the Legislature that the act fulfills an important state interest.
- Revises the required rulemaking to include an annual supplemental irrigation requirement allocation for agricultural uses and a process for examining an agriculture user's average annual supplemental irrigation needs.

- Provides that these rules may not be construed to limit the ability of the department or a water management district to establish different supplemental irrigation requirements.
- Establishes a grant program within the DEP, subject to appropriation, for the CFWI, which will promote alternative water supply and protect groundwater resources. The bill requires the DEP to give priority to projects that use reclaimed water, create new surface water storage, enhance natural systems, recharge groundwater, optimize beneficial uses of water, expand water conservation programs, or that can demonstrate a significant financial hardship exists as a result of complying with the rules applicable to the CFWI Area.
- Revises the priority system for the Drinking Water State Revolving Loan Fund to give special consideration to projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan aquifer under the CFWI.

The estimated cost to the St. Johns River, Southwest Florida, and South Florida Water Management Districts of implementing the proposed rule is \$637,000 and the estimated cost of monitoring and enforcing the proposed rule is \$64,000.

The act is effective upon becoming a law. At that time, the rule also becomes effective.

II. Present Situation:

Legislative Ratification

A rule is subject to legislative ratification if it:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.¹

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.²

Statement of Estimated Regulatory Costs Requirements

A Statement of Estimated Regulatory Costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. An SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or

¹ Section 120.541(2)(a), F.S.

² Section 120.541(3), F.S.

- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within one year after the implementation of the rule.³

An SERC must include:

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule, and a general description of the types of individuals likely to be affected by the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.⁴

Consumptive Use Permits

A consumptive use permit (CUP) establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Each CUP must be consistent with the objectives of the issuing Water Management District (WMD) or the Department of Environmental Protection (DEP) and may not be harmful to the water resources of the area.⁵ To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use”;⁶
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.⁷

Drinking Water State Revolving Loan Fund

The Drinking Water State Revolving Loan Fund, administered by the DEP, provides low-interest loans to eligible entities for planning, designing, and constructing public water facilities to provide safe drinking water and protect water quality.⁸ An investor-owned public water system that is legally responsible for public water services and serves no more than 1,500 connections is eligible for a loan. An investor-owned public water system that serves more than 1,500

³ Section 120.54(3)(b)1., F.S.

⁴ Section 120.541(2), F.S.

⁵ Section 373.219, F.S.

⁶ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” *See also* Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

⁷ Section 373.233(1), F.S.; Fla. Admin. Code R. 62-40.410(1).

⁸ Section 403.8533, F.S.

connections may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.⁹

Loan funding is based on a priority system that takes into account public health considerations, compliance, and affordability.¹⁰ The priority system shall give special consideration to:

- Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;
- Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and
- Projects that contribute to the sustainability of regional water sources.¹¹

Central Florida Water Initiative

The Central Florida Water Initiative (CFWI) is a collaborative water supply planning effort involving the DEP, the St. Johns River Water Management District (SJRWMD), the South Florida Water Management District (SFWMD), the Southwest Florida Water Management District (SWFWMD), the Department of Agriculture and Consumer Services (DACS), regional public water supply utilities, and other stakeholders.¹² These groups have been tasked with addressing the current and long-term water supply needs of Central Florida without causing harm to the water resources and associated natural systems.¹³

The CFWI Planning Area covers five counties, including Orange, Osceola, Polk, Seminole, and southern Lake Counties.¹⁴ The CFWI Planning Area is home to approximately 2.9 million people and supports tourism, agriculture, and an industrial and commercial sector.¹⁵ The area's population is projected to reach 4.4 million by 2040. The total average (surface and ground) water use in the area is projected to increase from 667 million gallons per day (mgd) in 2015 to 908 mgd in 2040. Of this amount, groundwater represents 635 mgd and 855 mgd, respectively. Public supply constitutes the largest water use in the CFWI Area.¹⁶

The areas encompassed by the CFWI Planning Area have traditionally relied on groundwater from the Floridan aquifer system as the primary source of water. Evaluations predict that fresh groundwater resources alone will be insufficient to meet 2040 projected water demands and currently permitted allocations for withdrawal without resulting in unacceptable impacts to water resources and related natural systems.¹⁷ These impacts can include drying out wetlands, reducing

⁹ Section 403.8532(3), F.S.

¹⁰ Section 403.8532(9)(a), F.S.

¹¹ *Id.*

¹² Stakeholders include water utilities, environmental groups, business organizations, agricultural communities, and others.

¹³ Section 373.0465(1)(c), F.S.

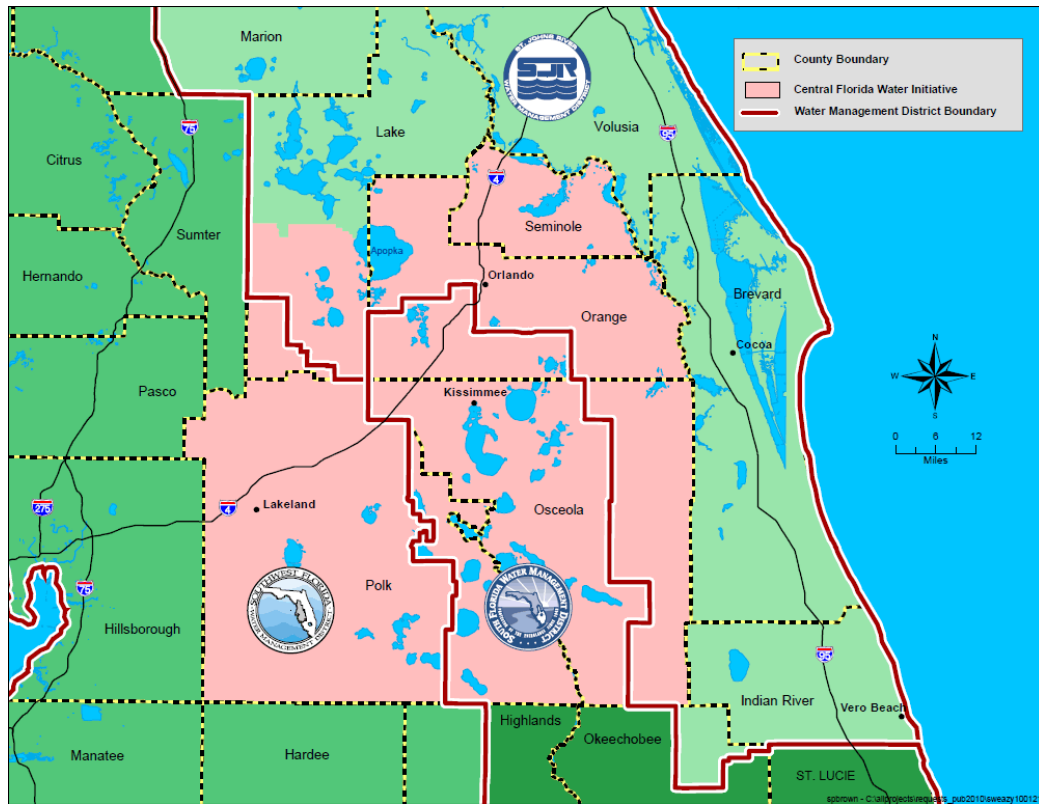
¹⁴ Section 373.0465(2)(a), F.S.; Central Florida Water Initiative (CFWI), *What is CFWI?*, https://cfwiwater.com/what_is_CFWI.html (last visited Mar. 8, 2021).

¹⁵ Central Florida Water Initiative (CFWI), *Regional Water Supply Plan 2020 Planning Document*, ii, available at https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf (last visited Mar. 9, 2021).

¹⁶ *Id.*

¹⁷ *Id.* at 90.

spring flows, lowering lake levels, and degrading groundwater quality from saltwater intrusion.¹⁸ Alternative water sources will need to be developed to meet the projected demands.



Map of the CFWI Area

In the past, the three WMDs worked independently to resolve water resource issues, but the decisions of one district can affect the water resources of another.¹⁹ In 2006, the three WMDs agreed to a Central Florida Coordination Area (CFCA) Action Plan to address the near-term and long-term development of water supplies in the central Florida region.²⁰ The CFWI was created in 2009, building on the CFCA Action Plan.²¹ In November 2015, the WMDs’ respective governing boards approved the first ever joint regional water supply plan, the 2015 CFWI Regional Water Supply Plan (RWSP).²²

The guiding principles for the CFWI process were initially designed to ensure sufficient water was available by:

¹⁸ CFWI, *Value of Water*, https://cfwiwater.com/value_of_water.html (last visited Mar. 8, 2021).

¹⁹ CFWI, *Regional Water Supply Plan 2020 Planning Document*, i, available at https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf (last visited Mar. 9, 2021).

²⁰ CFWI, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), available at https://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 8, 2021).

²¹ CFWI, *Regional Water Supply Plan 2020 Planning Document*, i, available at https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf (last visited Mar. 9, 2021).

²² *Id.*

- Identifying the sustainable quantities of traditional groundwater sources available for water supplies that can be used without causing unacceptable harm to the water resources and associated natural systems.
- Developing strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources.
- Establishing consistent rules and regulations for the three WMDs that meet their collective goals, and implement the results of the CFWI.²³

The guidelines were updated in April 2016, and adopted in the CFWI 2020 Guiding Document. The revised guiding principles include the following principles and goals:

- Review and update the 2015 CFWI RWSP, as well as the sustainable quantities of traditional groundwater sources available in the CFWI Area that can be used without causing unacceptable harm to the water resources and associated natural systems.
- Monitor progress of regional strategies and solutions identified in the 2015 CFWI Plan.
- Review and update strategies to meet water demands that are in excess of the sustainable yield of existing traditional groundwater sources.
- Establish consistent rules and regulations for the three WMDs that meet the specified goals and implement the results of the CFWI.
- Encourage funding for regional strategies necessary to achieve the objectives of the CFWI.²⁴

Chapter 2016-1, Laws of Florida

The DEP, in consultation with the WMDs and DACS, is required to adopt uniform rules for application within the CFWI, to comply with requirements set forth in s. 373.0465(2)(d), F.S., enacted during the 2016 legislative session. The Legislature found that development of alternative water supply instead of a continued reliance on the Floridan aquifer would benefit existing and future water users and natural water systems.²⁵

In developing the CFWI plan, the DEP, the WMDs, and the DACS are required to:

- Consider limitations on groundwater use and opportunities for new, increased, or redistributed groundwater uses that are consistent with CUP conditions;
- Establish a coordinated process for identifying water resources requiring new or revised conditions;
- Consider existing recovery or prevention strategies;
- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable-beneficial uses; and
- Identify, as necessary, which of the water supply sources are preferred water supply sources.²⁶

The required rulemaking affects CUPs within the CFWI Area and provides for:

²³ CFWI, *Central Florida Water Initiative Guiding Document*, 2 (Jan. 30, 2015), available at https://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 8, 2021).

²⁴ CFWI, *Central Florida Water Initiative 2020 Guiding Document*, 3 (July 2017), available at <https://cfwiwater.com/pdfs/CFW-Guiding-Document%20-Oct-2018.pdf> (last visited Mar. 10, 2021).

²⁵ Section 373.0465(1)(d), F.S.

²⁶ Section 373.0465(2)(c), F.S.

- Uniform processes for conducting permit reviews, setting minimum flows and minimum water levels for certain areas within the boundaries of the CFWI Area, and establishing a variance process;
- Uniform methods for calculating residential per capita water use;
- A uniform definition of the term “harmful to water resources”; and
- Establishing annual conservation and residential per capita water use goals for CUPs.²⁷

Rules 62-41.300-305, Florida Administrative Code

The DEP issued its first notice of rule development on December 30, 2016. Between 2017 and 2020, the DEP hosted eight rule development workshops for different portions of the rule. The draft rule was published on November 19, 2020,²⁸ and a public hearing on the proposed rule was held on December 11, 2020.²⁹ The draft rule, which incorporates the CFWI Supplemental Applicant’s Handbook, was revised on February 9, 2021, to incorporate certain lower cost regulatory alternatives submitted by stakeholders.³⁰

The proposed rules apply to CUP applicants and permittees with withdrawal points within the CFWI Area. The proposed rule issued by the DEP:

- Provides that the cumulative use of the Upper Floridan aquifer across the CFWI Area has caused detrimental effects to other users and the water resources of the state.³¹
- Sets out methods for calculating per capita water use and annual conservation goals.³²
- Limits water withdrawals from the Upper Floridan aquifer to the demonstrated 2025 demand (the existing permitted allocation) for public supply, industrial/commercial/institutional, and mining/dewatering water uses.³³
- Requires existing CUPs with withdrawal points within the CFWI Area to be modified to be consistent with the new rules.³⁴
- Provides for temporary allocations of water required to meet the applicant’s reasonable demand beyond the demonstrated 2025 demand while implementing an offset, substitution credit, land use transition, or alternative water supply.³⁵

²⁷ Section 373.0465(2)(d), F.S.

²⁸ Florida Administrative Register, Notice of Proposed Rule 62-41.300-305, Volume 46, Number 226 at 5019 (Nov. 19, 2020), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2020/46242/46242doc.pdf> (last visited Mar. 9, 2021).

²⁹ Department of Environmental Protection (DEP), *Central Florida Water Initiative Rulemaking Presentation* (Dec. 11, 2020), available at https://floridadep.gov/sites/default/files/CFWI%20NOPR%20Rulemaking%20Hearing_Staff%20Presentation_0.pdf (last visited Mar. 9, 2021).

³⁰ Florida Administrative Register, Notice of Proposed Rule 62-41.300-305, Volume 47, Number 26 at 733 (Feb. 9, 2021), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2021/4726/4726doc.pdf> (last visited Mar. 10, 2021).

³¹ Notice of Proposed Rule 62-41.301(4), available at https://www.flrules.org/Gateway/View_notice.asp?id=23903533 (last visited Mar. 10, 2021).

³² Proposed CFWI Supplemental Applicant’s Handbook, 21-29, available at <https://floridadep.gov/water-policy/water-policy/documents/cfwi-2021-02-09-applicants-handbook> (last visited Mar. 10, 2021).

³³ *Id.* at 30-31.

³⁴ Notice of Proposed Rule 62-41.301(4), available at https://www.flrules.org/Gateway/View_notice.asp?id=23903533 (last visited Mar. 10, 2021).

³⁵ Proposed CFWI Supplemental Applicant’s Handbook, 32, available at <https://floridadep.gov/water-policy/water-policy/documents/cfwi-2021-02-09-applicants-handbook> (last visited Mar. 10, 2021).

- Provides for variances if there are unique circumstances or hydrogeological factors that make application of the rules unrealistic or impractical, meaning compliance with the rule would create a substantial hardship³⁶ or violate the principles of fairness.³⁷
- Requires permit applicants to provide reasonable assurance that a proposed use will use the lowest quality water source suitable for the purpose.³⁸
- Adopts existing recovery and prevention strategies.³⁹

The DEP Statement of Estimated Regulatory Costs

The DEP published an SERC on November 7, 2020.⁴⁰ The DEP estimates that the transactional cost of the proposed rule over the next five years will be \$18.6 million, in permittee, applicant, and consultant time spent in water supply, conservation planning, and investments by public supply utilities to reduce per capita water use, as well as materials.⁴¹ However, according to the SERC, the costs to households and businesses located within the CFWI will be offset by the economic benefit to the CFWI economy, resulting in a net negative economic impact of less than \$1,000,000 over the five-year period.⁴²

According to the DEP's SERC, due to the temporary allocations allowed for under the proposed rule, there will be little prospect of water shortages or impacts to expanded business operations, no impact to the number of Florida visitors, and no losses to a consumer value from the water shortage. However, there may be some impact to new businesses applying for a CUP.⁴³

The estimated cost to the SJRWMD, SWFWMD, and SFWMD of implementing the proposed rule is \$637,000 and the estimated cost to agencies of monitoring and enforcing the proposed rule is \$64,000.⁴⁴

The rules are anticipated to affect CUPs in the CFWI Area due to the prohibition of additional permitted water withdrawals from the Upper Floridan aquifer after 2025 for public supply and industrial/commercial/institutional water use permittees and applicants.⁴⁵ Thereafter, applicants and permittees would need to meet additional water demands with water from alternative

³⁶ "Substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

³⁷ "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Notice of Proposed Rule 62-41.303(3), available at https://www.flrules.org/Gateway/View_notice.asp?id=23903533 (last visited Mar. 10, 2021).

³⁸ Notice of Proposed Rule 62-41.301(2), available at https://www.flrules.org/Gateway/View_notice.asp?id=23903533 (last visited Mar. 10, 2021).

³⁹ Notice of Proposed Rule 62-41.305, available at https://www.flrules.org/Gateway/View_notice.asp?id=23903533 (last visited Mar. 10, 2021).

⁴⁰ DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021), available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

⁴¹ *Id.* at ES-1.

⁴² *Id.* at ES-1 – ES-2.

⁴³ *Id.* at ES-2.

⁴⁴ *Id.* at ES-6.

⁴⁵ DEP, *Water Policy Rulemaking*, <https://floridadep.gov/water-policy/water-policy/content/office-water-policy-rulemaking> (last visited Mar. 9, 2021); see also DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021) at ES-2, available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

sources. The transactional cost of the proposed rule by the year 2040 is estimated to be \$190 million annually.⁴⁶

Agricultural Use Type Permittees and Applicants

Under the proposed rule, agricultural, landscape, and recreation use type permittees and applicants withdrawing water from the Upper Floridan Aquifer for irrigation are not limited to the demonstrated 2025 water demand. Instead, permitted quantities for supplemental irrigation are based on two thresholds of water use: a five-in-ten-year rainfall condition and a two-in-ten-year drought condition.⁴⁷

An allocation using a five-in-ten-year rainfall condition represents the amount of water required to meet average annual water demands.⁴⁸ An allocation using a two-in-ten-year drought condition represents the amount of water required to meet water demands generated from a rainfall deficit during a drought with the probability of recurring twice every ten years.⁴⁹ Compliance with these annual allocations is based on the quantity withdrawn over a rolling average of the previous 12-month period.

According to the DEP's SERC, the five-in-ten-year rainfall condition is used to better match actual water demands to their corresponding rainfall conditions and the two-in-ten-year drought condition allows for unusual water needs caused by weather conditions.⁵⁰

Concerns and Challenges

Several local governments and entities submitted lower cost regulatory alternatives (LCRA) and challenged the CFWI rule. The DEP accepted some of the LCRA submissions and issued a revised rule on February 9, 2021, that included modified language. The DEP rejected the remaining LCRA submissions, stating that they do not substantially accomplish the objectives of the law being implemented.⁵¹ The issues raised in the LCRAs that were rejected by the DEP included requests to:

- Remove provisions limiting allocation for permittees and applicants to the demonstrated 2025 demand, and alternatively, continue current CUPs and expedite adoption of minimum flows and minimum water levels in the CFWI Area. The LCRAs suggested that the rule would result in the unnecessary implementation of alternative water supply projects and water rate increases.
- Amend the annual conservation goals for public supply use permittees and applicants to a more feasible goal.
- Exempt permittees and applicants in certain water use caution areas from the rules.

⁴⁶ DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021) at ES-2 – ES-3, available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

⁴⁷ Proposed CFWI Supplemental Applicant's Handbook, 14, available at <https://floridadep.gov/water-policy/water-policy/documents/cfwi-2021-02-09-applicants-handbook> (last visited Mar. 10, 2021).

⁴⁸ DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021) at 4-35, available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 7-2.

In response to the rejected submissions, the DEP stated that:

- Existing and planned minimum flows and minimum water levels do not address all of the anticipated water resource impacts in the area and the proposed rules are designed to address harm to all water resources.⁵²
- The need for implementation of alternative water supply projects has been known for over 10 years and all permittees were on notice that their permits could be modified.⁵³
- The rule has to address both individual and cumulative harm to water resources in the CFWI Area.⁵⁴
- The rule provides for numerous alternatives and accommodations to address hardships.⁵⁵
- The suggested seven percent reduction in water use does not accomplish the objectives of the law being implemented.⁵⁶
- The conservation goals are feasible and many permittees are already meeting the goals. If a permittee cannot meet the goal, a variance is available.⁵⁷
- Exempting permittees and applicants from the rule is not consistent with legislative intent and the recovery strategies in the specific water use caution areas are not being met.⁵⁸

As a result, on March 1, 2021, the local governments and entities submitted several rule challenges to the Division of Administrative Hearings. The final administrative hearing on the challenges was canceled, and the case has been placed in abeyance due to the parties reaching a tentative settlement agreement.⁵⁹ A revised rule is also expected from the DEP.

Water Use Caution Areas

A water use caution area (WUCA) is a geographic area identified by a WMD as having existing water resource problems or where water resource problems are projected to develop during the next 20 years.⁶⁰

A WMD must determine, in its water supply assessment, whether sources of water are adequate to meet projected 20-year demands to supply water for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems.⁶¹ If a determination is made that the sources of water supply are not adequate, a regional water supply plan must be developed and the region must be designated as a WUCA.⁶²

⁵² *Id.* at 7-4.

⁵³ *Id.* at 7-4 – 7-5.

⁵⁴ *Id.* at 7-5 – 7-6.

⁵⁵ *Id.* at 7-6.

⁵⁶ *Id.* at 7-11.

⁵⁷ *Id.* at 7-12.

⁵⁸ *Id.* at 7-15.

⁵⁹ Division of Administrative Hearings, Order Canceling Hearing and Placing Case in Abeyance (Mar. 19, 2021), available at <https://www.doah.state.fl.us/DocDoc/2021/000791/21000791OCHA-031921-01483343.pdf> (last visited Mar. 23, 2021).

⁶⁰ Fla. Admin. Code. R. 62-40.210(43).

⁶¹ Fla. Admin. Code. R. 62-40.520(2).

⁶² *Id.*

The CFWI Planning Area was identified as a WUCA in the 2015 CFWI RWSP and verified as a WUCA in the 2020 CFWI RWSP.⁶³ The CFWI includes two existing WUCAs: the Southern WUCA and the Dover/Plant City WUCA.

The Southern WUCA encompasses approximately 5,100 square miles and includes all of Manatee, Sarasota, Hardee, and DeSoto Counties and portions of Hillsborough, Charlotte, Polk, and Highlands Counties.⁶⁴ It was established by the SWFWMD in 1992, due to environmental concerns related to groundwater withdrawals from growing demands in the area, which caused depressed aquifer levels.⁶⁵

The Dover/Plant City WUCA was established in 2011, following a historic freeze event in eastern Hillsborough County and western Polk County, when agricultural permittees pumped large quantities of groundwater to protect their crops from the freeze, resulting in declines in aquifer levels.⁶⁶ The DEP is currently evaluating both WUCAs to determine whether targets have been achieved.⁶⁷

III. Effect of Proposed Changes:

CFWI Rule Ratification

Section 1 of the bill ratifies Rules 62-41.300, 62-41.301, 62-41.302, 62-41.303, 62-41.304, and 62-41.305, Florida Administrative Code, titled “Central Florida Water Initiative Area,” (CFWI) adopted by the Department of Environmental Protection (DEP), for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S. The rule, proposed by the DEP and published on November 19, 2020, in the Florida Administrative Register, Vol. 46, No. 226, pages 5019-5025; February 9, 2021, in the Florida Administrative Register, Vol. 47, No. 26, pages 733-734; and March 26, 2021, in the Florida Administrative Register, Vol. 47, No. 59, pages 1506-1507, consists of rules:

- 62-41.300, entitled CFWI, Scope of Rule;
- 62-41.301, entitled CFWI, Uniform Conditions for Issuance of Permits;
- 62-41.302, entitled CFWI, Supplemental Applicant’s Handbook;
- 62-41.303, entitled CFWI, Variances to the Uniform Rules;
- 62-41.304, entitled CFWI, Uniform Process for Setting Minimum Flows and Minimum Water Levels and Water Reservations; and
- 62-31.305, entitled CFWI, Applicability of the Dover/Plant City and Southern Water Use Caution Area Recovery Strategies.

The bill also:

⁶³ CFWI, *Regional Water Supply Plan 2020 Planning Document*, 1, available at https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf (last visited Mar. 9, 2021).

⁶⁴ DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021) at 7-13, available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

⁶⁵ *Id.*; see also CFWI, *Regional Water Supply Plan 2020 Planning Document*, 106, available at https://cfwiwater.com/pdfs/CFWI_2020RWSP_FINAL_PlanDocRpt_12-10-2020.pdf (last visited Mar. 9, 2021).

⁶⁶ *Id.*

⁶⁷ *Id.*

- Directs that the ratification section of the bill serves no other purpose and shall not be codified in the Florida Statutes;
- Requires that after the act becomes law, its enactment and effective date shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate;
- Provides that the act does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under ch. 120, F.S.; and
- Does not cure any rulemaking defect or preempt any challenge based on a violation of the legal requirements governing rule adoption.

Declaration of Important State Interest

The bill provides a declaratory statement and determination by the Legislature that the act fulfills an important state interest.

CFWI Rulemaking

Section 2 of the bill revises s. 373.0465, F.S. The bill revises the rulemaking authority to require the DEP, in consultation with the relevant water management districts and the Department of Agriculture and Consumer Services, to adopt uniform rules for application within the CFWI that include:

- A drought application for supplemental irrigation for agricultural uses which is based on a two-in-ten-year rainfall conditions or, if the applicant requests, is based on a five-in-ten-year rainfall condition alone or combined with the two-in-ten-year condition. The applicable water management district may also condition, for information purposes only, consumptive use permits to advise permittees that their annual use of water should be less than the drought condition that is the basis for the allocation or a more severe drought; and
- A process for the applicable water management district to annually examine an agricultural user's five year moving average supplemental irrigation water use against the annual supplemental irrigation needs in the five-in-ten-year rainfall condition beginning no earlier than five years following the effective date of the rules adopted under this section. If this annual examination indicates that the agricultural user's five year moving average use exceeds that needed in such rainfall condition for reasons other than prolonged periods of below average rainfall, the water management district may modify the agricultural user's permit to include an annual supplemental irrigation allocation based on both the amount of supplemental irrigation required during a two-in-ten-year rainfall condition and the amount of supplemental irrigation required during a five-in-ten-year rainfall condition as provided in rules adopted pursuant to this section. In such case, the supplemental irrigation allocation based on a five-in-ten-year rainfall condition shall be valid for only five years unless the agricultural user's five year moving average continues to exceed the amount of supplemental irrigation needed during the five-in-ten-year rainfall condition for reasons other than prolonged periods of drought.

The bill provides that the new rule requirements above may not be construed to limit the ability of the DEP or a water management district to establish different supplemental irrigation requirements as part of an existing or future recovery or prevention strategy adopted pursuant to s. 373.0363, s. 373.042, or s. 373.0421, F.S.

CFWI Grant Program

Section 3 of the bill establishes a grant program within the DEP, subject to appropriation, for the CFWI. The bill requires the DEP, in cooperation with the relevant water management districts, to provide grants for projects within the CFWI Area that will promote alternative water supplies and protect groundwater resources. The bill requires the DEP, in allocating grant program funds, to give priority to projects that use reclaimed water, create new surface water storage, enhance natural systems, recharge groundwater, optimize beneficial uses of water, expand water conservation programs, or that are able to demonstrate that a significant financial hardship exists as a result of complying with the rules applicable to the CFWI Area.

Drinking Water State Revolving Loan Fund Priorities

Section 4 of the bill revises the priority system for the Drinking Water State Revolving Loan Fund to give special consideration to projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan aquifer under the CFWI.

Effective Date

Section 5 of the bill provides that the act is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18(a) of the Florida Constitution may apply to this bill because local governments may be required to expend funds to develop alternative water supply under the new requirements of the rule. The bill includes a legislative finding that the act fulfills an important state interest. The expenditures are required to comply with rules and law that applies to all persons similarly situated. Therefore, an exception from Art. VII, s. 18(a) of the Florida Constitution likely applies.

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:

According to the Department of Environmental Protection's (DEP) statement of estimated regulatory costs, the estimated transactional cost of the proposed rule over the next five years will be \$18.6 million to permittees and applicants.⁶⁸

C. Government Sector Impact:

According to the DEP's statement of estimated regulatory costs, the estimated transactional cost of the proposed rule over the next five years will be \$18.6 million to permittees and applicants.⁶⁹ The estimated cost to the St. Johns River, Southwest Florida, and South Florida Water Management Districts of implementing the proposed rule is \$637,000 and the estimated cost of monitoring and enforcing the proposed rule is \$64,000.⁷⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 373.0465 and 403.8532.

The bill creates section 373.0466 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 Appropriations on April 15, 2021:**

The committee substitute:

⁶⁸ DEP, *Statement of Estimated Regulatory Costs* (Feb. 8, 2021) at ES-2 - ES-4, available at https://floridadep.gov/sites/default/files/CFWI%20SERC%20Report%2002_08_2021%20with%20LCRA_0.pdf (last visited Mar. 9, 2021).

⁶⁹ *Id.*

⁷⁰ *Id.* at ES-6.

- Revises the rule publication date to reflect the Notice of Change published on March 26, 2021.
- Deletes the report to the Legislature required in the underlying bill which addresses practical and economic barriers to implementation of the Central Florida Water Initiative rules.
- Revises the supplemental irrigation requirement allocation for agricultural uses and the process for examining an agricultural user's supplemental irrigation water use required to be included in the uniform rules for the Central Florida Water Initiative Area.
- Authorizes the applicable water management district to condition and modify consumptive use permits under specified circumstances.
- Revises the grant program created under the bill to include and prioritize certain projects.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 43 - 133

and insert:

Water Initiative Area," as published on November 19, 2020, in the Florida Administrative Register, Vol. 46, No. 226, pages 5019-5025; February 9, 2021, in the Florida Administrative Register, Vol. 47, No. 26, pages 733-734; and March 26, 2021, in the Florida Administrative Register, Vol. 47, No. 59, pages 1506-1507.



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11 (2) This section serves no other purpose and shall not be
12 codified in the Florida Statutes. After this act becomes a law,
13 its enactment and effective dates shall be noted in the Florida
14 Administrative Code or the Florida Administrative Register, or
15 both, as appropriate. This section does not constitute
16 legislative preemption of or exception to any provision of law
17 governing adoption or enforcement of the rule cited, and is
18 intended to preserve the status of any cited rule as a rule
19 under chapter 120, Florida Statutes. This section does not cure
20 any rulemaking defect or preempt any challenge based on a
21 violation of the legal requirements governing the adoption of
22 any rule cited.

23 (3) The Legislature determines and declares that this
24 section fulfills an important state interest.

25 Section 2. Paragraph (d) of subsection (2) of section
26 373.0465, Florida Statutes, is amended to read:

27 373.0465 Central Florida Water Initiative.-

28 (2)

29 (d) The department, in consultation with the St. Johns
30 River Water Management District, the South Florida Water
31 Management District, the Southwest Florida Water Management
32 District, and the Department of Agriculture and Consumer
33 Services, shall adopt uniform rules for application within the
34 Central Florida Water Initiative Area that include:

35 1. A single, uniform definition of the term "harmful to the
36 water resources" consistent with the term's usage in s. 373.219;

37 2. A single method for calculating residential per capita
38 water use;

39 3. A single process for permit reviews;



40 4. A single, consistent process, as appropriate, to set
41 minimum flows and minimum water levels and water reservations;

42 5. A goal for residential per capita water use for each
43 consumptive use permit; ~~and~~

44 6. An annual conservation goal for each consumptive use
45 permit consistent with the regional water supply plan; ~~-~~

46 7. A drought allocation for supplemental irrigation for
47 agricultural uses which is based on a 2-in-10-year rainfall
48 condition or, if the applicant so requests, is based on a 5-in-
49 10-year rainfall condition alone or combined with the 2-in-10-
50 year condition. The applicable water management district may
51 also condition, for information only purposes, consumptive use
52 permits to advise permittees that their annual use of water
53 should be less than the drought allocation in all years except
54 for the drought condition that is the basis for the allocation
55 or a more severe drought; and

56 8. A process for the applicable water management district
57 to annually examine an agricultural user's 5-year moving average
58 supplemental irrigation water use against the annual
59 supplemental irrigation needs in the 5-in-10-year rainfall
60 condition beginning no earlier than 5 years following the
61 effective date of the rules adopted under this section. If this
62 annual examination indicates that the agricultural user's 5-year
63 moving average use exceeds that needed in such rainfall
64 condition for reasons other than prolonged periods of below
65 average rainfall, the water management district may modify the
66 agricultural user's permit to include an annual supplemental
67 irrigation allocation based on both the amount of supplemental
68 irrigation required during a 2-in-10-year rainfall condition and



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69 the amount of supplemental irrigation required during a 5-in-10-
70 year rainfall condition as provided in rules adopted pursuant to
71 this section. In such case, the supplemental irrigation
72 allocation based on the 5-in-10-year rainfall condition shall be
73 valid for only 5 years unless the agricultural user's 5-year
74 moving average use continues to exceed the amount of
75 supplemental irrigation needed during a 5-in-10-year rainfall
76 condition for reasons other than prolonged periods of drought.

77
78 Subparagraphs 7. and 8. may not be construed to limit the
79 ability of the department or a water management district to
80 establish different supplemental irrigation requirements as part
81 of an existing or future recovery or prevention strategy adopted
82 pursuant to s. 373.0363, s. 373.042, or s. 373.0421. The uniform
83 rules must include existing recovery strategies within the
84 Central Florida Water Initiative Area adopted before July 1,
85 2016. The department may grant variances to the uniform rules if
86 there are unique circumstances or hydrogeological factors that
87 make application of the uniform rules unrealistic or
88 impractical.

89 Section 3. Section 373.0466, Florida Statutes, is created
90 to read:

91 373.0466 Central Florida Water Initiative grant program.-
92 Subject to appropriation, a grant program for the Central
93 Florida Water Initiative is established within the Department of
94 Environmental Protection.

95 (1) The department, in cooperation with the relevant water
96 management districts, shall provide grants for projects that
97 benefit the Central Florida Water Initiative Area which promote



98 alternative water supplies and protect groundwater resources.

99 (2) In allocating such funds, priority must be given to
100 projects that use reclaimed water, create new surface water
101 storage, enhance natural systems, recharge groundwater, optimize
102 beneficial uses of water, expand water conservation programs, or
103 are able to demonstrate that a significant financial hardship
104 exists as a result of complying with rules applicable to the
105 Central Florida Water Initiative Area.

106
107 ===== T I T L E A M E N D M E N T =====

108 And the title is amended as follows:

109 Delete lines 10 - 29

110 and insert:

111 providing a declaration of important state interest;
112 amending s. 373.0465, F.S.; requiring the department, in
113 consultation with specified water management districts, to adopt
114 rules that include an annual drought allocation for supplemental
115 irrigation for agricultural uses and a process for examining an
116 agricultural user's supplemental irrigation needs as weighed
117 against certain factors; providing for the applicability of
118 specified rules to areas with certain existing recovery
119 strategies; creating s. 373.0466, F.S.; establishing, subject to
120 appropriation, a Central Florida Water Initiative grant program
121 within the department; requiring the department, in cooperation
122 with the relevant water management districts, to distribute
123 appropriated funds for certain projects that benefit the Central
124 Florida Water Initiative Area;

125

By the Committee on Environment and Natural Resources

592-03181-21

20217062__

1 A bill to be entitled
 2 An act relating to the Central Florida Water
 3 Initiative; ratifying specified rules relating to the
 4 Central Florida Water Initiative, for the sole and
 5 exclusive purpose of satisfying any condition on
 6 effectiveness pursuant to s. 120.541(3), F.S., which
 7 requires ratification of any rule exceeding any
 8 specified thresholds for likely adverse impact or
 9 increase in regulatory costs; providing applicability;
 10 requiring the Department of Environmental Protection
 11 to provide reports relating to implementation of the
 12 requirements of the Central Florida Water Initiative
 13 rules to the Legislature by specified dates; providing
 14 a declaration of important state interest; amending s.
 15 373.0465, F.S.; requiring the department, in
 16 consultation with specified water management
 17 districts, to adopt rules that include an annual
 18 supplemental irrigation requirement allocation for
 19 agricultural uses and a process for examining an
 20 agriculture user's average annual supplemental
 21 irrigation needs; providing for the applicability of
 22 specified rules to areas with certain existing
 23 recovery strategies; creating s. 373.0466, F.S.;
 24 establishing, subject to appropriation, a Central
 25 Florida Water Initiative grant program within the
 26 department; requiring the department, in cooperation
 27 with the relevant water management districts, to
 28 distribute appropriated funds for certain projects
 29 within the Central Florida Water Initiative Area;

Page 1 of 6

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

592-03181-21

20217062__

30 providing requirements for the distribution; amending
 31 s. 403.8532, F.S.; requiring the department to give
 32 funding priority to certain projects relating to the
 33 Central Florida Water Initiative; providing an
 34 effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:
 37

38 Section 1. (1) The following rule is ratified for the sole
 39 and exclusive purpose of satisfying any condition on
 40 effectiveness imposed under s. 120.541(3), Florida Statutes:
 41 Rules 62-41.300, 62-41.301, 62.41.302, 62-41.303, 62-41.304, and
 42 62-41.305, Florida Administrative Code, titled "Central Florida
 43 Water Initiative Area," as published on February 9, 2021, in the
 44 Florida Administrative Register, Vol. 47, No. 26, pages 733-734.

45 (2) This section serves no other purpose and shall not be
 46 codified in the Florida Statutes. After this act becomes a law,
 47 its enactment and effective dates shall be noted in the Florida
 48 Administrative Code or the Florida Administrative Register, or
 49 both, as appropriate. This section does not constitute
 50 legislative preemption of or exception to any provision of law
 51 governing adoption or enforcement of the rule cited, and is
 52 intended to preserve the status of any cited rule as a rule
 53 under chapter 120, Florida Statutes. This section does not cure
 54 any rulemaking defect or preempt any challenge based on a
 55 violation of the legal requirements governing the adoption of
 56 any rule cited.

57 (3) By December 31, 2025, and December 31, 2030, the
 58 Department of Environmental Protection shall provide a report to

Page 2 of 6

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

592-03181-21 20217062__
 59 the President of the Senate and the Speaker of the House of
 60 Representatives which details methods the department has used to
 61 address practical and economic barriers to implementing the
 62 requirements of the Central Florida Water Initiative rules,
 63 including, but not limited to, variances, offsets, credits, and
 64 financial incentives. The report must include a list of the
 65 recipients of any such accommodations and the hardship addressed
 66 by each accommodation.

(4) The Legislature determines and declares that this
section fulfills an important state interest.

Section 2. Paragraph (d) of subsection (2) of section
 373.0465, Florida Statutes, is amended to read:

373.0465 Central Florida Water Initiative.—

(2)

(d) The department, in consultation with the St. Johns
 River Water Management District, the South Florida Water
 Management District, the Southwest Florida Water Management
 District, and the Department of Agriculture and Consumer
 Services, shall adopt uniform rules for application within the
 Central Florida Water Initiative Area that include:

1. A single, uniform definition of the term "harmful to the
 water resources" consistent with the term's usage in s. 373.219;

2. A single method for calculating residential per capita
 water use;

3. A single process for permit reviews;

4. A single, consistent process, as appropriate, to set
 minimum flows and minimum water levels and water reservations;

5. A goal for residential per capita water use for each
 consumptive use permit; ~~and~~

592-03181-21 20217062__
 88 6. An annual conservation goal for each consumptive use
 89 permit consistent with the regional water supply plan;
 90 7. An annual supplemental irrigation requirement allocation
 91 for agricultural uses based on a 2-in-10-year drought condition,
 92 or a more frequently occurring drought condition if the
 93 applicant so requests; and
 94 8. A process for the applicable water management district
 95 to examine an agriculture user's average annual supplemental
 96 irrigation water use over 5-year periods against the annual
 97 supplemental irrigation needs in the 5-in-10-year rainfall
 98 condition. If this examination indicates that the agricultural
 99 user's average annual use exceeds that needed in such rainfall
 100 condition for reasons other than prolonged periods of below
 101 average rainfall, the water management district may request that
 102 the agricultural user explain the reason for the exceedance and
 103 what measures that user will employ to reduce such future
 104 average annual water use to be no greater than that needed in
 105 the 5-in-10-year rainfall condition. However, nothing in this
 106 process shall be identified as an allocation.

107
 108 Subparagraphs 7. and 8. do not apply to areas where existing
 109 recovery strategies within the Central Florida Water Initiative
 110 Area adopted before July 1, 2016, contain supplemental
 111 irrigation allocation requirements. The uniform rules must
 112 include existing recovery strategies within the Central Florida
 113 Water Initiative Area adopted before July 1, 2016. The
 114 department may grant variances to the uniform rules if there are
 115 unique circumstances or hydrogeological factors that make
 116 application of the uniform rules unrealistic or impractical.

592-03181-21 20217062__

117 Section 3. Section 373.0466, Florida Statutes, is created
118 to read:

119 373.0466 Central Florida Water Initiative Grant Program.—
120 Subject to appropriation, a grant program for the Central
121 Florida Water Initiative is established within the Department of
122 Environmental Protection.

123 (1) The department, in cooperation with the relevant water
124 management districts, shall provide grants for projects within
125 the Central Florida Water Initiative Area which promote
126 alternative water supplies and protect groundwater resources.

127 (2) In allocating such funds, priority must be given to
128 projects that use reclaimed water, enhance natural systems,
129 recharge groundwater, optimize beneficial uses of water, expand
130 water conservation programs, or are able to demonstrate that a
131 significant financial hardship exists as a result of complying
132 with rules applicable to the Central Florida Water Initiative
133 Area.

134 Section 4. Paragraph (a) of subsection (9) of section
135 403.8532, Florida Statutes, is amended to read:

136 403.8532 Drinking water state revolving loan fund; use;
137 rules.—

138 (9) The department may adopt rules regarding the procedural
139 and contractual relationship between the department and the
140 corporation under s. 403.1837 and to carry out the purposes of
141 this section and the federal Safe Drinking Water Act, as
142 amended. Such rules shall:

143 (a) Set forth a priority system for loans based on public
144 health considerations, compliance with state and federal
145 requirements relating to public drinking water systems, and

592-03181-21 20217062__

146 affordability. The priority system must ~~shall~~ give special
147 consideration to:

148 1. Projects that provide for the development of alternative
149 drinking water supply projects and management techniques in
150 areas where existing source waters are limited or threatened by
151 saltwater intrusion, excessive drawdowns, contamination, or
152 other problems;

153 2. Projects that provide for a dependable, sustainable
154 supply of drinking water and that are not otherwise financially
155 feasible; ~~and~~

156 3. Projects that contribute to the sustainability of
157 regional water sources; ~~and~~

158 4. Projects that implement water supply plans and develop
159 water sources as an alternative to continued reliance on the
160 Floridan Aquifer, pursuant to s. 373.0465.

161 Section 5. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 25, 2021

I respectfully request that **Senate Bill 7062**, relating to the **Central Florida Water Initiative**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 15, 2021

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Central Florida Water Initiative

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581 4250

Street

Lakeland

FL

33802

Email shepp@thesoutherngroup.com

City

State

Zip

Speaking: For Against Information

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

Representing City of Lakeland

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

4/15/21
Meeting Date

7062
Bill Number (if applicable)

Topic SB 7062

Amendment Barcode (if applicable)

Name Alex Bickley

Job Title Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone _____

Street

Tallahassee

FL

32399

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FL Dept of Environmental Protection

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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/21
Meeting Date

7062
Bill Number (if applicable)
828060

Amendment Barcode (if applicable)

Topic SB 7062

Name Alex Bickley

Job Title Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone

Street

Tallahassee

FL

32399

Email

City

State

Zip

Speaking: For Against Information

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

Representing FL Dept of Environmental Protection

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 Committee Code Not Found

BILL: CS/SB 7076

INTRODUCER: Appropriations Committee and Regulated Industries Committee

SUBJECT: Gaming Enforcement

DATE: April 19, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Kraemer</u>	<u>Imhof</u>		RI Submitted as Comm. Bill/Fav
1. <u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7076 establishes additional enforcement measures to address violations of gambling laws and the conduct of unauthorized gaming in the state, including the creation of the Florida Gaming Control Commission, and granting additional investigatory and prosecutorial authority to the Office of Statewide Prosecution in the Department of Legal Affairs.

CS/SB 7078, relating to Public Records and Public Meeting Exemptions/Florida Gaming Control Commission, is linked to this bill.

The bill will have an indeterminate fiscal impact on state government. *See* Section V, Fiscal Impact Statement.

Except as otherwise expressly provided in the bill, the bill takes effect July 1, 2021.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷ and
- Cardrooms⁸ at certain pari-mutuel facilities.⁹

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁰

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹¹ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹²

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

¹⁰ See s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” See also, *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).

¹¹ The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹² The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,¹³ bingo,¹⁴ charitable drawings,¹⁵ game promotions (sweepstakes),¹⁶ and bowling tournaments.¹⁷ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁸

Regulation of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. According to the division, there were eight license suspensions, and \$19,075 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2019-2020.¹⁹

Ten permitholders were not issued operating licenses for Fiscal Year 2020-2021: two greyhound permitholders,²⁰ two jai alai permitholders,²¹ one limited thoroughbred permitholder,²² and five quarter horse permitholders.²³

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, F.S.

¹⁵ See s. 849.0935, F.S.

¹⁶ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁷ See s. 849.141, F.S.

¹⁸ See s. 546.10, F.S.

¹⁹ See the 89th Annual Report for Fiscal Year 2019-2020 issued by the division at: [AnnualReport-2019-2020--89th--20210224.pdf](#) at page 5 (equivalent to page 3 of the printed Annual Report) (last visited Apr. 13, 2021).

²⁰ Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

²¹ Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.

²² Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred, Gulfstream Park Thoroughbred After Racing Program (GPTARP) (Hallandale, Broward County), which was licensed to operate in 2019-2020, and Ocala Thoroughbred Racing (Marion County), which was not licensed to operate.

²³ ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), North Florida Racing (Jacksonville), Pompano Park Racing (Pompano Beach), and St. Johns Racing (St. Johns County). See http://www.myfloridalicense.com/dbpr/pmw/documents/PermitholdersList_2020-2021.pdf (last visited Apr. 13, 2021).

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. An application may not be considered, nor may a permit be issued by the division or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.

Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.²⁴

After issuance of the permit and a ratification election, the division may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.²⁵

Pursuant to s. 550.054(9)(b), F.S., the division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the division, and may impose a civil penalty against the permitholder or license up to \$1,000 for each offense.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Sections 551.104(3), 551.116, and 551.121, F.S., address slot machine gaming operations, and:

- Restrict the issuance of slot machine licenses to licensed pari-mutuel permitholders, for slot machine gaming only at the facility where pari-mutuel wagering is authorized to be conducted by the permitholder;
- Limit slot machine gaming to 18 hours per day, Monday through Friday, and 24 hours on Saturdays and Sundays; and
- Prohibit the service of complimentary or reduced-cost alcoholic beverages to persons playing a slot machine, among other prohibitions.

²⁴ See s. 550.054(2), F.S.

²⁵ See s. 550.054(9)(a), F.S.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.²⁶ In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.²⁷ A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.²⁸ A cardroom may be open 18 hours per day on Monday through Friday, and 24 hours per day on Saturday and Sunday.²⁹

Sections 849.086(5) and (6), F.S., provide that a licensed pari-mutuel permit holder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom. An authorized game is a game or series of games of poker or dominoes.³⁰ Such games must be played in a non-banking manner,³¹ where the participants play against each other, instead of against the house (cardroom). At least four percent of the gross cardroom receipts of greyhound racing permit holders and jai alai permit holders conducting live races or games must supplement greyhound purses, and quarter horse permit holders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permit holder.³²

Gaming Compacts with Seminole Tribe of Florida

In 2010, a gaming compact (2010 Compact) between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida (state) was ratified by the Legislature.³³ The 2010 Compact authorizes the Seminole Tribe to conduct certain Class III gaming for a 20-year period, and to offer banked card games for five years, through July 31, 2015. The 2010 Compact provides that any expanded gaming (beyond what is specifically acknowledged) allowed in the state relieves the Seminole Tribe of its obligations to make substantial revenue sharing payments.

Pursuant to s. 285.710(13), F.S., it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the 2010 Compact. The 2010 Compact provides for revenue sharing in consideration for the exclusive authority granted to the Seminole Tribe to offer banked card games on tribal lands and to offer slot machine gaming outside Miami-Dade and Broward counties.

²⁶ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.

²⁷ See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 13, 2021).

²⁸ *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936). See s. 550.1625(1), F.S., "...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state."

²⁹ Section 849.086(7)(b), F.S.

³⁰ See s. 849.086(2)(a), F.S.

³¹ *Id.*

³² See s. 849.086(13)(d), F.S.

³³ Ch. 2010-29, Laws of Fla.

Section 285.710(9), F.S., provides that money received by the state from a gaming compact is to be deposited into the General Revenue Fund and provides for the distribution of three percent of the amount paid by the Seminole Tribe to the specified local governments. The percentage of the local share distributed to the specified counties and municipalities is based on the net win per facility in each county and municipality.

The Seminole Tribe notified the state in May 2019, that it was discontinuing revenue share payments in accordance with the 2010 Compact, based on the results of federal litigation. The 2010 Compact remains in effect through July 31, 2030.

As designated in s. 285.710, F.S., the division of the DBPR carries out the state's oversight responsibilities under the 2010 Compact.

Class III Gaming under the Indian Gaming Regulatory Act

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA).³⁴ The 2010 Compact authorizes the Seminole Tribe to conduct specified Class III gaming activities at its seven tribal facilities in Florida.³⁵

Under IGRA, gaming is categorized in three classes:

- **Class I** gaming means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations;
- **Class II** gaming includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law; and
- **Class III** gaming includes all forms of gaming that are not Class I or Class II gaming, such as banked card games (such as baccarat, chemin de fer, and blackjack (21), casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.³⁶

Amendment 3 to the State Constitution (Voter Control of Gambling)

During the 2018 General Election, the electorate approved an initiative constitutional amendment (Amendment 3, Voter Control of Gambling in Florida). The amendment is codified in the State Constitution as article X, section 30).³⁷

³⁴ See Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

³⁵ See paragraph F of Part III of the 2010 Compact. The Seminole Tribe has three gaming facilities in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa). The 2010 Compact was approved by the U.S. Department of the Interior effective July 6, 2010. See 75 Fed. Reg. 38833-38834 at <https://www.gpo.gov/fdsys/pkg/FR-2010-07-06/pdf/2010-16213.pdf> (last visited Apr. 13, 2021).

³⁶ See 25 U.S.C. s. 2703.

³⁷ See the text of Amendment 3, now codified as art. X, s. 30, at

<http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30> (last visited Apr. 13, 2021).

Amendment 3 requires a vote proposed by citizen's initiative to amend the State Constitution pursuant to Article XI, section 3 to authorize "casino gambling" in Florida. Casino gambling is defined in section (b) of Amendment 3 as:

- Any of the "types of games typically found in casinos" and that are:
 - Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq; and
 - In 25 [Code of Federal Regulations] (C.F.R.) § 502.4 upon the adoption of the amendment and any that are added to such definition of Class III gaming in the future.

Section (b) of Amendment 3 provides that casino gambling includes, but is not limited to, the following:

- Any house banking game, including but not limited to, card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 [of the State Constitution, relating to state operated lotteries], whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

Section (b) of Amendment 3 also further defines "casino gambling" as including the following devices:

- Any electronic gambling devices;
- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under [the Indian Gaming Regulatory Act].

Under Amendment 3, the term casino "casino gambling" does not include:

...pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For the purposes of [Amendment 3], "gambling" and "gaming" are synonymous.

Additionally, Amendment 3 provides:

Nothing in [Amendment 3] shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing in [Amendment 3] shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to

compacts executed by the state and Native American tribes pursuant to [the Indian Gaming Regulatory Act].

By its terms, Amendment 3 became effective on November 6, 2018, is self-executing, and no legislative implementation is required. If any part of Amendment 3 is held invalid for any reason, the remaining portion(s) must be severed from the invalid portion and given “the fullest possible force and effect.”

United States Gaming Regulatory Agencies (Gaming Commissions)

The National Council of Legislators from Gaming States (NCLGS) is an organization of state lawmakers which meets to discuss gaming issues, and includes committees on lotteries, pari-mutuels, casinos, responsible gaming, Indian gaming issues, and telephone/internet wagering.³⁸

Regulatory resources cited by NCLGS include the:

- Association of Racing Commissioners International, Inc. (ARCI), a non-profit corporation founded in the 1930’s to uphold uniform pari-mutuel racing rules and practice, serves as a resource for pari-mutuel rulings, including equine medication issues. The ARCI works to preserve the integrity of horseracing, jai-alai, and dog-racing.³⁹
- North American Gaming Regulators Association (NAGRA), created in 1984, includes as members federal, state, local, tribal, and provincial government gaming regulators.⁴⁰
- National Indian Gaming Commission (NIGC), established under the Indian Gaming Regulatory Act, is an independent federal regulatory agency charged with the regulation of Indian gaming on Indian land, specifically to protect tribes from corrupt influences, including organized crime, to make sure it is tribes that are receiving the benefit of Indian gaming, and to ensure that fair playing practices that protect tribes and players are adhered to. The NIGC maintains a list of gaming tribes on its site, searchable by tribe or state.⁴¹
- International Association of Gaming Regulators (IAGR), which is an organization of international government agencies responsible for the regulation of gaming in their home jurisdictions concerned with sharing information and resources among each other on issues relevant to the regulation of gaming.⁴²

According to NAGRA, there are approximately 75 gaming regulatory agencies in the United States and Canada, including lottery commissions, pari-mutuel commissions, racing commissions, casino control commissions, and gambling control commissions.⁴³ Two of the most well-known gaming control entities are the Nevada Gaming Commission and Gaming Control Board,⁴⁴ and the New Jersey Casino Control Commission.⁴⁵

³⁸ See <https://www.nclgs.org/index.php/about-us> (last visited Apr. 13, 2021).

³⁹ See <http://arci.com/> (last visited Apr. 13, 2021).

⁴⁰ See <https://www.nagra.org/default.aspx> (last visited Apr. 13, 2021).

⁴¹ See <https://www.nigc.gov/> (last visited Apr. 13, 2021).

⁴² See <https://www.iagr.org/> (last visited Apr. 13, 2021).

⁴³ See links to the numerous state and province gaming regulatory agencies, commissions, control boards, and lotteries at <https://www.nagra.org/State-and-Province-Gaming-Regulatory-Agencies> (last visited Apr. 13, 2021).

⁴⁴ See <https://gaming.nv.gov/> (last visited Apr. 13, 2021).

⁴⁵ See <https://www.nj.gov/casinos/> (last visited Apr. 13, 2021).

In Nevada, members of the Board and Commission are appointed by the Governor of Nevada to four-year terms. In addition to other requirements, each member must be a resident of Nevada and no member may hold elective office while serving. Members are also not permitted to possess any direct pecuniary interest in gaming activities while serving in their capacity as members.⁴⁶

The New Jersey Casino Control Commission (NJ commission) is the independent licensing authority of the state's casinos⁴⁷ and key employees⁴⁸, comprised of up to three members, appointed by the governor and confirmed by the state senate.⁴⁹ As a quasi-judicial panel, the NJ commission conducts hearings⁵⁰ on contested casino key employee license matters, and appeals⁵¹ from decisions and penalties imposed by the state's division of gaming enforcement. Commissioners serve staggered, five-year terms and may only be removed for cause.⁵² The commission notes:

The success and ongoing viability of the gaming industry remains inextricably linked to the public's confidence that the State of New Jersey will ensure that people in the industry possess good character, honesty and integrity. Stewardship over that public confidence is a principal responsibility of the Commission and its Chairman.

The NJ commission's regulatory efforts through the years have helped create an environment in which New Jersey's casinos can prosper and from which the citizens of New Jersey benefit. With proper regulatory controls, the industry serves as a catalyst to create economic benefits for Atlantic City, the Greater Atlantic City Region, and the entire State of New Jersey.⁵³

III. Effect of Proposed Changes:

Section 1 amends s. 16.56(1)(a), F.S., relating to the Office of Statewide Prosecution in the Department of Legal Affairs (office), to authorize the office to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Parimutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), including violations referred by the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation (DBPR), the Department of the Lottery, the Gaming Control Commission, or the Seminole Tribe of Florida.

Section 2 creates s. 16.71, F.S., to establish a Gaming Control Commission (commission), to be administratively housed in the Department Legal Affairs, Office of the Attorney General. The commission is a separate budget entity and serves as the agency head for all purposes. The

⁴⁶ See the Board Information Packet at p. 3, available at <https://gaming.nv.gov/modules/showdocument.aspx?documentid=14995> (last visited Apr. 13, 2021).

⁴⁷ See <https://www.nj.gov/casinos/services/info/index.html> (last visited Apr. 13, 2021).

⁴⁸ See <https://www.nj.gov/casinos/services/licensing/index.html> (last visited Apr. 13, 2021).

⁴⁹ See <https://www.nj.gov/casinos/about/overview/> (last visited Apr. 13, 2021).

⁵⁰ See <https://www.nj.gov/casinos/services/hearings/index.html> (last visited Apr. 13, 2021).

⁵¹ *Id.*

⁵² See <https://www.nj.gov/casinos/about/overview/> (last visited Apr. 13, 2021).

⁵³ *Id.*

commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including but not limited to personnel, purchasing transactions involving real or personal property, and budget matters.

Under the bill, the commission is a criminal justice agency, as defined in s. 119.011(4), F.S., which states a criminal justice agency is:

- Any law enforcement agency, court, or prosecutor;
- Any other agency charged by law with criminal law enforcement duties;
- Any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or
- The Department of Corrections.

Commissioners

The commission consists of five members, one from each appellate district, to be appointed by the Governor by January 1, 2022, subject to Senate confirmation. Of the five members, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. After initial appointments to create staggered terms, all members will serve four year terms, but may not serve more than 12 years. The salary of a member is the same as a commissioner serving on the Public Service Commission (approximately \$136,000 annually). Vacancies must be filled for the unexpired portion of a term.

A person is ineligible for appointment to the commission if they have been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction of:

- A felony or misdemeanor that directly relates to gambling, dishonesty, theft, or fraud within the 10 years immediately preceding such appointment; or
- A forcible felony or a sexual predator crime.

A person is also ineligible if they have had a permit or license issued under ch. 550, F.S., (Parimutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

The Governor may remove a member for cause, including, but not limited to, circumstances in which the member:

- Commits gross misconduct or malfeasance in office;
- Substantially neglects or is unable to discharge duties as a member; or
- Is convicted of or found guilty of a felony or misdemeanor that directly relates to gambling, dishonesty, theft, or fraud.

The Governor may remove a member without cause subject to approval by a majority of the Senate. Upon the resignation or removal from office of a member, the Governor must appoint a successor, subject to confirmation of the Senate, to serve the remainder of the unfinished term.

A person may not be appointed by the Governor to the commission until a background investigation of the person is conducted by the Florida Department of Law Enforcement (FDLE) and the investigation is forwarded to the Governor.

A person who holds any office in a political party, who has been convicted of a felony, or who has been convicted of a misdemeanor related to gambling within the previous 10 years may not apply to the Governor for appointment.

The Governor may not solicit or request any nominations, recommendations or communications about potential candidates for appointment to the commission from:

- Any person that holds a permit or license issued under chs. 550, 551, or 849, F.S., an officer, official, or employee of such permit holder or licensee, or an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such permit holder or licensee.
- Any officer, official, employee, contractor, or subcontractor of a tribe that has a valid and active compact with the state or an entity employed, licensed, or contracted by such tribe, or an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity.
- Any registered lobbyist for the executive or legislative branch that represents any person or entity identified above.

The commission must appoint an executive director, no later than July 1, 2022, to supervise, direct, coordinate, and administer the activities needed to fulfill the commission's responsibilities. The executive director serves at the pleasure of the commission, may not be a commissioner, and must reside in and maintain the commission's headquarters in Leon County. Similarly, the executive director's salary is the same as a commissioner serving on the Public Service Commission (approximately \$136,000 annually).

Commission Employees

All commission employees, except the executive director and attorneys, are subject to part II of ch. 110, F.S., relating to the Career Service System, which provides uniform personnel rules, guidelines, records, and reports related to employees and positions in career service developed by the Department of Management Services in consultation with affected agencies.

The commission's executive director is subject to part III of ch. 110, F.S., relating to the Senior Management Service System. Section 110.401, F.S., provides:

This part [III] creates a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior

Management Service employees. Accordingly, training and management-development programs are regarded as a major administrative function within agencies.

Attorneys employed by the commission are subject to part V of ch. 110, F.S., relating to the Selected Exempt Service System. Section 110.601, F.S., provides:

This part [V] creates a system of personnel management the purpose of which is to deliver high-quality performance by those employees in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

For a period of two years immediately preceding appointment to, or employment with, the commission, and while appointed or employed with the commission, a person may not:

- Hold a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), a license issued under ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling); be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S.,⁵⁴ of such permitholder or licensee;
- Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity; or
- Be a registered lobbyist for the executive or legislative branch, except while a commissioner when officially representing the commission.

Persons who fail to meet or violate the above requirements are ineligible for appointment to or employment with the commission, or if, within the two years immediately preceding such appointment or employment, he or she has solicited or accepted employment with; acquired any direct or indirect interest in; has any direct or indirect business association, partnership, or financial relationship with; or is a relative of, any person or entity who is an applicant, licensee, or registrant with the commission or the Division of Pari-mutuel Wagering (division) in the DBPR.

The term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law,

⁵⁴ Section 550.002, F.S., defines the term "ultimate equitable owner" to mean "a natural person who, directly or indirectly, owns or controls five percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof."

daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

A person is ineligible for employment with the commission if:

- Convicted of a felony within five years of the date of application;
- Convicted of a misdemeanor within five years of the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or
- Dismissed from prior employment for gross misconduct or incompetence or if he or she intentionally made a false statement concerning a material fact in connection with his or her application to the commission.

If an employee of the commission is charged with a felony while employed by the commission, the commission must suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee is charged with a misdemeanor while employed, the commission must suspend the employee, with or without pay, and may terminate employment upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

A commissioner or an employee must notify the commission within three calendar days of arrest for any offense. In addition, a commissioner or an employee must provide detailed written notice of the circumstances to the commission if the member or employee is indicted, charged with, convicted of, pleads guilty or nolo contendere to, or forfeits bail for:

- A misdemeanor involving gambling, dishonesty, theft, or fraud;
- A violation of any law in any state, or a law of the United States or any other jurisdiction, involving gambling, dishonesty, theft, or fraud which substantially corresponds to a misdemeanor in Florida; or
- A felony under the laws of Florida or any other state, the United States, or any other jurisdiction.

All employees authorized by the commission must have access to and the right to inspect premises licensed by the division, to collect and remit taxes, and to examine the books and records of all licensees and permitholders. The authorized employees must require strict compliance by each licensee and permitholder with Florida law relating to such licenses and permits.

Restrictions After Appointment or Employment

For the two years immediately following the date of resignation or termination from the commission, a commissioner or an employee may not:

- Hold a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), a license issued under ch. 551, F.S., (Slot Machines), ch. 546, F.S., (Amusement Facilities), or ch. 849, F.S., (Gambling), be an officer, official, or employee of such permitholder or licensee, or be an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such permitholder or licensee.
- Appear before the commission representing any client or industry regulated by the commission.

- Lobby the Governor or any agency of the state, members or employees of the Legislature, or any county or municipal government or governmental agency.

In addition, for the two years immediately following the date of resignation or termination from the commission, a commissioner may not accept employment by or compensation from:

- A business which, directly or indirectly, owns or controls a person regulated by the commission.
- A person regulated by the commission;
- A business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission, or
- A business entity or trade association that has been a party to a commission proceeding within the two years preceding the member's resignation or termination of service on the commission.

Violations are subject to the penalties for violations of standards of conduct for public officers, employees of agencies, and local government attorneys provided in s. 112.317, F.S., and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

Commission Law Enforcement Officers

Each employee serving as a law enforcement officer for the commission must meet the qualifications for employment or appointment as a law enforcement officer under s. 943.13, F.S., and be certified as a law enforcement officer by the Department of Law Enforcement under ch. 943, F.S. Upon certification, each law enforcement officer has statewide jurisdiction and is subject to and has the same authority provided in ch. 901, F.S., for law enforcement officers generally. Each officer also has arrest authority pursuant to s. 901.15, F.S., and possesses the full law enforcement powers granted to other peace officers of this state, including the authority to make arrests, carry firearms, serve court process, and seize contraband and the proceeds of illegal activities.

The responsibilities of each officer are:

- Primarily, to investigate, enforce, and prosecute, throughout the state, violations and violators of ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), and the rules adopted thereunder, as well as other state laws that the division officers or all state law enforcement officers are specifically authorized to enforce; and
- Secondly, to enforce all other state laws, provided that the enforcement is incidental to exercising the officer's primary responsibilities described above.

The bill provides an officer may exercise the powers of a deputy sheriff only after consultation or coordination with the appropriate local sheriff's office or municipal police department, or when the division participates in the Florida Mutual Aid Plan during a declared state emergency.

Seizure of Contraband

The commission and its law enforcement officers are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. For purposes of this section, “contraband” has the same meaning as the term “contraband article” in s. 932.701(2)(a)2., F.S., which includes any gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, was attempted, or intended to be used in violation of the gambling laws of the state.

The commission is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and to adopt rules and implement such authorization.

Commission’s Powers and Duties

The commission must meet at the call of the chair, or at the request of a majority (three members constitute a quorum) of its members, and:

- Exercise all state regulatory and executive powers respecting gambling, including, without limitation, pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the state constitution or law, but not lottery games operated by the state.
- Establish procedures consistent with ch. 120, F.S., (Administrative Procedure Act) to ensure adequate due process in exercising its regulatory and executive functions.
- Ensure that Florida law is not interpreted in any manner that expands the activities authorized in ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling).
- Review any matter within the scope of the jurisdiction of the division.
- Review the regulation of licensees, permitholders, or persons regulated by the division and the procedures used by the division to implement and enforce the law.
- Review the procedures of the division used to qualify applicants for a license, permit, or registration.
- Refer criminal violations of ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling) to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature.

The bill authorizes the commission to subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the commission’s duties or powers. The commission may meet in any city or county of the state.

The commission chair may schedule hearings to determine whether enforcement of the gaming laws of this state is sufficient to protect residents from an abuse or misinterpretation of law that may expand gaming or gambling in this state. The chair may direct that a hearing be held before

one member or a panel of less than the full commission, and must adopt rules to provide for the filing of a report for hearings held by a single commissioner or a panel and prescribe the requirements for the content and filing of such reports.

The commission may submit written recommendations to enhance the enforcement of Florida gaming laws to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and is authorized to contract or consult with other state agencies as may be needed to discharge its duties.

The commission is required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include all of the following:

- Recent events in the gaming industry, including pending litigation, pending facility license applications, and new pending rules.
- Actions of the commission relative to the implementation and administration of this section.
- State revenues and expenses associated with each form of authorized gaming. Revenues and expenses associated with pari-mutuel wagering must be further lineated by the class of license.
- Performance of each pari-mutuel wagering licensee, cardroom licensee, and slot licensee.
- A summary of disciplinary actions taken by the commission.
- Receipts and disbursements of the commission,
- A summary of actions taken and investigations conducted by the commission.
- Any additional information and recommendations that the commission considers useful or that the Governor, the President of the Senate, or the Speaker of the House of Representatives requests.

The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing must conform to state law. The commission must develop annual budget requests pursuant to ch. 216, F.S., relating to Planning and Budgeting; while a budget is not subject to change by the Department of Legal Affairs or the Attorney General, it must be submitted by the Department of Legal Affairs to the Governor for transmittal to the Legislature.

All rules adopted pursuant to ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), prior to the effective date of the act are preserved and remain in full force and effect.

The commission must exercise all of the regulatory and executive powers granted to it, and apply, construe, and interpret all laws and administrative rules, in a manner consistent with the gaming compact ratified, approved, and described in s. 285.710(3), F.S.

The bill requires the commission to annually, prior to the issuance of an operating license, confirm that each permit holder has submitted proof with their annual application for a license, in such a form as the commission may require, that the permit holder continues to possess the qualifications prescribed by ch. 550, F.S., and that the permit has not been disapproved by voters in an election.

Section 3 creates s. 16.712, F.S., related to commission background screening. This section provides that prior to serving on the commission or being employed by the commission, a person must submit their fingerprints for a fingerprint-based search by the FDLE and the Federal Bureau of the Investigation (FBI) databases for state and national criminal arrest records. If the person is a foreign national, he or she must also submit any necessary documentation to allow the commission to conduct a criminal history records check in the person's home country.

The FDLE must retain and enroll all such submitted fingerprints in the national retained print arrest notification program at the FBI when the FDLE begins participation in the program. The commission must notify the FDLE when any person whose fingerprints have been retained is no longer a commissioner or employee of the commission. The costs of fingerprint processing, including the cost for retaining fingerprints, will be borne by the commission.

Section 4 creates s. 16.715, F.S., to provide standards of conduct for commissioners and employees and prohibit ex parte communications. Commissioners are public officers, and employees are public employees, subject to the Code of Ethics for Public Officers and Employees set forth in part III of ch. 112, F.S., (Code of Ethics). Commissioners and employees are also governed by standards of conduct and provisions limiting ex parte communications, as provided in the bill, similar to the standards applicable to commissioners serving on the Public Service Commission. Many of the prohibitions involve activities with persons regulated by the commission (regulated entity).

Standards of Conduct

Under the bill, a commissioner or a commission employee:

- May not accept anything from any business entity which, either directly or indirectly, owns or controls any regulated entity, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- May attend conferences and associated meals and events that are generally available to all conference participants without payment of fees in addition to the conference fee.
- May attend meetings, meals, or events while attending a conference, that are not sponsored, in whole or in part, by any representative of any regulated entity and that are limited to commissioners only, committee members, or speakers, if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference;
- May attend a conference for which conference participants who are employed by a regulated entity have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee, and that is sponsored, in whole or in part, by a regulated entity.
 - If during the course of an investigation by the Commission on Ethics into an alleged violation, a person is alleged to have given or provided a prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense; and

- If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the gaming control commission or otherwise represent anyone before that commission for a period of two years.
- May not act in an unprofessional manner at any time during the performance of his or her official duties.
- Must avoid impropriety in all of his or her activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.
- May not directly or indirectly, through staff or other means, solicit anything of value from:
 - Any regulated entity;
 - Any business entity that, whether directly or indirectly, is an affiliate or subsidiary of any regulated entity; or
 - Any party appearing in a proceeding considered by the commission in the last two years.
- Must annually complete at least four hours of ethics training that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state; this requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subjects are covered.

While employed, and for two years after service or employment with the commission, a commissioner or employee:

- May not accept any form of employment with or engage in any business activity with:
 - Any business entity which, either directly or indirectly, owns or controls any regulated entity;
 - Any regulated entity; or
 - Any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- May not have any financial interest, other than shares in a mutual fund, in:
 - Any regulated entity;
 - Any business entity which, either directly or indirectly, owns or controls any regulated entity; or
 - Any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- Must immediately sell any prohibited financial interest; if the commissioner, the employee, or a relative (defined in s. 16.71(2)(e), F.S., created by the bill) living in the same household as a commissioner or an employee acquires such prohibited financial interest during his or her term of office as a result of events or actions beyond the commissioner's, the employee's, or the relative's control.
- May not accept anything from a party in a proceeding currently pending before the commission.
 - If, during the course of an investigation by the Commission on Ethics into an alleged violation, a person is alleged to have given or provided a prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense.
 - If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the gaming control commission or otherwise represent anyone before that commission for a period of two years.

- May not personally represent before the commission another person or entity for compensation, unless employed by another state agency.

Under the bill, a commissioner:

- May not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.
- May not make any public comment, during his or her term of office, regarding the merits of any proceeding under ss. 120.569 and 120.57, F.S., relating to decisions affecting substantial interests and hearings involving disputed issues of material fact, currently pending before the commission.
- May not lobby the Governor or any state agency, members or employees or the Legislature, or any county or municipal government or governmental agency, except to represent the commission in an official capacity.

The above standards of conduct may be more restrictive than the Code of Ethics, but may not be construed to contravene that code's restrictions. In the event of a conflict, the more restrictive provision applies.

The Commission on Ethics must accept and investigate any alleged violations of the above standards of conduct pursuant to the procedures contained in the Code of Ethics as described in ss. 112.322 through 112.3241, F.S. The Commission on Ethics must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to the Code of Ethics.

A commissioner may request an advisory opinion from the Commission on Ethics, pursuant to s. 112.322(3)(a), F.S., regarding the standards of conduct or the prohibitions set forth in ss. 16.71 and 16.715, F.S., created by the bill.

A commissioner, commission employee, or a relative living in the same household may not place a wager in any facility licensed by the commission or operated by an Indian tribe that has a valid and active compact with the state.

Ex Parte Communications

The bill defines "ex parte communications" as any communication that is:

- Not served on all parties to a proceeding, if the communication is written or printed or in electronic form; or
- Made without adequate notice to the parties and without an opportunity for the parties to be present and heard, if it is an oral communication.

A commissioner may not initiate or consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding that is currently pending before the commission, or

that the commissioner knows or reasonably expects will be filed with the commission within 180 days after the communication. An individual may not discuss ex parte with a commissioner the merits of any issue that he or she knows will be filed with the commission within 180 days. These prohibitions do not apply to commission staff.

If a commissioner knowingly receives a prohibited ex parte communication relative to a proceeding to which the commissioner is assigned, the commissioner must place on the record of the proceeding copies of:

- All written communications received;
- All written responses to the communications; and
- A memorandum stating the substance of all oral communications received and all oral responses made.

The commissioner must give written notice to all parties to the ex parte communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if the commissioner deems it necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair must substitute another commissioner for the proceeding.

Any individual who makes an ex parte communication must submit to the commission a written statement describing the nature of such communication, to include:

- The name of the person making the communication;
- The name of the commissioner or commissioners receiving the communication;
- Copies of all written communications made and all written responses to such communications; and
- A memorandum stating the substance of all oral communications received and all oral responses made.

The commission must place on the record of a proceeding all such communications. Any commissioner who knowingly fails to place on the record any such communications within 15 days of the date of such communication, is subject to removal and may be assessed a civil penalty not to exceed \$5,000.

The Commission on Ethics must receive and investigate sworn complaints of violations of the standards of conduct or prohibitions against ex parte communications, pursuant to the procedures contained in the Code of Ethics as described in ss. 112.322 through 112.3241, F.S.

If the Commission on Ethics finds that there has been a violation of the standards of conduct or prohibitions against ex parte communications by a commissioner, it must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to the Code of Ethics, and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated the standards is subsection. The Governor must remove from office a

commissioner who is found by the Commission on Ethics to have willfully and knowingly violated the standards of conduct or prohibitions against ex parte communications, after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated the standards of conduct or the prohibitions against ex parte communications in a separate matter.

If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties for such violations, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

If, during the course of an investigation by the Commission on Ethics into an alleged violation of the standards of conduct or prohibitions against ex parte communications, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before that commission for a period of two years. **Section 5** amends s. 285.710, F.S., effective July 1, 2022, to provide that the commission is the state compliance agency designated as the state agency with authority to carry out the state's oversight responsibilities under the 2010 Compact with the Seminole Tribe, rather than the division.

Section 6 provides for a Type Two transfer pursuant to s. 20.06(2), F.S., effective July 1, 2022, of all powers and duties, personnel, administrative rules, and funding of the DBPR, relating to the regulation of pari-mutuel wagering, slot machines, and cardrooms, and the state compliance agency's oversight responsibilities for authorized gaming compacts. The Department of Legal Affairs will provide administrative support to the commission until the transfer is complete, but the commission is not subject to control, supervision, or direction by the Department of Legal Affairs, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. Those employees transferred from the DBPR to the commission retain and transfer accrued leave balances.

Section 7 amends s. 932.701, F.S., to include in the definition of "contraband article" certain gaming related terms, including, equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, and Internet domain name. This section also updates the violations in this section to include violations of ch. 24, F.S., (State Lotteries), ch. 285, F.S., (Indian Reservations and Affairs), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling).

Section 8 directs the Division of Law Revision to prepare a reviser's bill to conform the Florida Statutes to the Type Two transfer described in Section 6.

Section 9 provides that except as otherwise expressly provided in the bill, 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill establishes the Florida Gaming Control Commission (commission) within the Department of Legal Affairs, Office of the Attorney General. Estimated costs total \$1 million in Fiscal Year 2021-2022, for the commission to begin operations and prepare for the Type Two transfer to take effect on July 1, 2022. The Department of Legal Affairs will submit a Legislative Budget Request for specific needs of the commission for Fiscal Year 2022-2023.

The Pari-Mutuel Wagering Trust Fund (trust fund) will transfer as part of the Type Two transfer. Projected revenues of the trust fund are sufficient to support the cost of the commission.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.56, 285.710, and 932.701.

This bill creates the following sections of the Florida Statutes: 16.71, 16.712, and 16.715.

The bill creates undesignated sections of the Florida 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 Appropriations on April 15, 2021:**

The committee substitute:

- Provides the Gaming Control Commission is a criminal justice agency under Florida law;
- Requires three of the commissioners to have a minimum 10 years' experience in the fields of law enforcement, accounting, or law;
- Provides that certain persons are disqualified from appointment as a commission member;
- Authorizes the Governor to remove commissioners for cause, such as misconduct, neglect, or conviction of a crime directly related to gambling, dishonesty, theft, or fraud;
- Imposes pre- and post- employment restrictions for commissioners and commission employees; similar to restrictions for Public Service Commission commissioners and employees, as well as background screening and fingerprinting;
- Authorizes the commission and its law enforcement officers to seize all contraband, in compliance with Florida law; and
- Requires the commission to provide a specified and detailed report to the Governor, President of the Senate President, and Speaker of the House of Representatives.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an
Office of Statewide Prosecution. The office shall be a separate
“budget entity” as that term is defined in chapter 216. The



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11 office may:

12 (a) Investigate and prosecute the offenses of:

13 1. Bribery, burglary, criminal usury, extortion, gambling,
14 kidnapping, larceny, murder, prostitution, perjury, robbery,
15 carjacking, home-invasion robbery, and patient brokering;

16 2. Any crime involving narcotic or other dangerous drugs;

17 3. Any violation of the Florida RICO (Racketeer Influenced
18 and Corrupt Organization) Act, including any offense listed in
19 the definition of racketeering activity in s. 895.02(8)(a),
20 providing such listed offense is investigated in connection with
21 a violation of s. 895.03 and is charged in a separate count of
22 an information or indictment containing a count charging a
23 violation of s. 895.03, the prosecution of which listed offense
24 may continue independently if the prosecution of the violation
25 of s. 895.03 is terminated for any reason;

26 4. Any violation of the Florida Anti-Fencing Act;

27 5. Any violation of the Florida Antitrust Act of 1980, as
28 amended;

29 6. Any crime involving, or resulting in, fraud or deceit
30 upon any person;

31 7. Any violation of s. 847.0135, relating to computer
32 pornography and child exploitation prevention, or any offense
33 related to a violation of s. 847.0135 or any violation of
34 chapter 827 where the crime is facilitated by or connected to
35 the use of the Internet or any device capable of electronic data
36 storage or transmission;

37 8. Any violation of chapter 815;

38 9. Any criminal violation of part I of chapter 499;

39 10. Any violation of the Florida Motor Fuel Tax Relief Act



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40 of 2004;

41 11. Any criminal violation of s. 409.920 or s. 409.9201;

42 12. Any crime involving voter registration, voting, or
43 candidate or issue petition activities;

44 13. Any criminal violation of the Florida Money Laundering
45 Act;

46 14. Any criminal violation of the Florida Securities and
47 Investor Protection Act; ~~or~~

48 15. Any violation of chapter 787, as well as any and all
49 offenses related to a violation of chapter 787; or

50 16. Any violation of chapter 24, chapter 285, chapter 546,
51 chapter 550, chapter 551, or chapter 849, including violations
52 referred by the Department of Agriculture and Consumer Services,
53 the Department of Business and Professional Regulation, the
54 Department of the Lottery, the Florida Gaming Control
55 Commission, or the Seminole Tribe of Florida;

56

57 or any attempt, solicitation, or conspiracy to commit any of the
58 crimes specifically enumerated above. The office shall have such
59 power only when any such offense is occurring, or has occurred,
60 in two or more judicial circuits as part of a related
61 transaction, or when any such offense is connected with an
62 organized criminal conspiracy affecting two or more judicial
63 circuits. Informations or indictments charging such offenses
64 shall contain general allegations stating the judicial circuits
65 and counties in which crimes are alleged to have occurred or the
66 judicial circuits and counties in which crimes affecting such
67 circuits or counties are alleged to have been connected with an
68 organized criminal conspiracy.



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69 Section 2. Section 16.71, Florida Statutes, is created to
70 read:

71 16.71 Florida Gaming Control Commission.—

72 (1) (a) There is created within the Department of Legal
73 Affairs, Office of the Attorney General, a Florida Gaming
74 Control Commission, hereinafter referred to as the commission.
75 The commission shall be a separate budget entity and the agency
76 head for all purposes. The Florida Gaming Control Commission is
77 a criminal justice agency as defined in s. 119.011.

78 (b) The commission is not subject to control, supervision,
79 or direction by the Department of Legal Affairs or the Attorney
80 General in the performance of its duties, including, but not
81 limited to, personnel, purchasing transactions involving real or
82 personal property, and budgetary matters.

83 (2) (a) The commission shall consist of five members
84 appointed by the Governor, and subject to confirmation by the
85 Senate, for terms of 4 years. Members of the commission must be
86 appointed by January 1, 2022.

87 1. For the purpose of providing staggered terms, of the
88 initial appointments, 2 members shall be appointed to 4-year
89 terms, 2 members shall be appointed to 3-year terms, and 1
90 member shall be appointed to a 2-year term.

91 2. Of the five members at least one member must have at
92 least 10 years of experience in law enforcement and criminal
93 investigations, at least one member must be a certified public
94 accountant licensed in this state with at least 10 years of
95 experience in accounting and auditing, and at least one member
96 must be an attorney admitted and authorized to practice law in
97 this state for the preceding 10 years.



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98 3. Of the five members, each appellate district shall have
99 one member appointed from the district to the commission who is
100 a resident of the district at the time of the original
101 appointment.

102 4. A person may not be appointed by the Governor to the
103 commission until after a background investigation of the person
104 is conducted by the Department of Law Enforcement and the
105 investigation is forwarded to the Governor.

106 5. A person who holds any office in a political party, who
107 has been convicted of a felony, or who has been convicted of a
108 misdemeanor related to gambling within the previous 10 years may
109 not apply to the Governor for appointment.

110 6. The Governor may not solicit or request any nominations,
111 recommendations or communications about potential candidates for
112 appointment to the commission from:

113 a. Any person that holds a permit or license issued under
114 chapter 550, or a license issued under chapter 551 or chapter
115 849; an officer, official, or employee of such permitholder or
116 licensee; or an ultimate equitable owner, as defined in s.
117 550.002(37), of such permitholder or licensee;

118 b. Any officer, official, employee, or other person with
119 duties or responsibilities relating to a gaming operation owned
120 by an Indian tribe that has a valid and active compact with the
121 state; be a contractor or subcontractor of such tribe or an
122 entity employed, licensed, or contracted by such tribe; or be an
123 ultimate equitable owner, as defined in s. 550.002(37), of such
124 entity; or

125 c. Any registered lobbyist for the executive or legislative
126 branch that represents any person or entity identified in sub-



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127 subparagraph a. and sub-subparagraph b.

128 (b)1. The Governor may remove a member for cause,
129 including, but not limited to, circumstances in which the member
130 commits gross misconduct or malfeasance in office, substantially
131 neglects or is unable to discharge their duties as a member, or
132 is convicted of or found guilty of or has plead nolo contendere
133 to, regardless of adjudication, in any jurisdiction, a felony or
134 misdemeanor that directly relates to gambling, dishonesty,
135 theft, or fraud.

136 2. The Governor may remove a member without cause subject
137 to approval by a majority of the Senate. Upon the resignation or
138 removal from office of a member, the Governor shall appoint a
139 successor pursuant to paragraph (a) who, subject to confirmation
140 by the Senate, shall serve the remainder of the unfinished term.

141 (c) A commissioner shall serve until a successor is
142 appointed, but commissioners may not serve more than 12 years.
143 Vacancies shall be filled for the unexpired portion of the term.
144 The salary of each commissioner is equal to that paid under
145 state law to a commissioner on the Florida Public Service
146 Commission. The commission shall elect a chair and a vice chair.

147 (d) To aid the commission in its duties, the commission
148 must appoint a person who is not a member of the commission to
149 serve as the executive director of the commission. The executive
150 director shall supervise, direct, coordinate, and administer all
151 activities necessary to fulfill the commission's
152 responsibilities. The commission must appoint the executive
153 director by July 1, 2022. The executive director, with the
154 consent of the commission, shall employ such staff as are
155 necessary to adequately perform the functions of the commission,



156 within budgetary limitations. All employees, except the
157 executive director and attorneys, are subject to part II of
158 chapter 110. The executive director shall serve at the pleasure
159 of the commission and be subject to part III of chapter 110.
160 Attorneys employed by the commission shall be subject to part V
161 of chapter 110. The executive director shall maintain
162 headquarters in and reside in Leon County. The salary of the
163 executive director is equal to that paid under state law to a
164 commissioner on the Florida Public Service Commission.

165 (e)1. A person may not, for the 2 years immediately
166 preceding the date of appointment to or employment with the
167 commission and while appointed to or employed with the
168 commission:

169 a. Hold a permit or license issued under chapter 550, or a
170 license issued under chapter 551 or chapter 849; be an officer,
171 official, or employee of such permitholder or licensee; or be an
172 ultimate equitable owner, as defined in s. 550.002(37), of such
173 permitholder or licensee;

174 b. Be an officer, official, employee, or other person with
175 duties or responsibilities relating to a gaming operation owned
176 by an Indian tribe that has a valid and active compact with the
177 state; be a contractor or subcontractor of such tribe or an
178 entity employed, licensed, or contracted by such tribe; or be an
179 ultimate equitable owner, as defined in s. 550.002(37), of such
180 entity; or

181 c. Be a registered lobbyist for the executive or
182 legislative branch, except while a commissioner when officially
183 representing the commission.

184 2. A person is ineligible for appointment to or employment



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185 with the commission if, within the 2 years immediately preceding
186 such appointment or employment, they violated subparagraph 1. or
187 solicited or accepted employment with, acquired any direct or
188 indirect interest in, or had any direct or indirect business
189 association, partnership, or financial relationship with, or is
190 a relative of, any person or entity who is an applicant,
191 licensee, or registrant with the Division of Pari-mutuel
192 Wagering or the commission.

193
194 For the purposes of this paragraph, the term "relative" means a
195 spouse, father, mother, son, daughter, grandfather, grandmother,
196 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
197 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
198 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
199 stepbrother, stepsister, half-brother, or half-sister.

200 (f) A commissioner may not, for the 2 years immediately
201 following the date of resignation or termination from the
202 commission:

203 1. Appear before the commission representing any client or
204 any industry regulated by the commission;

205 2. Accept employment by or compensation from a business
206 entity which, directly or indirectly, owns or controls a person
207 regulated by the commission, from a person regulated by the
208 commission, from a business entity which, directly or
209 indirectly, is an affiliate or subsidiary of a person regulated
210 by the commission, or from a business entity or trade
211 association that has been a party to a commission proceeding
212 within the 2 years preceding the member's resignation or
213 termination of service on the commission; or



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214 3. Lobby the Governor or any agency of the state, members
215 or employees of the Legislature, or any county or municipal
216 government or governmental agency.

217 (g) A person employed by the commission may not, for the 2
218 years immediately following the date of termination or
219 resignation from employment with the commission:

220 1. Appear before the commission representing any client
221 regulated by the commission on any matter which was pending at
222 the time of termination or resignation and in which such former
223 employee had participated; or

224 2. Lobby the Governor or any agency of the state, members
225 or employees of the Legislature, or any county or municipal
226 government or governmental agency.

227 (h) Any person violating paragraph (f) or paragraph (g)
228 shall be subject to the penalties for violations of standards of
229 conduct for public officers, employees of agencies, and local
230 government attorneys provided in s. 112.317 and a civil penalty
231 of an amount equal to the compensation which the person receives
232 for the prohibited conduct.

233 (i) A person is ineligible for appointment to the
234 commission if he or she has:

235 1. Been convicted of or found guilty of or pled nolo
236 contendere to, regardless of adjudication, in any jurisdiction,
237 a felony or misdemeanor that directly relates to gambling,
238 dishonesty, theft, or fraud within the 10 years immediately
239 preceding such appointment;

240 2. Been convicted of or found guilty of or pled nolo
241 contendere to, regardless of adjudication, in any jurisdiction,
242 a crime listed s. 775.21(4)(a)1. or s. 776.08; or



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243 3. Had a license or permit issued under chapter 550,
244 chapter 551, or chapter 849 or a gaming license issued by any
245 other jurisdiction denied, suspended, or revoked.

246 (j)1. A person is ineligible for employment with the
247 commission if he or she has been convicted of a felony within 5
248 years of the date of application; convicted of a misdemeanor
249 within 5 years of the date of application which the commission
250 determines bears a close relationship to the duties and
251 responsibilities of the position for which employment is sought;
252 or dismissed from prior employment for gross misconduct or
253 incompetence or intentionally making a false statement
254 concerning a material fact in connection with the application
255 for employment to the commission.

256 2. If an employee of the commission is charged with a
257 felony while employed by the commission, the commission shall
258 suspend the employee, with or without pay, and terminate
259 employment with the commission upon conviction. If an employee
260 of the commission is charged with a misdemeanor while employed
261 by the commission, the commission shall suspend the employee,
262 with or without pay, and may terminate employment with the
263 commission upon conviction if the commission determines that the
264 offense bears a close relationship to the duties and
265 responsibilities of the position held with the commission.

266 (k) A commissioner or an employee of the commission must
267 notify the commission within 3 calendar days of arrest for any
268 offense.

269 (l) A commissioner or an employee must immediately provide
270 detailed written notice of the circumstances to the commission
271 if the member or employee is indicted, charged with, convicted



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272 of, pleads guilty or nolo contendere to, or forfeits bail for:
273 1. A misdemeanor involving gambling, dishonesty, theft, or
274 fraud;
275 2. A violation of any law in any state, or a law of the
276 United States or any other jurisdiction, involving gambling,
277 dishonesty, theft, or fraud which substantially corresponds to a
278 misdemeanor in this state; or
279 3. A felony under the laws of this or any other state, the
280 United States, or any other jurisdiction.
281 (m)1. All employees authorized by the commission shall have
282 access to, and shall have the right to inspect, premises
283 licensed by the Department of Business and Professional
284 Regulation, to collect taxes and remit them to the officer
285 entitled to them, and to examine the books and records of all
286 persons subject to chapter 24, chapter 285, chapter 546, chapter
287 550, chapter 551, or chapter 849. The authorized employees shall
288 require of each such person strict compliance with the laws of
289 this state relating to the license or permit of the licensee.
290 2. Each employee serving as a law enforcement officer for
291 the commission must meet the qualifications for employment or
292 appointment as a law enforcement officer set forth under s.
293 943.13 and must be certified as a law enforcement officer by the
294 Department of Law Enforcement under chapter 943. Upon
295 certification, each law enforcement officer is subject to and
296 has the same authority as provided for law enforcement officers
297 generally in chapter 901 and has statewide jurisdiction. Each
298 officer also has arrest authority as provided for state law
299 enforcement officers in s. 901.15. Each officer possesses the
300 full law enforcement powers granted to other peace officers of



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301 this state, including the authority to make arrests, carry
302 firearms, serve court process, and seize contraband and the
303 proceeds of illegal activities.

304 a. The primary responsibility of each officer appointed
305 under this paragraph is to investigate, enforce, and prosecute,
306 throughout the state, violations and violators of chapter 24,
307 chapter 285, chapter 546, chapter 550, chapter 551, or chapter
308 849, and the rules adopted thereunder, as well as other state
309 laws that the commission or all state law enforcement officers
310 are specifically authorized to enforce.

311 b. The secondary responsibility of each officer appointed
312 under this paragraph is to enforce all other state laws,
313 provided that the enforcement is incidental to exercising the
314 officer's primary responsibility and the officer exercises the
315 powers of a deputy sheriff, only after consultation or
316 coordination with the appropriate local sheriff's office or
317 municipal police department or when the commission participates
318 in the Florida Mutual Aid Plan during a declared state
319 emergency.

320 (3) (a) The commission and its law enforcement officers are
321 specifically authorized to seize any contraband in accordance
322 with the Florida Contraband Forfeiture Act. For purposes of this
323 section, the term "contraband" has the same meaning as the term
324 "contraband article" in s. 932.701(2) (a)2.

325 (b) The commission is specifically authorized to store and
326 test any contraband that is seized in accordance with the
327 Florida Contraband Forfeiture Act and may authorize any of its
328 staff to implement this provision.

329 (c) The commission may adopt rules to implement this



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330 provision.

331 (d) This subsection does not limit the authority of any
332 other person authorized by law to seize contraband.

333 (4) The commission shall convene at the call of its chair
334 or at the request of a majority of the members of the
335 commission. The presence of three members is required to
336 constitute a quorum, and the affirmative vote of the majority of
337 the members present is required for any action or recommendation
338 by the commission. The commission may meet in any city or county
339 of the state. The commission shall do all of the following:

340 (a) Exercise all of the regulatory and executive powers of
341 the state with respect to gambling, including, without
342 limitation thereto, pari-mutuel wagering, cardrooms, slot
343 machine facilities, oversight of gaming compacts executed by the
344 state pursuant to the Federal Indian Gaming Regulatory Act, and
345 any other forms of gambling authorized by the State Constitution
346 or law, excluding games authorized by s. 15, Art. X of the State
347 Constitution.

348 (b) Establish procedures consistent with chapter 120 to
349 ensure adequate due process in the exercise of its regulatory
350 and executive functions.

351 (c) Ensure that the laws of this state are not interpreted
352 in any manner that expands the activities authorized in chapter
353 24, chapter 285, chapter 546, chapter 550, chapter 551, or
354 chapter 849.

355 (d) Review any matter within the scope of the jurisdiction
356 of the Division of Pari-mutuel Wagering.

357 (e) Review the regulation of licensees, permitholders, or
358 persons regulated by the Division of Pari-mutuel Wagering and



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359 the procedures used by the division to implement and enforce the
360 law.

361 (f) Review the procedures of the Division of Pari-mutuel
362 Wagering which are used to qualify applicants applying for a
363 license, permit, or registration.

364 (g) Refer criminal violations of chapter 24, chapter 285,
365 chapter 546, chapter 550, chapter 551, or chapter 849 to the
366 appropriate state attorney or to the Office of Statewide
367 Prosecution, as applicable.

368 (h) Exercise all other powers and perform any other duties
369 prescribed by the Legislature.

370 (i) The commission may adopt rules to implement this
371 section.

372
373 The commission may subpoena witnesses and compel their
374 attendance and testimony, administer oaths and affirmations,
375 take evidence, and require by subpoena the production of any
376 books, papers, records, or other items relevant to the
377 performance of the duties of the commission or to the exercise
378 of its powers.

379 (5) Hearings shall be held before the commission, except
380 that the chair may direct that any hearing be held before one
381 member of the commission or a panel of less than the full
382 commission. The commission shall adopt rules to provide for the
383 filing of a report when hearings are held by a single
384 commissioner or a panel, which rules shall prescribe the time
385 for filing the report and the contents of the report. The chair
386 may schedule hearings to determine whether enforcement of the
387 gaming laws of this state is sufficient to protect residents



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388 from abuse and misinterpretation of the law or create expansion
389 of gaming or gambling in this state.

390 (6) The commission may submit written recommendations to
391 enhance the enforcement of gaming laws of the state to the
392 Governor, the President of the Senate, and the Speaker of the
393 House of Representatives.

394 (7) The commission shall make an annual report to the
395 Governor, the President of the Senate, and the Speaker of the
396 House of Representatives. The report shall, at a minimum,
397 include all of the following:

398 (a) Recent events in the gaming industry, including pending
399 litigation, pending facility license applications, and new and
400 pending rules.

401 (b) Actions of the commission relative to the
402 implementation and administration of this section.

403 (c) The state revenues and expenses associated with each
404 form of authorized gaming. Revenues and expenses associated with
405 pari-mutuel wagering shall be further delineated by the class of
406 license.

407 (d) The performance of each pari-mutuel wagering licensee,
408 cardroom licensee, and slot licensee.

409 (e) A summary of disciplinary actions taken by the
410 commission.

411 (f) The receipts and disbursements of the commission.

412 (g) A summary of actions taken and investigations conducted
413 by the commission.

414 (h) Any additional information and recommendations that the
415 commission considers useful or that the Governor, the President
416 of the Senate, or the Speaker of the House of Representatives



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417 requests.

418 (8) The commission's exercise of executive powers in the
419 area of planning, budgeting, personnel management, and
420 purchasing shall be as provided by law.

421 (9) The commission shall develop a budget request pursuant
422 to chapter 216 annually. The budget is not subject to change by
423 the Department of Legal Affairs or the Attorney General, but it
424 shall be submitted by the Department of Legal Affairs to the
425 Governor for transmittal to the Legislature.

426 (10) The commission is authorized to contract or consult
427 with appropriate agencies of state government for such
428 professional assistance as may be needed in the discharge of its
429 duties.

430 (11) All rules adopted pursuant to chapters 24, 285, 546,
431 550, 551, and 849 prior to the effective date of this act are
432 preserved and remain in full force and effect.

433 (12) The commission shall exercise all of its regulatory
434 and executive powers and shall apply, construe, and interpret
435 all laws and administrative rules in a manner consistent with
436 the gaming compact ratified, approved, and described in s.
437 285.710(3).

438 (13) The commission shall confirm, prior to the issuance of
439 an operating license, annually that each permitholder has
440 submitted proof with their annual application for a license, in
441 such a form as the commission may require; that the permitholder
442 continues to possess the qualifications prescribed by chapter
443 550; and that the permit has not been disapproved by voters in
444 an election.

445 Section 3. Section 16.712, Florida Statutes, is created to



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446 read:

447 16.712 Florida Gaming Control Commission background
448 screening provisions.-

449 (1) Prior to serving as a commissioner on the Florida
450 Gaming Control Commission or becoming an employee of the
451 commission, a person must have his or her fingerprints taken by
452 a vendor approved by the Department of Law Enforcement. The set
453 of fingerprints must be electronically sent to the Department of
454 Law Enforcement for state processing, and the Department of Law
455 Enforcement must forward the fingerprints to the Federal Bureau
456 of Investigation for national processing. Persons who are
457 foreign nationals must submit such documents as necessary to
458 allow the commission to conduct criminal history records checks
459 in the person's home country.

460 (2) All fingerprints submitted to the Department of Law
461 Enforcement as required under subsection (1) must be retained by
462 the Department of Law Enforcement as provided under s.
463 943.05(2)(g) and (h) and (3) and enrolled in the national
464 retained print arrest notification program at the Federal Bureau
465 of Investigation when the Department of Law Enforcement begins
466 participation in the program. The commission must notify the
467 Department of Law Enforcement when any person whose fingerprints
468 have been retained is no longer a commissioner or employee of
469 the commission.

470 (3) The costs of fingerprint processing, including the cost
471 for retaining fingerprints, shall be borne by the commission.

472 Section 4. Section 16.715, Florida Statutes, is created to
473 read:

474 16.715 Florida Gaming Control Commission standards of



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475 conduct; ex parte communications.-

476 (1) STANDARDS OF CONDUCT.-

477 (a) In addition to the provisions of part III of chapter
478 112, which are applicable to commissioners on and employees with
479 the Florida Gaming Control Commission by virtue of their being
480 public officers and public employees, the conduct of
481 commissioners and employees shall be governed by the standards
482 of conduct provided in this subsection. Nothing shall prohibit
483 the standards of conduct from being more restrictive than part
484 III of chapter 112. Further, this subsection may not be
485 construed to contravene the restrictions of part III of chapter
486 112. In the event of a conflict between this subsection and part
487 III of chapter 112, the more restrictive provision shall apply.

488 (b)1. A commissioner or employee of the commission may not
489 accept anything from any business entity which, either directly
490 or indirectly, owns or controls any person regulated by the
491 commission or from any business entity which, either directly or
492 indirectly, is an affiliate or subsidiary of any person
493 regulated by the commission.

494 2. A commissioner or an employee may attend conferences,
495 along with associated meals and events that are generally
496 available to all conference participants without payment of any
497 fees in addition to the conference fee. Additionally, while
498 attending a conference, a commissioner or an employee may attend
499 meetings, meals, or events that are not sponsored, in whole or
500 in part, by any representative of any person regulated by the
501 commission and that are limited to commissioners or employees
502 only, committee members, or speakers if the commissioner or
503 employee is a member of a committee of the association of



504 regulatory agencies that organized the conference or is a
505 speaker at the conference. It is not a violation of this
506 subparagraph for a commissioner or an employee to attend a
507 conference for which conference participants who are employed by
508 a person regulated by the commission have paid a higher
509 conference registration fee than the commissioner or employee,
510 or to attend a meal or event that is generally available to all
511 conference participants without payment of any fees in addition
512 to the conference fee and that is sponsored, in whole or in
513 part, by a person regulated by the commission.

514 3. If, during the course of an investigation by the
515 Commission on Ethics into an alleged violation of this
516 subparagraph, allegations are made as to the identity of the
517 person giving or providing the prohibited gift, that person must
518 be given notice and an opportunity to participate in the
519 investigation and relevant proceedings to present a defense.

520 4. If the Commission on Ethics determines that the person
521 gave or provided a prohibited gift, the person may not appear
522 before the commission or otherwise represent anyone before the
523 commission for a period of 2 years.

524 5. While employed, and for 2 years after service as a
525 commissioner or for 2 years after employment with the
526 commission, a commissioner or an employee may not accept any
527 form of employment with or engage in any business activity with
528 any business entity which, either directly or indirectly, owns
529 or controls any person regulated by the commission; any person
530 regulated by the commission; or any business entity which,
531 either directly or indirectly, is an affiliate or subsidiary of
532 any person regulated by the commission.



533 6. While employed, and for 2 years after service as a
534 commissioner or for 2 years after employment with the
535 commission, a commissioner, an employee, or a relative living in
536 the same household as a commissioner or an employee may not have
537 any financial interest, other than shares in a mutual fund, in
538 any person regulated by the commission; in any business entity
539 which, either directly or indirectly, owns or controls any
540 person regulated by the commission; or in any business entity
541 which, either directly or indirectly, is an affiliate or a
542 subsidiary of any person regulated by the commission. If a
543 commissioner, an employee, or a relative living in the same
544 household as a commissioner or an employee acquires any
545 financial interest prohibited by this subsection during the
546 commissioner's term of office or the employee's employment with
547 the commission as a result of events or actions beyond the
548 commissioner's, the employee's, or the relative's control, they
549 shall immediately sell such financial interest. For the purposes
550 of this subsection, the term "relative" has the same meaning as
551 provided in s. 16.71(2)(e).

552 7. A commissioner or an employee may not accept anything
553 from a party in a proceeding currently pending before the
554 commission. If, during the course of an investigation by the
555 Commission on Ethics into an alleged violation of this
556 subparagraph, allegations are made as to the identity of the
557 person giving or providing the prohibited gift, that person must
558 be given notice and an opportunity to participate in the
559 investigation and relevant proceedings to present a defense. If
560 the Commission on Ethics determines that the person gave or
561 provided a prohibited gift, the person may not appear before the



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562 commission or otherwise represent anyone before the commission
563 for a period of 2 years.

564 8. A commissioner may not serve as the representative of
565 any political party or on any executive committee or other
566 governing body of a political party; serve as an executive
567 officer or employee of any political party, committee,
568 organization, or association; receive remuneration for
569 activities on behalf of any candidate for public office; engage
570 on behalf of any candidate for public office in the solicitation
571 of votes or other activities on behalf of such candidacy; or
572 become a candidate for election to any public office without
573 first resigning from office.

574 9. A commissioner, during his or her term of office, may
575 not make any public comment regarding the merits of any
576 proceeding under ss. 120.569 and 120.57 currently pending before
577 the commission.

578 10. A commissioner or an employee may not act in an
579 unprofessional manner at any time during the performance of
580 official duties.

581 11. A commissioner or an employee must avoid impropriety in
582 all activities and must act at all times in a manner that
583 promotes public confidence in the integrity and impartiality of
584 the commission.

585 12. A commissioner or an employee may not directly or
586 indirectly, through staff or other means, solicit anything of
587 value from any person regulated by the commission, or from any
588 business entity that, whether directly or indirectly, is an
589 affiliate or subsidiary of any person regulated by the
590 commission, or from any party appearing in a proceeding



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591 considered by the commission in the last 2 years.

592 13. A commissioner or an employee may not personally
593 represent another person or entity for compensation before the
594 commission for a period of 2 years following the commissioner's
595 end of service or a period of 2 years following employment
596 unless employed by another agency of state government.

597 14. A commissioner may not lobby the Governor or any agency
598 of the state, members or employees of the Legislature, or any
599 county or municipal government or governmental agency except to
600 represent the commission and department in an official capacity.

601 (c) A commissioner or an employee of the commission must
602 annually complete at least 4 hours of ethics training that
603 addresses, at a minimum, s. 8, Art. II of the State
604 Constitution, the Code of Ethics for Public Officers and
605 Employees, and the public records and public meetings laws of
606 this state. This requirement may be satisfied by completion of a
607 continuing legal education class or other continuing
608 professional education class, seminar, or presentation, if the
609 required subjects are covered.

610 (d) The Commission on Ethics shall accept and investigate
611 any alleged violations of this subsection pursuant to the
612 procedures contained in ss. 112.322-112.3241. The Commission on
613 Ethics shall provide the Governor, the President of the Senate,
614 and the Speaker of the House of Representatives with a report of
615 its findings and recommendations. The Governor is authorized to
616 enforce the findings and recommendations of the Commission on
617 Ethics, pursuant to part III of chapter 112. A commissioner or
618 an employee of the commission may request an advisory opinion
619 from the Commission on Ethics, pursuant to s. 112.322(3)(a),



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620 regarding the standards of conduct or prohibitions set forth in
621 this section or s. 16.71.

622 (e) A commissioner, an employee of the commission, or a
623 relative living in the same household as a commissioner or an
624 employee may not place a wager in any facility licensed by the
625 commission or any facility in the state operated by an Indian
626 tribe that has a valid and active compact with the state.

627 (2) EX PARTE COMMUNICATIONS.—

628 (a) As used in this section, the term "ex parte
629 communication" means any communication that:

630 1. If it is a written or printed communication or is a
631 communication in electronic form, is not served on all parties
632 to a proceeding; or

633 2. If it is an oral communication, is made without adequate
634 notice to the parties and without an opportunity for the parties
635 to be present and heard.

636 (b) A commissioner may not initiate or consider ex parte
637 communications concerning the merits, threat, or offer of reward
638 in any proceeding that is currently pending before the
639 commission or that he or she knows or reasonably expects will be
640 filed with the commission within 180 days after the date of any
641 such communication. An individual may not discuss ex parte with
642 a commissioner the merits of any issue that he or she knows will
643 be filed with the commission within 180 days. This paragraph
644 does not apply to commission staff.

645 (c) If a commissioner knowingly receives an ex parte
646 communication relative to a proceeding other than as set forth
647 in paragraph (a), to which the commissioner is assigned, the
648 commissioner must place on the record of the proceeding copies



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649 of all written communications received, all written responses to
650 the communications, and a memorandum stating the substance of
651 all oral communications received and all oral responses made,
652 and shall give written notice to all parties to the
653 communication that such matters have been placed on the record.
654 Any party who desires to respond to an ex parte communication
655 may do so. The response must be received by the commission
656 within 10 days after receiving notice that the ex parte
657 communication has been placed on the record. The commissioner
658 may, if deemed by such commissioner to be necessary to eliminate
659 the effect of an ex parte communication, withdraw from the
660 proceeding, in which case the chair shall substitute another
661 commissioner for the proceeding.

662 (d) Any individual who makes an ex parte communication
663 shall submit to the commission a written statement describing
664 the nature of such communication, to include the name of the
665 person making the communication, the name of the commissioner or
666 commissioners receiving the communication, copies of all written
667 communications made, all written responses to such
668 communications, and a memorandum stating the substance of all
669 oral communications received and all oral responses made. The
670 commission shall place on the record of a proceeding all such
671 communications.

672 (e) Any commissioner who knowingly fails to place on the
673 record any such communications, in violation of this subsection,
674 within 15 days of the date of such communication is subject to
675 removal and may be assessed a civil penalty not to exceed
676 \$5,000.

677 (f)1. It shall be the duty of the Commission on Ethics to



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678 receive and investigate sworn complaints of violations of this
679 subsection pursuant to the procedures contained in ss. 112.322-
680 112.3241.

681 2. If the Commission on Ethics finds that there has been a
682 violation of this subsection by a commissioner, it shall provide
683 the Governor, the President of the Senate, and the Speaker of
684 the House of Representatives with a report of its findings and
685 recommendations. The Governor is authorized to enforce the
686 findings and recommendations of the Commission on Ethics,
687 pursuant to part III of chapter 112 and to remove from office a
688 commissioner who is found by the Commission on Ethics to have
689 willfully and knowingly violated this subsection. The Governor
690 shall remove from office a commissioner who is found by the
691 Commission on Ethics to have willfully and knowingly violated
692 this subsection after a previous finding by the Commission on
693 Ethics that the commissioner willfully and knowingly violated
694 this subsection in a separate matter.

695 3. If a commissioner fails or refuses to pay the Commission
696 on Ethics any civil penalties assessed pursuant to this
697 subsection, the Commission on Ethics may bring an action in any
698 circuit court to enforce such penalty.

699 4. If, during the course of an investigation by the
700 Commission on Ethics into an alleged violation of this
701 subsection, allegations are made as to the identity of the
702 person who participated in the ex parte communication, that
703 person must be given notice and an opportunity to participate in
704 the investigation and relevant proceedings to present a defense.
705 If the Commission on Ethics determines that the person
706 participated in the ex parte communication, the person may not



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707 appear before the commission or otherwise represent anyone
708 before the commission for a period of 2 years.

709 Section 5. Effective July 1, 2022, paragraph (f) of
710 subsection (1) and subsection (7) of section 285.710, Florida
711 Statutes, are amended to read:

712 285.710 Compact authorization.—

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

714 (f) "State compliance agency" means the Florida Gaming
715 Control Commission ~~Division of Pari-mutuel Wagering of the~~
716 ~~Department of Business and Professional Regulation~~ which is
717 designated as the state agency having the authority to carry out
718 the state's oversight responsibilities under the compact.

719 (7) The Florida Gaming Control Commission ~~The Division of~~
720 ~~Pari-mutuel Wagering of the Department of Business and~~
721 ~~Professional Regulation~~ is designated as the state compliance
722 agency having the authority to carry out the state's oversight
723 responsibilities under the compact authorized by this section.

724 Section 6. (1) Effective July 1, 2022, all powers, duties,
725 functions, records, offices, personnel, associated
726 administrative support positions, property, pending issues,
727 existing contracts, administrative authority, administrative
728 rules, and unexpended balances of appropriations, allocations,
729 and other funds in the Department of Business and Professional
730 Regulation related to the oversight responsibilities by the
731 state compliance agency for authorized gaming compacts under s.
732 285.710, Florida Statutes, the regulation of pari-mutuel
733 wagering under chapter 550, Florida Statutes, the regulation of
734 slot machines and slot machine gaming under chapter 551, Florida
735 Statutes, and the regulation of cardrooms under s. 849.086,



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736 Florida Statutes, are transferred by a type two transfer, as
737 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
738 Control Commission within the Department of Legal Affairs,
739 Office of the Attorney General.

740 (2) Notwithstanding chapter 60L-34, Florida Administrative
741 Code, or any law to the contrary, employees who are transferred
742 from the Department of Business and Professional Regulation to
743 the Florida Gaming Control Commission within the Department of
744 Legal Affairs, Office of the Attorney General to fill positions
745 transferred by this act, retain and transfer any accrued annual
746 leave, sick leave, and regular and special compensatory leave
747 balances.

748 (3) The Department of Legal Affairs shall provide
749 administrative support to the Florida Gaming Control Commission
750 until the transfer in subsection (1) is complete.

751 Section 7. Paragraph (a) of subsection (2) of section
752 932.701, Florida Statutes, is amended to read:

753 932.701 Short title; definitions.—

754 (2) As used in the Florida Contraband Forfeiture Act:

755 (a) "Contraband article" means:

756 1. Any controlled substance as defined in chapter 893 or
757 any substance, device, paraphernalia, or currency or other means
758 of exchange that was used, was attempted to be used, or was
759 intended to be used in violation of any provision of chapter
760 893, if the totality of the facts presented by the state is
761 clearly sufficient to meet the state's burden of establishing
762 probable cause to believe that a nexus exists between the
763 article seized and the narcotics activity, whether or not the
764 use of the contraband article can be traced to a specific



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765 narcotics transaction.

766 2. Any equipment, gambling device, apparatus, material of
767 gaming, proceeds, substituted proceeds, real or personal
768 property, Internet domain name, gambling paraphernalia, lottery
769 tickets, money, currency, or other means of exchange which was
770 obtained, received, used, ~~was~~ attempted to be used, or intended
771 to be used in violation of the gambling laws of the state,
772 including any violation of chapter 24, chapter 285, chapter 546,
773 chapter 550, chapter 551, or chapter 849.

774 3. Any equipment, liquid or solid, which was being used, is
775 being used, was attempted to be used, or intended to be used in
776 violation of the beverage or tobacco laws of the state.

777 4. Any motor fuel upon which the motor fuel tax has not
778 been paid as required by law.

779 5. Any personal property, including, but not limited to,
780 any vessel, aircraft, item, object, tool, substance, device,
781 weapon, machine, vehicle of any kind, money, securities, books,
782 records, research, negotiable instruments, or currency, which
783 was used or was attempted to be used as an instrumentality in
784 the commission of, or in aiding or abetting in the commission
785 of, any felony, whether or not comprising an element of the
786 felony, or which is acquired by proceeds obtained as a result of
787 a violation of the Florida Contraband Forfeiture Act.

788 6. Any real property, including any right, title,
789 leasehold, or other interest in the whole of any lot or tract of
790 land, which was used, is being used, or was attempted to be used
791 as an instrumentality in the commission of, or in aiding or
792 abetting in the commission of, any felony, or which is acquired
793 by proceeds obtained as a result of a violation of the Florida



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794 Contraband Forfeiture Act.

795 7. Any personal property, including, but not limited to,
796 equipment, money, securities, books, records, research,
797 negotiable instruments, currency, or any vessel, aircraft, item,
798 object, tool, substance, device, weapon, machine, or vehicle of
799 any kind in the possession of or belonging to any person who
800 takes aquaculture products in violation of s. 812.014(2)(c).

801 8. Any motor vehicle offered for sale in violation of s.
802 320.28.

803 9. Any motor vehicle used during the course of committing
804 an offense in violation of s. 322.34(9)(a).

805 10. Any photograph, film, or other recorded image,
806 including an image recorded on videotape, a compact disc,
807 digital tape, or fixed disk, that is recorded in violation of s.
808 810.145 and is possessed for the purpose of amusement,
809 entertainment, sexual arousal, gratification, or profit, or for
810 the purpose of degrading or abusing another person.

811 11. Any real property, including any right, title,
812 leasehold, or other interest in the whole of any lot or tract of
813 land, which is acquired by proceeds obtained as a result of
814 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
815 property, including, but not limited to, equipment, money,
816 securities, books, records, research, negotiable instruments, or
817 currency; or any vessel, aircraft, item, object, tool,
818 substance, device, weapon, machine, or vehicle of any kind in
819 the possession of or belonging to any person which is acquired
820 by proceeds obtained as a result of Medicaid fraud under s.
821 409.920 or s. 409.9201.

822 12. Any personal property, including, but not limited to,



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823 any vehicle, item, object, tool, device, weapon, machine, money,
824 security, book, or record, that is used or attempted to be used
825 as an instrumentality in the commission of, or in aiding and
826 abetting in the commission of, a person's third or subsequent
827 violation of s. 509.144, whether or not comprising an element of
828 the offense.

829 Section 8. The Division of Law Revision shall prepare a
830 reviser's bill to conform the Florida Statutes to the transfer
831 described in section 6 of this act.

832 Section 9. Except as otherwise expressly provided in this
833 act, this act shall take effect July 1, 2021.

834
835 ===== T I T L E A M E N D M E N T =====

836 And the title is amended as follows:

837 Delete everything before the enacting clause
838 and insert:

839 A bill to be entitled
840 An act relating to gaming enforcement; amending s.
841 16.56, F.S.; expanding the authority of the Office of
842 Statewide Prosecution within the Department of Legal
843 Affairs to investigate and prosecute the offenses of
844 certain crimes; creating s. 16.71, F.S.; creating the
845 Florida Gaming Control Commission within the Office of
846 the Attorney General; providing for membership of the
847 commission; authorizing the Governor to remove members
848 of the commission under certain circumstances;
849 providing rights for certain employees of the
850 commission; providing requirements and prohibitions
851 relating to commission members and employees;



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852 providing civil penalties; providing requirements and
853 powers for employees serving as law enforcement
854 officers for the commission; providing powers and
855 duties of the commission; providing requirements for
856 hearings relating to the commission; authorizing the
857 commission to submit certain written recommendations
858 to the Governor and the Legislature upon certain
859 findings; requiring the commission to annually develop
860 a budget request; requiring the department to submit
861 the budget request to the Governor for transmittal to
862 the Legislature; authorizing the commission to
863 contract or consult with certain agencies; requiring
864 the commission to provide an annual report to the
865 Governor and the Legislature; specifying content
866 required for the report; creating s. 16.712, F.S.;
867 requiring a person to submit to certain background
868 screening requirements before serving on or being
869 employed with the commission; providing procedures and
870 conditions for the retention of fingerprints; creating
871 s. 16.715, F.S.; providing construction; providing
872 standards of conduct for commissioners and employees
873 of the commission; requiring commissioners and
874 employees of the commission to complete specified
875 annual training; requiring the Commission on Ethics to
876 accept and investigate any alleged violations of the
877 standards of conduct for commissioners and employees;
878 providing requirements for such investigations;
879 authorizing a commissioner or an employee of the
880 commission to request an advisory opinion from the



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881 Commission on Ethics; defining the term "ex parte
882 communication"; providing requirements relating to ex
883 parte communications; providing civil penalties;
884 amending s. 285.710, F.S.; revising the definition of
885 the term "state compliance agency"; designating the
886 Florida Gaming Control Commission as the state
887 compliance agency having authority to carry out
888 certain responsibilities; transferring all powers,
889 duties, functions, records, offices, personnel,
890 property, pending issues, existing contracts,
891 administrative authority, administrative rules, trust
892 funds, and unexpended balances of appropriations,
893 allocations, and other funds of the Department of
894 Business and Professional Regulation to the commission
895 by a type two transfer, effective on a specified date;
896 requiring the Department of Legal Affairs to provide
897 administrative support to the commission until such
898 transfer is complete; amending s. 932.701, F.S.;
899 revising the definition of the term "contraband
900 article"; providing a directive to the Division of Law
901 Revision; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (309496)

Delete lines 203 - 224

and insert:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Appear before the commission representing any client or



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11 any industry regulated by the commission;

12 3. Accept employment by or compensation from a business
13 entity which, directly or indirectly, owns or controls a person
14 regulated by the commission, from a person regulated by the
15 commission, from a business entity which, directly or
16 indirectly, is an affiliate or subsidiary of a person regulated
17 by the commission, or from a business entity or trade
18 association that has been a party to a commission proceeding
19 within the 2 years preceding the member's resignation or
20 termination of service on the commission; or

21 3. Lobby the Governor or any agency of the state, members
22 or employees of the Legislature, or any county or municipal
23 government or governmental agency.

24 (g) A person employed by the commission may not, for the 2
25 years immediately following the date of termination or
26 resignation from employment with the commission:

27 1. Hold a permit or license issued under chapter 550, or a
28 license issued under chapter 551 or chapter 849; be an officer,
29 official, or employee of such permitholder or licensee; or be an
30 ultimate equitable owner, as defined in s. 550.002(37), of such
31 permitholder or licensee;

32 2. Appear before the commission representing any client
33 regulated by the commission on any matter which was pending at
34 the time of termination or resignation and in which such former
35 employee had participated; or

36 3. Lobby the Governor or any agency of the state, members

By the Committee on Regulated Industries

580-04017-21

20217076__

1 A bill to be entitled
 2 An act relating to gaming enforcement; amending s.
 3 16.56, F.S.; expanding the authority of the Office of
 4 Statewide Prosecution within the Department of Legal
 5 Affairs to investigate and prosecute the offenses of
 6 certain crimes; creating s. 16.71, F.S.; creating the
 7 Florida Gaming Control Commission within the Office of
 8 the Attorney General; providing for membership of the
 9 commission; providing rights for certain employees of
 10 the commission; providing requirements and powers for
 11 employees serving as law enforcement officers for the
 12 commission; providing powers and duties of the
 13 commission; providing requirements for hearings
 14 relating to the commission; authorizing the commission
 15 to submit certain written recommendations to the
 16 Governor and the Legislature upon certain findings;
 17 requiring the commission to annually develop a budget
 18 request; requiring the department to submit the budget
 19 request to the Governor for transmittal to the
 20 Legislature; authorizing the commission to contract or
 21 consult with certain agencies; creating s. 16.715,
 22 F.S.; providing construction; providing standards of
 23 conduct for commissioners; requiring commissioners to
 24 complete specified annual training; requiring the
 25 Commission on Ethics to accept and investigate any
 26 alleged violations of the standards of conduct for
 27 commissioners; providing requirements for such
 28 investigations; authorizing a commissioner to request
 29 an advisory opinion from the Commission on Ethics;

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

580-04017-21

20217076__

30 providing requirements relating to ex parte
 31 communications; providing civil penalties; amending s.
 32 285.710, F.S.; revising the definition of the term
 33 "state compliance agency"; designating the Florida
 34 Gaming Control Commission as the state compliance
 35 agency having authority to carry out certain
 36 responsibilities; transferring all powers, duties,
 37 functions, records, offices, personnel, property,
 38 pending issues, existing contracts, administrative
 39 authority, administrative rules, trust funds, and
 40 unexpended balances of appropriations, allocations,
 41 and other funds of the Department of Business and
 42 Professional Regulation to the commission by a type
 43 two transfer; requiring the Department of Legal
 44 Affairs to provide administrative support to the
 45 commission until such transfer is complete; providing
 46 a directive to the Division of Law Revision; providing
 47 effective dates.

48
 49 Be It Enacted by the Legislature of the State of Florida:

50
 51 Section 1. Paragraph (a) of subsection (1) of section
 52 16.56, Florida Statutes, is amended to read:

53 16.56 Office of Statewide Prosecution.—

54 (1) There is created in the Department of Legal Affairs an
 55 Office of Statewide Prosecution. The office shall be a separate
 56 "budget entity" as that term is defined in chapter 216. The
 57 office may:

58 (a) Investigate and prosecute the offenses of:

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59 1. Bribery, burglary, criminal usury, extortion, gambling,
60 kidnapping, larceny, murder, prostitution, perjury, robbery,
61 carjacking, home-invasion robbery, and patient brokering;
62 2. Any crime involving narcotic or other dangerous drugs;
63 3. Any violation of the Florida RICO (Racketeer Influenced
64 and Corrupt Organization) Act, including any offense listed in
65 the definition of racketeering activity in s. 895.02(8)(a),
66 providing such listed offense is investigated in connection with
67 a violation of s. 895.03 and is charged in a separate count of
68 an information or indictment containing a count charging a
69 violation of s. 895.03, the prosecution of which listed offense
70 may continue independently if the prosecution of the violation
71 of s. 895.03 is terminated for any reason;
72 4. Any violation of the Florida Anti-Fencing Act;
73 5. Any violation of the Florida Antitrust Act of 1980, as
74 amended;
75 6. Any crime involving, or resulting in, fraud or deceit
76 upon any person;
77 7. Any violation of s. 847.0135, relating to computer
78 pornography and child exploitation prevention, or any offense
79 related to a violation of s. 847.0135 or any violation of
80 chapter 827 where the crime is facilitated by or connected to
81 the use of the Internet or any device capable of electronic data
82 storage or transmission;
83 8. Any violation of chapter 815;
84 9. Any criminal violation of part I of chapter 499;
85 10. Any violation of the Florida Motor Fuel Tax Relief Act
86 of 2004;
87 11. Any criminal violation of s. 409.920 or s. 409.9201;

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88 12. Any crime involving voter registration, voting, or
89 candidate or issue petition activities;
90 13. Any criminal violation of the Florida Money Laundering
91 Act;
92 14. Any criminal violation of the Florida Securities and
93 Investor Protection Act; ~~or~~
94 15. Any violation of chapter 787, as well as any and all
95 offenses related to a violation of chapter 787; or
96 16. Any violation of chapter 24, chapter 546, chapter 550,
97 chapter 551, or chapter 849, including violations referred by
98 the Department of Agriculture and Consumer Services, the
99 Department of Business and Professional Regulation, the
100 Department of the Lottery, the Florida Gaming Control
101 Commission, the Seminole Tribe of Florida, or any person
102 licensed under those chapters;
103
104 or any attempt, solicitation, or conspiracy to commit any of the
105 crimes specifically enumerated above. The office shall have such
106 power only when any such offense is occurring, or has occurred,
107 in two or more judicial circuits as part of a related
108 transaction, or when any such offense is connected with an
109 organized criminal conspiracy affecting two or more judicial
110 circuits. Informations or indictments charging such offenses
111 shall contain general allegations stating the judicial circuits
112 and counties in which crimes are alleged to have occurred or the
113 judicial circuits and counties in which crimes affecting such
114 circuits or counties are alleged to have been connected with an
115 organized criminal conspiracy.
116 Section 2. Section 16.71, Florida Statutes, is created to

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117 read:

118 16.71 Florida Gaming Control Commission.-

119 (1) There is created within the Department of Legal
 120 Affairs, Office of the Attorney General, a Florida Gaming
 121 Control Commission, hereinafter referred to as the commission.
 122 The commission shall be a separate budget entity and the agency
 123 head for all purposes. The commission is not subject to control,
 124 supervision, or direction by the Department of Legal Affairs or
 125 the Attorney General in the performance of its duties,
 126 including, but not limited to, personnel, purchasing
 127 transactions involving real or personal property, and budgetary
 128 matters.

129 (2) (a) The commission shall consist of five members
 130 appointed by the Governor, subject to confirmation by the
 131 Senate, for terms of 4 years. For the purpose of providing
 132 staggered terms, of the initial appointments, 2 members shall be
 133 appointed to 4-year terms, 2 members shall be appointed to 3-
 134 year terms, and 1 member shall be appointed to a 2-year term. Of
 135 the five members at least one member must be experienced in law
 136 enforcement and criminal investigation, at least one member must
 137 be a certified public accountant licensed in this state and
 138 experienced in accounting and auditing, and at least one member
 139 must be an attorney admitted and authorized to practice law in
 140 this state. Such appointments must be made by January 1, 2022.

141 (b) A commissioner shall serve until a successor is
 142 appointed, but commissioners may not serve more than 12 years.
 143 Vacancies shall be filled for the unexpired portion of the term.
 144 Of the five members, each appellate district shall have one
 145 member appointed from the district to the commission who is a

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146 resident of the district at the time of the original
 147 appointment. The salary of each commissioner is equal to that
 148 paid under state law to a commissioner on the Florida Public
 149 Service Commission. The commission shall elect a chair and a
 150 vice chair.

151 (c) To aid the commission in its duties, the commission
 152 must appoint a person who is not a member of the commission to
 153 serve as the executive director of the commission. The executive
 154 director shall supervise, direct, coordinate, and administer all
 155 activities necessary to fulfill the commission's
 156 responsibilities. The commission must appoint the executive
 157 director by July 1, 2022. The executive director, with the
 158 consent of the commission, shall employ such staff as are
 159 necessary to adequately perform the functions of the commission,
 160 within budgetary limitations. All employees, except the
 161 executive director and attorneys, are subject to part II of
 162 chapter 110. The executive director shall serve at the pleasure
 163 of the commission and be subject to part III of chapter 110.
 164 Attorneys employed by the commission shall be subject to part V
 165 of chapter 110. The executive director shall maintain
 166 headquarters in and reside in Leon County. The salary of the
 167 executive director is equal to that paid under state law to a
 168 commissioner on the Florida Public Service Commission.

169 (d)1. A person may not, for the 2 years immediately
 170 preceding the date of appointment to or employment with the
 171 commission and while appointed to or employed with the
 172 commission:

173 a. Hold a permit or license issued under chapter 550, or a
 174 license issued under chapter 551, chapter 546, or chapter 849;

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175 be an officer, official, or employee of such permitholder or
 176 licensee; or be an ultimate equitable owner, as defined in s.
 177 550.002(37), of such permitholder or licensee;

178 b. Be an officer, official, employee, or other person with
 179 duties or responsibilities relating to a gaming operation owned
 180 by an Indian tribe that has a valid and active compact with the
 181 state; be a contractor or subcontractor of such tribe or an
 182 entity employed, licensed, or contracted by such tribe; or be an
 183 ultimate equitable owner, as defined in s. 550.002(37), of such
 184 entity; or

185 c. Be a registered lobbyist for the executive or
 186 legislative branch, except when solely representing the
 187 commission.

188 2. A person is ineligible for appointment to or employment
 189 with the commission if, within the 2 years immediately preceding
 190 such appointment or employment, he or she has violated
 191 subparagraph 1. or has solicited or accepted employment with,
 192 acquired any direct or indirect interest in, or has had any
 193 direct or indirect business association, partnership, or
 194 financial relationship with, or is a relative of, any person or
 195 entity who is an applicant, licensee, or registrant with the
 196 Division of Pari-mutuel Wagering or the commission.

197
 198 For the purposes of this paragraph, the term "relative" means a
 199 spouse, father, mother, son, daughter, grandfather, grandmother,
 200 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
 201 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
 202 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
 203 stepbrother, stepsister, half-brother, or half-sister.

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204 (e)1. All employees authorized by the commission shall have
 205 access to, and shall have the right to inspect, premises
 206 licensed by the Department of Business and Professional
 207 Regulation, to collect taxes and remit them to the officer
 208 entitled to them, and to examine the books and records of all
 209 persons subject to chapter 24, chapter 285, chapter 546, chapter
 210 550, chapter 551, or chapter 849. The authorized employees shall
 211 require of each such person strict compliance with the laws of
 212 this state relating to the license or permit of the licensee.

213 2. Each employee serving as a law enforcement officer for
 214 the commission must meet the qualifications for employment or
 215 appointment as a law enforcement officer set forth under s.
 216 943.13 and must be certified as a law enforcement officer by the
 217 Department of Law Enforcement under chapter 943. Upon
 218 certification, each law enforcement officer is subject to and
 219 has the same authority as provided for law enforcement officers
 220 generally in chapter 901 and has statewide jurisdiction. Each
 221 officer also has arrest authority as provided for state law
 222 enforcement officers in s. 901.15. Each officer possesses the
 223 full law enforcement powers granted to other peace officers of
 224 this state, including the authority to make arrests, carry
 225 firearms, serve court process, and seize contraband and the
 226 proceeds of illegal activities.

227 a. The primary responsibility of each officer appointed
 228 under this paragraph is to investigate, enforce, and prosecute,
 229 throughout the state, violations and violators of chapter 24,
 230 chapter 285, chapter 546, chapter 550, chapter 551, or chapter
 231 849, and the rules adopted thereunder, as well as other state
 232 laws that the commission or all state law enforcement officers

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233 are specifically authorized to enforce.

234 b. The secondary responsibility of each officer appointed
 235 under this paragraph is to enforce all other state laws,
 236 provided that the enforcement is incidental to exercising the
 237 officer's primary responsibility as provided in sub-subparagraph
 238 a., and the officer exercises the powers of a deputy sheriff,
 239 only after consultation or coordination with the appropriate
 240 local sheriff's office or municipal police department or when
 241 the commission participates in the Florida Mutual Aid Plan
 242 during a declared state emergency.

243 (3) The commission shall convene at the call of its chair
 244 or at the request of a majority of the members of the
 245 commission. The presence of three members is required to
 246 constitute a quorum, and the affirmative vote of the majority of
 247 the members present is required for any action or recommendation
 248 by the commission. The commission may meet in any city or county
 249 of the state. The commission shall do all of the following:

250 (a) Exercise all of the regulatory and executive powers of
 251 the state with respect to gambling, including, without
 252 limitation thereto, pari-mutuel wagering, cardrooms, slot
 253 machine facilities, oversight of gaming compacts executed by the
 254 state pursuant to the Federal Indian Gaming Regulatory Act, and
 255 any other forms of gambling authorized by the State Constitution
 256 or law, excluding games authorized by s. 15, Art. X of the State
 257 Constitution.

258 (b) Establish procedures consistent with chapter 120 to
 259 ensure adequate due process in the exercise of its regulatory
 260 and executive functions.

261 (c) Ensure that the laws of this state are not interpreted

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262 in any manner that expands the activities authorized in chapter
 263 24, chapter 285, chapter 546, chapter 550, chapter 551, or
 264 chapter 849.

265 (d) Review any matter within the scope of the jurisdiction
 266 of the Division of Pari-mutuel Wagering.

267 (e) Review the regulation of licensees, permitholders, or
 268 persons regulated by the Division of Pari-mutuel Wagering and
 269 the procedures used by the division to implement and enforce the
 270 law.

271 (f) Review the procedures of the Division of Pari-mutuel
 272 Wagering which are used to qualify applicants applying for a
 273 license, permit, or registration.

274 (g) Refer criminal violations of chapter 24, chapter 546,
 275 chapter 550, chapter 551, or chapter 849 to the appropriate
 276 state attorney or to the Office of Statewide Prosecution, as
 277 applicable.

278 (h) Exercise all other powers and perform any other duties
 279 prescribed by the Legislature.

280 The commission may subpoena witnesses and compel their
 281 attendance and testimony, administer oaths and affirmations,
 282 take evidence, and require by subpoena the production of any
 283 books, papers, records, or other items relevant to the
 284 performance of the duties of the commission or to the exercise
 285 of its powers.

286 (4) Hearings shall be held before the commission, except
 287 that the chair may direct that any hearing be held before one
 288 member of the commission or a panel of less than the full
 289 commission. The commission shall adopt rules to provide for the
 290 commission. The commission shall adopt rules to provide for the

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291 filing of a report when hearings are held by a single
 292 commissioner or a panel, which rules shall prescribe the time
 293 for filing the report and the contents of the report. The chair
 294 may schedule hearings to determine whether enforcement of the
 295 gaming laws of this state is sufficient to protect residents
 296 from abuse and misinterpretation of the law to create expansion
 297 of gaming or gambling in this state.

298 (5) The commission may submit written recommendations to
 299 enhance the enforcement of gaming laws of the state to the
 300 Governor, the President of the Senate, and the Speaker of the
 301 House of Representatives.

302 (6) The commission's exercise of executive powers in the
 303 area of planning, budgeting, personnel management, and
 304 purchasing shall be as provided by law.

305 (7) The commission shall develop a budget request pursuant
 306 to chapter 216 annually. The budget is not subject to change by
 307 the Department of Legal Affairs or the Attorney General, but it
 308 shall be submitted by the Department of Legal Affairs to the
 309 Governor for transmittal to the Legislature.

310 (8) The commission is authorized to contract or consult
 311 with appropriate agencies of state government for such
 312 professional assistance as may be needed in the discharge of its
 313 duties.

314 (9) All rules adopted pursuant to chapters 285, 546, 550,
 315 551, and 849 prior to the effective date of this act are
 316 preserved and remain in full force and effect.

317 (10) The commission shall exercise all of its regulatory
 318 and executive powers and shall apply, construe, and interpret
 319 all laws and administrative rules in a manner consistent with

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320 the gaming compact ratified, approved, and described in s.
 321 285.710(3).

322 Section 3. Section 16.715, Florida Statutes, is created to
 323 read:

324 16.715 Florida Gaming Control Commission standards of
 325 conduct; ex parte communications.-

326 (1) STANDARDS OF CONDUCT.-

327 (a) In addition to the provisions of part III of chapter
 328 112, which are applicable to commissioners on the Florida Gaming
 329 Control Commission by virtue of their being public officers, the
 330 conduct of commissioners shall be governed by the standards of
 331 conduct provided in this subsection. Nothing shall prohibit the
 332 standards of conduct from being more restrictive than part III
 333 of chapter 112. Further, this subsection may not be construed to
 334 contravene the restrictions of part III of chapter 112. In the
 335 event of a conflict between this subsection and part III of
 336 chapter 112, the more restrictive provision shall apply.

337 (b)1. A commissioner may not accept anything from any
 338 business entity which, either directly or indirectly, owns or
 339 controls any person regulated by the commission or from any
 340 business entity which, either directly or indirectly, is an
 341 affiliate or subsidiary of any person regulated by the
 342 commission. A commissioner may attend conferences and associated
 343 meals and events that are generally available to all conference
 344 participants without payment of any fees in addition to the
 345 conference fee. Additionally, while attending a conference, a
 346 commissioner may attend meetings, meals, or events that are not
 347 sponsored, in whole or in part, by any representative of any
 348 person regulated by the commission and that are limited to

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349 commissioners only, committee members, or speakers if the
 350 commissioner is a member of a committee of the association of
 351 regulatory agencies that organized the conference or is a
 352 speaker at the conference. It is not a violation of this
 353 subparagraph for a commissioner to attend a conference for which
 354 conference participants who are employed by a person regulated
 355 by the commission have paid a higher conference registration fee
 356 than the commissioner, or to attend a meal or event that is
 357 generally available to all conference participants without
 358 payment of any fees in addition to the conference fee and that
 359 is sponsored, in whole or in part, by a person regulated by the
 360 commission. If, during the course of an investigation by the
 361 Commission on Ethics into an alleged violation of this
 362 subparagraph, allegations are made as to the identity of the
 363 person giving or providing the prohibited gift, that person must
 364 be given notice and an opportunity to participate in the
 365 investigation and relevant proceedings to present a defense. If
 366 the Commission on Ethics determines that the person gave or
 367 provided a prohibited gift, the person may not appear before the
 368 commission or otherwise represent anyone before the commission
 369 for a period of 2 years.

370 2. A commissioner may not accept any form of employment
 371 with or engage in any business activity with any business entity
 372 which, either directly or indirectly, owns or controls any
 373 person regulated by the commission, any person regulated by the
 374 commission, or any business entity which, either directly or
 375 indirectly, is an affiliate or subsidiary of any person
 376 regulated by the commission.

377 3. A commissioner may not have any financial interest,

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378 other than shares in a mutual fund, in any person regulated by
 379 the commission, in any business entity which, either directly or
 380 indirectly, owns or controls any person regulated by the
 381 commission, or in any business entity which, either directly or
 382 indirectly, is an affiliate or subsidiary of any person
 383 regulated by the commission. If a commissioner acquires any
 384 financial interest prohibited by this subsection during his or
 385 her term of office as a result of events or actions beyond the
 386 commissioner's control, he or she shall immediately sell such
 387 financial interest or place such financial interest in a blind
 388 trust at a financial institution. A commissioner may not attempt
 389 to influence, or exercise any control over, decisions regarding
 390 the blind trust.

391 4. A commissioner may not accept anything from a party in a
 392 proceeding currently pending before the commission. If, during
 393 the course of an investigation by the Commission on Ethics into
 394 an alleged violation of this subparagraph, allegations are made
 395 as to the identity of the person giving or providing the
 396 prohibited gift, that person must be given notice and an
 397 opportunity to participate in the investigation and relevant
 398 proceedings to present a defense. If the Commission on Ethics
 399 determines that the person gave or provided a prohibited gift,
 400 the person may not appear before the commission or otherwise
 401 represent anyone before the commission for a period of 2 years.

402 5. A commissioner may not serve as the representative of
 403 any political party or on any executive committee or other
 404 governing body of a political party; serve as an executive
 405 officer or employee of any political party, committee,
 406 organization, or association; receive remuneration for

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407 activities on behalf of any candidate for public office; engage
 408 on behalf of any candidate for public office in the solicitation
 409 of votes or other activities on behalf of such candidacy; or
 410 become a candidate for election to any public office without
 411 first resigning from office.

412 6. A commissioner, during his or her term of office, may
 413 not make any public comment regarding the merits of any
 414 proceeding under ss. 120.569 and 120.57 currently pending before
 415 the commission.

416 7. A commissioner may not conduct himself or herself in an
 417 unprofessional manner at any time during the performance of his
 418 or her official duties.

419 8. A commissioner must avoid impropriety in all of his or
 420 her activities and must act at all times in a manner that
 421 promotes public confidence in the integrity and impartiality of
 422 the commission.

423 9. A commissioner may not directly or indirectly, through
 424 staff or other means, solicit anything of value from any person
 425 regulated by the commission, or from any business entity that,
 426 whether directly or indirectly, is an affiliate or subsidiary of
 427 any person regulated by the commission, or from any party
 428 appearing in a proceeding considered by the commission in the
 429 last 2 years.

430 (c) A commissioner must annually complete at least 4 hours
 431 of ethics training that addresses, at a minimum, s. 8, Art. II
 432 of the State Constitution, the Code of Ethics for Public
 433 Officers and Employees, and the public records and public
 434 meetings laws of this state. This requirement may be satisfied
 435 by completion of a continuing legal education class or other

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436 continuing professional education class, seminar, or
 437 presentation, if the required subjects are covered.

438 (d) The Commission on Ethics shall accept and investigate
 439 any alleged violations of this subsection pursuant to the
 440 procedures contained in ss. 112.322-112.3241. The Commission on
 441 Ethics shall provide the Governor, the President of the Senate,
 442 and the Speaker of the House of Representatives with a report of
 443 its findings and recommendations. The Governor is authorized to
 444 enforce the findings and recommendations of the Commission on
 445 Ethics, pursuant to part III of chapter 112. A commissioner may
 446 request an advisory opinion from the Commission on Ethics,
 447 pursuant to s. 112.322(3)(a), regarding the standards of conduct
 448 or prohibitions set forth in this section or s. 16.71.

449 (2) EX PARTE COMMUNICATIONS.-

450 (a) A commissioner may not initiate or consider ex parte
 451 communications concerning the merits, threat, or offer of reward
 452 in any proceeding that is currently pending before the
 453 commission or that he or she knows or reasonably expects will be
 454 filed with the commission within 180 days after the date of any
 455 such communication. An individual may not discuss ex parte with
 456 a commissioner the merits of any issue that he or she knows will
 457 be filed with the commission within 180 days. This paragraph
 458 does not apply to commission staff.

459 (b) If a commissioner knowingly receives an ex parte
 460 communication relative to a proceeding other than as set forth
 461 in paragraph (a), to which he or she is assigned, he or she must
 462 place on the record of the proceeding copies of all written
 463 communications received, all written responses to the
 464 communications, and a memorandum stating the substance of all

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465 oral communications received and all oral responses made, and
 466 shall give written notice to all parties to the communication
 467 that such matters have been placed on the record. Any party who
 468 desires to respond to an ex parte communication may do so. The
 469 response must be received by the commission within 10 days after
 470 receiving notice that the ex parte communication has been placed
 471 on the record. The commissioner may, if he or she deems it
 472 necessary to eliminate the effect of an ex parte communication
 473 received by him or her, withdraw from the proceeding, in which
 474 case the chair shall substitute another commissioner for the
 475 proceeding.

476 (c) Any individual who makes an ex parte communication
 477 shall submit to the commission a written statement describing
 478 the nature of such communication, to include the name of the
 479 person making the communication, the name of the commissioner or
 480 commissioners receiving the communication, copies of all written
 481 communications made, all written responses to such
 482 communications, and a memorandum stating the substance of all
 483 oral communications received and all oral responses made. The
 484 commission shall place on the record of a proceeding all such
 485 communications.

486 (d) Any commissioner who knowingly fails to place on the
 487 record any such communications, in violation of this subsection,
 488 within 15 days of the date of such communication is subject to
 489 removal and may be assessed a civil penalty not to exceed
 490 \$5,000.

491 (e)1. It shall be the duty of the Commission on Ethics to
 492 receive and investigate sworn complaints of violations of this
 493 subsection pursuant to the procedures contained in ss. 112.322-

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494 112.3241.

495 2. If the Commission on Ethics finds that there has been a
 496 violation of this subsection by a commissioner, it shall provide
 497 the Governor, the President of the Senate, and the Speaker of
 498 the House of Representatives with a report of its findings and
 499 recommendations. The Governor is authorized to enforce the
 500 findings and recommendations of the Commission on Ethics,
 501 pursuant to part III of chapter 112 and to remove from office a
 502 commissioner who is found by the Commission on Ethics to have
 503 willfully and knowingly violated this subsection. The Governor
 504 shall remove from office a commissioner who is found by the
 505 Commission on Ethics to have willfully and knowingly violated
 506 this subsection after a previous finding by the Commission on
 507 Ethics that the commissioner willfully and knowingly violated
 508 this subsection in a separate matter.

509 3. If a commissioner fails or refuses to pay the Commission
 510 on Ethics any civil penalties assessed pursuant to this
 511 subsection, the Commission on Ethics may bring an action in any
 512 circuit court to enforce such penalty.

513 4. If, during the course of an investigation by the
 514 Commission on Ethics into an alleged violation of this
 515 subsection, allegations are made as to the identity of the
 516 person who participated in the ex parte communication, that
 517 person must be given notice and an opportunity to participate in
 518 the investigation and relevant proceedings to present a defense.
 519 If the Commission on Ethics determines that the person
 520 participated in the ex parte communication, the person may not
 521 appear before the commission or otherwise represent anyone
 522 before the commission for a period of 2 years.

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523 Section 4. Effective July 1, 2022, paragraph (f) of
 524 subsection (1) and subsection (7) of section 285.710, Florida
 525 Statutes, are amended to read:

526 285.710 Compact authorization.—

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

528 (f) "State compliance agency" means the Florida Gaming
 529 Control Commission ~~Division of Pari-mutuel Wagering of the~~
 530 ~~Department of Business and Professional Regulation~~ which is
 531 designated as the state agency having the authority to carry out
 532 the state's oversight responsibilities under the compact.

533 (7) The Florida Gaming Control Commission ~~The Division of~~
 534 ~~Pari-mutuel Wagering of the Department of Business and~~
 535 ~~Professional Regulation~~ is designated as the state compliance
 536 agency having the authority to carry out the state's oversight
 537 responsibilities under the compact authorized by this section.

538 Section 5. (1) Effective July 1, 2022, all powers, duties,
 539 functions, records, offices, personnel, associated
 540 administrative support positions, property, pending issues,
 541 existing contracts, administrative authority, administrative
 542 rules, and unexpended balances of appropriations, allocations,
 543 and other funds in the Department of Business and Professional
 544 Regulation related to the oversight responsibilities by the
 545 state compliance agency for authorized gaming compacts under s.
 546 285.710, Florida Statutes, the regulation of pari-mutuel
 547 wagering under chapter 550, Florida Statutes, the regulation of
 548 slot machines and slot machine gaming under chapter 551, Florida
 549 Statutes, and the regulation of cardrooms under s. 849.086,
 550 Florida Statutes, are transferred by a type two transfer, as
 551 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming

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552 Control Commission within the Department of Legal Affairs,
 553 Office of the Attorney General.

554 (2) Notwithstanding chapter 60L-34, Florida Administrative
 555 Code, or any law to the contrary, employees who are transferred
 556 from the Department of Business and Professional Regulation to
 557 the Florida Gaming Control Commission within the Department of
 558 Legal Affairs, Office of the Attorney General to fill positions
 559 transferred by this act, retain and transfer any accrued annual
 560 leave, sick leave, and regular and special compensatory leave
 561 balances.

562 (3) The Department of Legal Affairs shall provide
 563 administrative support to the Florida Gaming Control Commission
 564 until the transfer in subsection (1) is complete.

565 Section 6. The Division of Law Revision shall prepare a
 566 reviser's bill to conform the Florida Statutes to the transfer
 567 described in section 3 of this act.

568 Section 7. Except as otherwise expressly provided in this
 569 act, 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 Committee Code Not Found

BILL: CS/SB 7078

INTRODUCER: Appropriations Committee and Regulated Industries Committee

SUBJECT: Public Records and Public Meetings Exemptions/Florida Gaming Control Commission

DATE: April 18, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Kraemer</u>	<u>Imhof</u>		RI Submitted as Comm. Bill/Fav
1. <u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 7078, which is linked to the passage of SB 7076 (2021), related to Gaming Enforcement, makes confidential and exempt from public copying and inspection requirements certain information obtained by the Florida Gaming Control Commission (commission). Portions of the commission's meetings during which exempted or confidential and exempt information is discussed are also exempt from open meeting requirements.

This exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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

The bill will become effective on the same date that SB 7076 (2021) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. Present Situation:

Public Records

Section 24(a) of Article I of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of section 24(a) of Article I of the State Constitution.¹ The general law must state with specificity the public necessity justifying the exemption² and must be no broader than necessary to accomplish its purpose.³

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act⁴ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; and
- Protect trade or business secrets.⁵

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁶

Open Meetings Laws

The State Constitution also provides that the public has a right to access governmental meetings.⁷ 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.⁸ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.⁹

¹ FLA. CONST. art. I, s. 24(c).

² This portion of a public record exemption is commonly referred to as a "public necessity statement."

³ FLA. CONST. art. I, s. 24(c).

⁴ Section 119.15, F.S.

⁵ Section 119.15(6)(b), F.S.

⁶ Section 119.15(3), F.S.

⁷ FLA. CONST. art. I, s. 24(b).

⁸ *Id.*

⁹ FLA. CONST. art. I, s. 24(b). Meetings of the Legislature are governed by section 4(e) of Article III of the State 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

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”¹⁰ or the “Sunshine Law,”¹¹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken, to be open to the public.¹² The board or commission must provide the public reasonable notice of such meetings.¹³ 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.¹⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.¹⁵

Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.¹⁶ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹⁷

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.¹⁸ 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.¹⁹ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁰

III. Effect of Proposed Changes:

Section 1 creates s. 16.71(14), F.S., to make information obtained by the Florida Gaming Control Commission (commission) that is exempt or confidential and exempt²¹ from s. 119.07(1), F.S., or s. 24(a) Art I. of the State Constitution retains its exempt or confidential and exempt status. The information may be released by the commission to other governmental

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.”

¹⁰ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

¹¹ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

¹² Section 286.011(1)-(2), F.S.

¹³ *Id.*

¹⁴ Section 286.011(6), F.S.

¹⁵ Section 286.011(2), F.S.

¹⁶ Section 286.011(1), F.S.

¹⁷ Section 286.011(3), F.S.

¹⁸ FLA. CONST. art. I, s. 24(c).

¹⁹ *Id.*

²⁰ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999).

²¹ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att’y Gen. Fla. (1985).

entities as needed in the performance of its official duties and responsibilities, but such entities must maintain the exempt or confidential and exempt status of the information.

The bill provides portions of commission meetings during which information that is exempt or confidential and exempt is discussed are exempt from s. 286.011, F.S., and s. 24(b), Art I. of the State Constitution.

The bill provides:

- The commission chair must advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.
- The chair's declaration of necessity for closure and the specific reasons for such necessity must be stated in a document that is a public record that must be filed with the official records of the commission.
- The entire closed session must be recorded. The recording must be maintained by the commission and include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record.

Further, only members of the commission, Department of Law Enforcement staff supporting the commission's function, and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information may be allowed to attend the exempted portions of the commission meetings. The commission must assure that any authorized closure of its meetings is limited, in order to maintain the general policy in Florida in favor of public meetings.

The bill provides the recording of, and any minutes and notes generated during a closed portion of a commission meeting are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, until such time as the information discussed is no longer exempt or confidential and exempt.

This section provides that the exemptions are subject to the Open Government Sunset Review Act and will repeal on October 2, 2026, unless the Legislature reviews and reenacts the exemptions by that date.

Section 2 provides public necessity statements as required by section 24(c) of Article I of the State Constitution. As to information obtained by the commission, the public necessity statement provides in the absence of this exemption, sensitive confidential or exempt information would be disclosed. As to portions of meetings of the commission at which confidential and exempt information is discussed, the public necessity statement provides the release of confidential and exempt information via a public meeting defeats the purpose of a public records exemption, and the harm to the public that would result from the release of such information substantially outweighs any minimal public benefit derived therefrom.

Section 3 provides that this act takes effect on the same date that SB 7076 (2021) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions. Thus, the bill requires a two-thirds vote for final passage.

Public Necessity Statement

Section 24(c) of Article I of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Section 24(c) of Article I of the State Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record exemptions for sensitive investigative materials, which does not appear to be broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The commission may experience increased workload and incur associated costs in complying with the exemptions created by the bill in handling public records requests, redacting confidential and exempt information prior to releasing a record, and closing portions of commission meetings. However, it is anticipated that any associated costs could be handled with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates a new subsection (14) in section 16.71 of the Florida Statutes, which is created by the linked bill, SB 7076.

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

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

CS by Appropriations on April 15, 2021:

The committee substitute includes technical amendments related to:

- The type of information that is exempt or confidential and exempt;
- The persons who may attend portions of commission meetings that are closed; and
- The statement of public necessity required by the Open Sunset Review Act.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
	.	
	.	
	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (14) is added to section 16.71, as
created by SB 7076, 2021 Regular Session, to read:

16.71 Florida Gaming Control Commission.—

(14) (a) Information made exempt or confidential and exempt
from s. 119.07(1) or s. 24(a) Art I. of the State Constitution
which is obtained by the Florida Gaming Control Commission shall



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11 retain its exempt or confidential and exempt status. The
12 information may be released by the commission to other
13 governmental entities as needed in the performance of its
14 official duties and responsibilities. The governmental entity
15 shall maintain the exempt or confidential and exempt status of
16 the information.

17 (b) Portions of meetings of the commission during which
18 information made exempt or confidential and exempt is discussed
19 are exempt from s. 286.011 and s. 24(b), Art I. of the State
20 Constitution.

21 1. The chair of the commission shall advise the commission
22 at a public meeting that, in connection with the performance of
23 a commission duty, it is necessary that the commission hear or
24 discuss information that is exempt or confidential and exempt.

25 2. The chair's declaration of necessity for closure and the
26 specific reasons for such necessity shall be stated in writing
27 in a document that shall be a public record and shall be filed
28 with the official records of the commission.

29 3. The entire closed session shall be recorded. The
30 recording shall include the times of commencement and
31 termination of the closed session, all discussion and
32 proceedings, and the names of all persons present. No portion of
33 the session shall be off the record. Such recording shall be
34 maintained by the commission.

35 (b) Only members of the commission, Department of Law
36 Enforcement staff supporting the commission's function, and
37 other persons whose presence is necessary for the presentation
38 of exempt or confidential and exempt information shall be
39 allowed to attend the exempted portions of the commission



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40 meetings. The commission shall assure that any closure of its
41 meetings as authorized by this paragraph is limited so that the
42 general policy of this state in favor of public meetings is
43 maintained.

44 (c) A recording of, and any minutes and notes generated
45 during, that portion of a commission meeting which is closed to
46 the public pursuant to this subsection are confidential and
47 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
48 Constitution until such time as the information discussed is no
49 longer exempt or confidential and exempt.

50 (d) This subsection is subject to the Open Government
51 Sunset Review Act in accordance with s. 119.115 and is repealed
52 on October 2, 2026, unless reviewed and saved from repeal
53 through reenactment by the Legislature.

54 Section 2. The Legislature finds that it is a public
55 necessity to maintain the exempt or confidential and exempt
56 status of any exempt or confidential and exempt information
57 obtained by the Florida Gaming Control Commission. In the
58 absence of this exemption, sensitive confidential or exempt
59 information would be disclosed. In addition, the Legislature
60 finds that it is a public necessity that portions of meetings of
61 the Florida Gaming Control Commission wherein confidential and
62 exempt information is discussed be made exempt from public
63 meetings requirements. The release of confidential and exempt
64 information via a public meeting defeats the purpose of a public
65 records exemption. Accordingly, the Legislature finds that the
66 harm to the public that would result from the release of such
67 information substantially outweighs any minimal public benefit
68 derived therefrom.



69 Section 3. This act shall take effect on the same date that
70 SB 7076 or similar legislation takes effect, if such legislation
71 is adopted in the same legislative session or an extension
72 thereof and becomes a law.

73
74 ===== T I T L E A M E N D M E N T =====

75 And the title is amended as follows:

76 Delete everything before the enacting clause
77 and insert:

78 A bill to be entitled
79 An act relating to public records and public meetings;
80 amending s. 16.71, F.S.; specifying that any exempt or
81 confidential and exempt information obtained by the
82 Florida Gaming Control Commission retains its exempt
83 or confidential and exempt status; providing an
84 exemption from public meetings requirements for
85 portions of meetings of the Florida Gaming Control
86 Commission wherein exempt or confidential and exempt
87 information is discussed; authorizing the commission
88 to close portions of meetings during which certain
89 matters are discussed if certain requirements are met;
90 providing an exemption from public meetings
91 requirements for such portions of meetings; providing
92 an exemption from public records requirements for
93 documents and recordings relating to such exempt
94 portions of meetings; providing for future review and
95 repeal of the exemption; providing a statement of
96 public necessity; providing a contingent effective
97 date.

By the Committee on Regulated Industries

580-04018-21

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A bill to be entitled

An act relating to public records and public meetings exemptions; amending s. 16.71, F.S.; specifying that any exempt or confidential and exempt information obtained by the Florida Gaming Control Commission retains its exempt or confidential and exempt status; providing an exemption from public meetings requirements for portions of meetings of the commission wherein confidential or exempt information is discussed; specifying the commission is a criminal justice agency; authorizing the commission to close portions of meetings during which certain criminal matters are discussed if certain requirements are met; providing an exemption from public meetings requirements for such portions of meetings; providing an exemption from public records requirements for documents and recordings relating to such exempt portions of meetings; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (11) is added to section 16.71, as created by SB 7076, 2021 Regular Session, to read:

16.71 Florida Gaming Control Commission.—

(11) (a) 1. Information made exempt or confidential and exempt from s. 119.07(1) or s. 24(a) Art I. of the State Constitution which is obtained by the Florida Gaming Control

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

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Commission shall retain its exempt or confidential and exempt status. The information may be released by the commission to other governmental entities as needed in the performance of its official duties and responsibilities. The governmental entity shall maintain the exempt or confidential and exempt status of the information.

2. Portions of meetings of the commission during which information made exempt or confidential and exempt is discussed are exempt from s. 286.011 and s. 24(b), Art I. of the State Constitution.

(b) 1. The Florida Gaming Control Commission is a criminal justice agency as defined in s. 119.011.

2.a. The Florida Gaming Control Commission may close portions of meetings during which the commission will hear or discuss active criminal intelligence information or active criminal investigative information, as those terms are defined in s. 119.011(3), and such portions of meetings shall be exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that the following conditions are met:

(I) The chair of the commission shall advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss active criminal investigative information or active criminal intelligence information.

(II) The chair's declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a document that shall be a public record and shall be filed with the official records of the commission.

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

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59 (III) The entire closed session shall be recorded. The
 60 recording shall include the times of commencement and
 61 termination of the closed session, all discussion and
 62 proceedings, and the names of all persons present. No portion of
 63 the session shall be off the record. Such recording shall be
 64 maintained by the commission.

65 b. Only members of the commission, Department of Law
 66 Enforcement staff supporting the commission's function, and
 67 other persons whose presence has been authorized by the chair of
 68 the commission shall be allowed to attend the exempted portions
 69 of the commission meetings. The commission shall assure that any
 70 closure of its meetings as authorized by this paragraph is
 71 limited so that the general policy of this state in favor of
 72 public meetings is maintained.

73 3. A tape recording of, and any minutes and notes generated
 74 during, that portion of a Florida Gaming Control Commission
 75 meeting which is closed to the public pursuant to this paragraph
 76 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 77 I of the State Constitution until such time as the criminal
 78 investigative information or criminal intelligence information
 79 ceases to be active.

80 (c) This subsection is subject to the Open Government
 81 Sunset Review Act in accordance with s. 119.115 and is repealed
 82 on October 2, 2026, unless reviewed and saved from repeal
 83 through reenactment by the Legislature.

84 Section 2. (1) The Legislature finds that it is a public
 85 necessity to maintain the exempt or confidential and exempt
 86 status of any exempt or confidential and exempt information
 87 obtained by the Florida Gaming Control Commission. In the

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88 absence of this exemption, sensitive confidential or exempt
 89 information would be disclosed. In addition, the Legislature
 90 finds that it is a public necessity that portions of meetings of
 91 the Florida Gaming Control Commission wherein confidential and
 92 exempt information is discussed be made exempt from public
 93 meetings requirements. The release of confidential and exempt
 94 information via a public meeting defeats the purpose of a public
 95 records exemption. Accordingly, the Legislature finds that the
 96 harm to the public that would result from the release of such
 97 information substantially outweighs any minimal public benefit
 98 derived therefrom.

99 (2) The Legislature finds that during limited portions of
 100 the meetings of the Florida Gaming Control Commission it is
 101 necessary that the commission be presented with and discuss
 102 details, information, and documents related to active criminal
 103 intelligence information or active criminal investigative
 104 information. These presentations and discussions are necessary
 105 for the commission to make its decisions for licensing of
 106 persons for pari-mutuel and gaming activities, and for decisions
 107 related to gaming enforcement and enforcement of gambling laws
 108 as required by the Legislature under this act. The Legislature
 109 finds that to reveal the contents of documents containing active
 110 criminal investigative or intelligence information or to allow
 111 active criminal investigative or active criminal intelligence
 112 matters to be discussed in a meeting open to the public
 113 negatively impacts the ability of law enforcement agencies to
 114 efficiently continue their investigative or intelligence
 115 gathering activities. The Legislature finds that information
 116 coming before the commission that pertains to active criminal

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117 investigations or intelligence should remain confidential and
118 exempt from public disclosure. The Legislature finds that the
119 Florida Gaming Control Commission may, by declaring only those
120 portions of commission meetings in which active criminal
121 investigative or active criminal intelligence information is to
122 be presented or discussed closed to the public, assure an
123 appropriate balance between the policy of this state that
124 meetings be public and the policy of this state to facilitate
125 efficient law enforcement efforts. Accordingly, the Legislature
126 finds that the harm to the public that would result from the
127 release of such information substantially outweighs any minimal
128 public benefit derived therefrom.

129 Section 3. This act shall take effect on the same date that
130 SB 7076 or similar legislation takes effect, if such legislation
131 is adopted in the same legislative session or an extension
132 thereof and becomes 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 Committee Code Not Found

BILL: CS/SB 7080

INTRODUCER: Appropriations Committee and Regulated Industries Committee

SUBJECT: Requirements for Pari-mutuel Permitholders to Conduct Racing or Games

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>		RI Submitted as Comm. Bill/Fav
	<u>Davis</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7080 updates provisions in Florida law that are inconsistent with the prohibition of racing of greyhounds codified in Article X, section 32 of the State Constitution, titled “Prohibition on Racing of and Wagering on Greyhounds or other Dogs.”

The bill revises requirements for greyhound permitholders, jai alai permitholders, and harness horse permitholders to conduct live racing or games, by amending chapter 550, Florida Statutes (Pari-Mutuel Wagering), chapter 551, Florida Statutes (Slot Machines), and chapter 849, Florida Statutes (Gambling). The bill also includes technical drafting changes, conforming changes, and eliminates obsolete language related to requirements for live racing or games.

Under the bill, a permitholder or licensee may not conduct live greyhound racing or dogracing for wagering, and the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) is authorized to deny, suspend, or revoke any permit or license under ch. 550, Florida Statutes, and impose a civil penalty of up to \$5,000 for such conduct.

The bill provides a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold any type of operating license on January 1, 2021.

Under the bill, a permit for the operation of a pari-mutuel facility, cardroom, or slot machine facility may only be held by permitholders with permits on January 1, 2021, and new permits may not be approved or issued after January 1, 2021.

The bill revises racing requirements for thoroughbred and limited intertrack wagering license permitholders.

Under the bill as to cardroom licensing, such licenses may not be issued to any permitholder that did not hold a valid pari-mutuel wagering permit on January 1, 2021. In addition, the bill provides that only thoroughbred permitholders must conduct a minimum of live racing performances (known as the “90 percent rule”) to renew a cardroom license.

The bill may have an indeterminate negative fiscal impact to state government revenues. *See* Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2021, but only if SB 7076 (2021) (Gaming Enforcement) or similar legislations is adopted in the same legislative sessions and becomes law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷ and
- Cardrooms⁸ at certain pari-mutuel facilities.⁹

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁰

¹ *See* s. 849.08, F.S.

² *See* s. 849.01, F.S.

³ *See* s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

⁶ *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. *See* s. 849.086(2)(c), F.S., which defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. *See* <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 12, 2021).

¹⁰ *See* s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” *See also, Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹¹ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹²

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,¹³ bingo,¹⁴ charitable drawings,¹⁵ game promotions (sweepstakes),¹⁶ and bowling tournaments.¹⁷ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁸

Regulation of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. According to the division, there were eight license suspensions, and \$19,075 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2019-2020.¹⁹

1981), *review denied*, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).

¹¹ The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹² The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, F.S.

¹⁵ See s. 849.0935, F.S.

¹⁶ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁷ See s. 849.141, F.S.

¹⁸ See s. 546.10, F.S.

¹⁹ See the 89th Annual Report for Fiscal Year 2019-2020 issued by the division at:

<http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2019-2020--89th--20210224.pdf> at page 5 (equivalent to page 3 of the printed Annual Report) (last visited Apr. 7, 2021).

Ten permitholders were not issued operating licenses for Fiscal Year 2020-2021: two greyhound permitholders,²⁰ two jai alai permitholders,²¹ one limited thoroughbred permitholder,²² and five quarter horse permitholders.²³

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. An application may not be considered, nor may a permit be issued by the division or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.

Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.²⁴

After issuance of the permit and a ratification election, the division may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.²⁵ Section 550.5251, F.S., specifies the requirements for annual operating licenses to be issued to thoroughbred permitholders by March 15 of each year, including the number and dates of all performances to be conducted for the racing season commencing the following July 1.

²⁰ Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

²¹ Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.

²² Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred, Gulfstream Park Thoroughbred After Racing Program (GPTARP) (Hallandale, Broward County), which was licensed to operate in 2019-2020, and Ocala Thoroughbred Racing (Marion County), which was not licensed to operate, and is not yet subject to annual application requirements for thoroughbred permitholders set forth in s. 550.5251, F.S.

²³ ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), North Florida Racing (Jacksonville), Pompano Park Racing (Pompano Beach), and St. Johns Racing (St. Johns County). *See* http://www.myfloridalicense.com/dbpr/pmw/documents/PermitholdersList_2020-2021.pdf (last visited Apr. 7, 2021).

²⁴ *See* s. 550.054(2), F.S.

²⁵ *See* s. 550.054(9)(a), F.S.

Pursuant to s. 550.054(9)(b), F.S., the division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the division, and may impose a civil penalty against the permitholder or license up to \$1,000 for each offense.

Section 550.054(14), F.S., authorizes conversion of jai alai permits to greyhound permits, under limited conditions.

Limited Intertrack Wagering

Section 550.6308, F.S., relating to the conduct of limited intertrack wagering in support of thoroughbred breeding in Florida, requires:

- A minimum of 15 days of thoroughbred horse sales;
- The conduct of at least one day of nonwagering thoroughbred racing with a \$250,000 purse per year for two consecutive years;
- Intertrack wagering to be conducted:
 - For up to 21 days in connection with sales;
 - Between November 1 and May 8;
 - Only with the consent of other permitholders that run live racing in the county, between May 9 and October 31; and
 - During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet conducted after May 8 and before November 1.
- The conduct of intertrack wagering by the limited intertrack license permitholder only on thoroughbred racing, unless the consent of all thoroughbred, jai alai, and greyhound racing permitholders in the same county is obtained; and
- The payment of purses by limited intertrack license permitholder of 2.5 percent for its intertrack wagering on greyhound races or jai alai games.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Sections 551.104, F.S., addresses slot machine gaming operations, and:

- Restricts the issuance of slot machine licenses to licensed pari-mutuel permitholders, for slot machine gaming only at the facility where pari-mutuel wagering is authorized to be conducted by the permitholder;
- Requires the licensee to be in compliance with chs. 551 and 550, F.S.;
- Conducts a full schedule of live racing or games as defined in s. 550.002(11), F.S.; and
- Provides other requirements regarding ownership, law enforcement access, computer systems, security, records, and audits.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.²⁶ In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.²⁷ A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.²⁸ A cardroom may be open 18 hours per day on Monday through Friday, and 24 hours per day on Saturday and Sunday.²⁹ An initial cardroom license may be issued to a pari-mutuel permitholder only after its facilities are in place and it has conducted its first day of live racing. In order to renew a cardroom license, the licensee must have requested, as part of its annual pari-mutuel license application, to conduct at least 90 percent of the total performances it had conducted in the prior fiscal year.

Sections 849.086(5) and (6), F.S., provide that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom. An authorized game is a game or series of games of poker or dominoes.³⁰ Such games must be played in a non-banking manner,³¹ where the participants play against each other, instead of against the house (cardroom). At least four percent of the gross cardroom receipts of greyhound racing permitholders and jai alai permitholders conducting live races or games must supplement greyhound purses, and quarter horse permitholders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.³²

Prohibition on Racing of and Wagering on Greyhounds or other Dogs

Amendment 13 was adopted in 2018 with 69.06 percent support of the electorate. The amendment, titled "Prohibition on Racing of and Wagering on Greyhounds or other Dogs, is codified in s. 32, Art. X of the Florida Constitution.³³ The amendment bans all racing of and wagering on live dog racing in Florida after December 31, 2020, and allows greyhound permitholders to stop racing after December 31, 2018, without affecting other pari-mutuel activities as authorized by law. The Legislature is directed to specify civil or criminal penalties for violations.

²⁶ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.

²⁷ See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

²⁸ *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936). See s. 550.1625(1), F.S., "...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state."

²⁹ Section 849.086(7)(b), F.S.

³⁰ See s. 849.086(2)(a), F.S.

³¹ *Id.*

³² See s. 849.086(13)(d), F.S.

³³ See <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32> (last visited Apr. 1, 2021).

III. Effect of Proposed Changes:

Section 1 amends s. 550.002, F.S., to revise live racing requirements affected by the adoption of s. 32, Art. X of the State Constitution (popularly known as Amendment 13). The constitutional amendment prohibits, after December 31, 2020, the conduct of live racing of greyhounds in Florida by gaming or pari-mutuel permitholders, and wagering by any person on the outcome of such racing in the state. Technical drafting changes, conforming changes, and elimination of obsolete language are also included.

Section 2 of the bill is a technical revision amending s. 550.0115, F.S., relating to operating licenses, to clarify references to annual operating licenses.

Section 3 amends s. 550.01215, F.S., relating to operating license applications filed annually with the division of the DBPR, for the conduct of pari-mutuel wagering, including intertrack and simulcast wagering. The application of each permitholder must indicate whether the permitholder intends to accept wagers on intertrack and simulcast events.

The requirement for pari-mutuel permitholders to conduct live racing or games is revised by the bill to provide:

- A greyhound permitholder may not conduct live racing, as such racing is prohibited in Florida after December 31, 2020.
- A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games.
- A thoroughbred permitholder must conduct live racing.

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:

- Retains its permit;
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.; and
- Remains eligible for a cardroom license.

For a greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games, but has been issued a slot machine license, the facility where such permit is located:

- Remains an eligible facility as defined in s. 551.102(4), F.S.;
- Continues to be eligible for a slot machine license pursuant to s. 551.104(3), F.S.; and
- Is exempt from ss. 551.104(4)(c) and (10) and 551.114(2) and (4), F.S.

Under the bill, a permitholder or licensee may not conduct live greyhound racing or dogracing for wagering, and the division is authorized to deny, suspend, or revoke any permit or license under ch. 550, F.S., and impose a civil penalty of up to \$5,000 for such conduct.

The bill provides a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold any type of operating license on January 1, 2021. This provision does not apply to limited thoroughbred permitholders issued permits pursuant to s. 550.3345, F.S.

Under the bill, the division may approve changes in racing dates after a license has been issued if there is no objection from any permitholder conducting live racing or games within 50 miles.

The bill further provides that for Fiscal Year 2021-2022 only, the division may approve changes to a permitholder's operating dates if the request is received before July 1, 2021.

The bill repeals an obsolete provision relating to greyhound racing permits.

Section 4 of the bill is a technical revision amending s. 550.0235, F.S., to substitute the term "a permitholder licensed to conduct pari-mutuel wagering," and delete the obsolete term "a permittee conducting a racing meet."

Section 5 amends s. 550.0351, F.S., to delete the authorization for a "dogracing permitholder" to hold charity or scholarship racing days. In addition, the authorization for "hound dog derby" racing events at greyhound permitholder facilities is deleted.

Section 6 amends s. 550.0425, F.S., relating to the attendance of minors to pari-mutuel events, to delete an exception granting access to kennel compound areas for the minor children of greyhound trainers, kennel operators, or other licensees employed in the kennel, when supervised by a parent or legal guardian.

Section 7 amends s. 550.054, F.S., to retain current law for existing permits converted to greyhound permits and remove this method of converting permits. Under the bill, a permit for the operation of a pari-mutuel facility, cardroom, or slot machine facility may only be held by permitholders with permits on January 1, 2021, and new permits may not be approved or issued after January 1, 2021.

Section 8 amends s. 550.09511(4), F.S., to delete a requirement for payment of daily license fees and tax on admissions and bets, if fewer than 100 live jai alai games are conducted in a calendar year.

Section 9 amends s. 550.09512, F.S., to amend a provision relating to taxes payable by harness horse permitholders who conduct live racing.

Section 10 is a technical revision amending s. 550.105, F.S., related to occupational licenses, to delete references to kennels, kennel helpers, and greyhound racing.

Section 11 is a technical revision amending s. 550.1155, F.S., related to stewards and judges, to delete references to dog tracks and dogtrack judges.

Section 12 is a technical revision amending s. 550.1647, F.S., related to unclaimed pari-mutuel tickets, to delete references to greyhound racing.

Section 13 repeals s. 550.1648, F.S., related to obsolete provisions concerning greyhound adoption booths at pari-mutuel facilities and associated charity racing days.

Section 14 is a technical revision amending s. 550.175, F.S., related to a county's revocation of a permit, to substitute the term "pari-mutuel wagering" for "racing."

Section 15 is a technical revision amending s. 550.1815, F.S., relating to a prohibition against holding a pari-mutuel permit, to substitute the term "greyhound permit" for "dogracing permit."

Section 16 amends s. 550.24055, F.S., relating to the prohibited use of controlled substances and alcohol by occupational licensees officiating at or participating in a race or game, to delete a reference to dogtracks.

Section 17 amends s. 550.2415, F.S., relating to testing of racing animals for medications and other substances, to delete provisions relating to greyhounds and to training and euthanizing greyhounds.

Section 18 amends s. 550.334(8), F.S., to remove a live racing requirement for quarter horse permitholders to conduct intertrack wagering.

Section 19 amends s. 550.3551, F.S., relating to broadcasting of racing and jai alai information, to conform references to permitholders and to delete a limitation on the number of broadcasts that may be received from outside the state by certain greyhound permitholders. This section amends current law providing that all permitholders conduct at least eight live races or games on a race day, and meet certain minimum live racing or games requirements, to limit application of those requirements to permitholders who conduct live races or games. This section deletes the requirement that a permitholder obtain authorization from the division for special racing events, and deletes the associated approval process and limits on such authorization.

Section 20 amends s. 550.3615, F.S., relating to bookmaking on the grounds of a permitholder, to refer to tracks and frontons as pari-mutuel facilities.

Section 21 amends s. 550.475, F.S., relating to the leasing of pari-mutuel facilities by permitholders, to conform references to permitholders and to ensure a lessee may conduct intertrack wagering.

Section 22 amends s. 550.5251, F.S., relating to thoroughbred racing, to provide that a thoroughbred permitholder that has conducted live racing for at least five years prior to July 1, 2020, and that has not filed an application to conduct racing for the racing season commencing July 1, 2021, retains its permit; is a pari-mutuel facility as defined in s. 550.002(23), F.S.; if such permitholder has been issued a slot machine license, the facility where such permit is located remains an eligible facility as defined in s. 551.102(4), F.S., continues to be eligible for a slot machine license pursuant to s. 551.104(3), F.S., and is exempt from the requirements in ss. 551.104(4)(c) and (10), F.S., and 551.114(2), F.S.; is eligible, but not required, to be a guest track; and remains eligible for a cardroom license.

Section 23 amends s. 550.615, F.S., relating to intertrack wagering, to conform references to pari-mutuel facilities and live racing or games requirements, and to provide that a permitholder that has met the live racing or games requirement applicable to that permitholder under s. 550.01215(1)(b), F.S., is qualified to receive broadcasts of any class of pari-mutuel races or games and to accept wagers on such races or games. This section provides any greyhound permitholder licensed under ch. 550, F.S., to conduct pari-mutuel wagering is qualified to, at any time, receive broadcasts and accept wagers on any class of pari-mutuel race or game.

Section 24 is a technical revision amending s. 550.6305, F.S., relating to intertrack wagering, to delete certain pari-mutuel pool accounting requirements for greyhound permitholders.

Section 25 amends s. 550.6308, F.S., relating to limited intertrack wagering, by:

- Reducing the required number of days of sales to eight days from fifteen days.
- Removing the requirement to conduct at least one day of nonwagering thoroughbred racing with a \$250,000 purse per year for two consecutive years.
- Removing the following restrictions and requirements for intertrack wagering to be conducted:
 - For up to 21 days in connection with sales;
 - Between November 1 and May 8;
 - Only with the consent of other permitholders that run live racing in the county, between May 9 and October 31; and
 - During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet conducted after May 8 and before November 1.
- Removing the restriction that intertrack wagering must be conducted by the limited intertrack license permitholder only on thoroughbred racing, unless the consent of all thoroughbred, jai alai, and greyhound racing permitholders in the same county is obtained; and
- Removing the purse pool requirement imposed on the limited intertrack license permitholder of 2.5 percent for its intertrack wagering on greyhound races or jai alai games, and other pro-rata allocations regarding intertrack wagering to thoroughbred permitholders.

Section 26 amends s. 551.104(4)(c), F.S., relating to the requirement that a permitholder conduct full schedule of live racing or games as a condition for eligibility to obtain a license to conduct slot machine gaming. The live racing requirements for such eligibility are applicable only to thoroughbred permitholders, as under the bill, greyhound permitholders may not conduct live racing, jai alai permitholders may elect not to conduct live games, and harness horse and quarter horse permitholders may elect not to conduct live racing.

Section 27 amends s. 551.114, F.S., relating to slot machine gaming areas, respecting the locations at which designated slot machine gaming areas may be located. The undefined term "live gaming facility" in current law is no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020. This section provides that slot machine gaming areas must be located at the address location specified in the licensed permitholder's slot machine license issued for fiscal year 2020-2021. Provisions relating to the types of buildings and the connection of such buildings to the live gaming facility are deleted as obsolete.

Section 28 amends s. 565.02, F.S., relating to the licensing of caterers, to confirm that catering licenses may be obtained for all licensed pari-mutuel facilities, whether or not they are conducting live racing or games.

Section 29 amends s. 849.086, F.S., relating to cardrooms, to:

- Revise provisions in current law that are no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020;
- Revise provisions relating to required contributions to purse pools, and required horsemen's agreements, to clarify that such contributions and agreements are required only if a permitholder conducts live races or games;
- Provide that a cardroom license may not be issued to any permitholder that did not hold a valid pari-mutuel wagering permit on January 1, 2021; and
- Provide that only thoroughbred permitholders must conduct a minimum of live racing performances (known as the "90 percent rule") to renew a cardroom license.

Section 30 re-enacts s. 380.0651, F.S., relating to developments of regional impact, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. A pari-mutuel facility continues to be subject to certain statewide guidelines and standards for developments of regional impact, as set forth in s. 380.06, F.S.

Section 31 re-enacts s. 402.82, F.S., relating to the electronic benefits transfer program, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. The use of electronic benefits transfer cards continues to be prohibited at pari-mutuel facilities.

Section 320 re-enacts s. 480.0475, F.S., relating to certain overnight hours that massage establishments are prohibited from operating, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. Massage establishments at pari-mutuel facilities continue to be exempt from the prohibition, and may operate between the hours of midnight and 5 a.m.

Section 33 provides the bill takes effect July 1, 2021, but only if SB 7076 (2021) (Gaming Enforcement) or similar legislation is adopted in the same legislative session and becomes 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:

Persons associated with jai alai, harness horse, and quarter horse racing will be affected by the election by permitholders to conduct or not conduct live racing or games.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact to state government revenues. The bill authorizes jai alai, harness horse, and quarter horse racing permitholders to elect whether or not to conduct live racing or games while retaining intertrack and simulcast wagering, cardrooms, and where relevant, slot machine facilities. Provisions of the bill, contingent upon the election of certain authorized permitholders to conduct or not conduct live racing or games, may reduce daily license fees and taxes on wagering payable by these affected permitholders. The Revenue Estimating Conference has not reviewed the fiscal impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.002, 550.0115, 550.01215, 550.0235, 550.0351, 550.0425, 550.054, 550.09511, 550.09512, 550.105, 550.1155, 550.1647, 550.175, 550.1815, 550.24055, 550.2415, 550.334, 550.3551, 550.3615, 550.475, 550.5251, 550.615, 550.6305, 550.6308, 551.104, 551.114, 565.02, and 849.086.

This bill repeals section 550.1648 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 380.0651, 402.82, and 480.0475.

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 Appropriations on April 15, 2021:

The committee substitute:

- Prohibits a pari-mutuel permitholder or licensee from conducting greyhound or dog racing and authorizes the division to suspend or revoke permits and licenses and impose civil penalties up to \$5,000;
- Provides that an operating license may not be issued if a permitholder did not hold a permit or a license on January 1, 2021;
- Provides that permits for pari-mutuel wagering activities may only be held by facilities with permits on January 1, 2021;
- Allows an inactive thoroughbred permitholder to retain its permits, under limited circumstances;
- Revises and removes restrictions for the conduct of limited intertrack wagering by the permitholder licensed for such wagering;
- Provides a cardroom license may not be issued to any permitholder that did not have a permit on January 1, 2021.
- Provides for a contingent effective date; the bill takes effect July 1, 2021, but only if SB 7076 (2021) (Gaming Enforcement) or similar legislation is adopted in the same legislative session and becomes law.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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	.	

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (24) through (28) of section 550.002, Florida Statutes, are redesignated as subsections (25) through (29), respectively, a new subsection (24) is added to that section, and subsections (11), (17), (20), (21), (22), (23), and (31) and present subsections (26) and (29) of that section are amended, to read:



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11 550.002 Definitions.—As used in this chapter, the term:
12 (11) “Full schedule of live racing or games” means, for a
13 ~~greyhound~~ or jai alai permitholder, the conduct of a combination
14 of at least 100 live evening or matinee performances during the
15 preceding year; for a permitholder who has a converted permit or
16 filed an application on or before June 1, 1990, for a converted
17 permit, the conduct of a combination of at least 100 live
18 evening and matinee wagering performances during either of the 2
19 preceding years; for a jai alai permitholder who does not
20 operate slot machines in its pari-mutuel facility, who has
21 conducted at least 100 live performances per year for at least
22 10 years after December 31, 1992, and whose handle on live jai
23 alai games conducted at its pari-mutuel facility has been less
24 than \$4 million per state fiscal year for at least 2 consecutive
25 years after June 30, 1992, the conduct of a combination of at
26 least 40 live evening or matinee performances during the
27 preceding year; for a jai alai permitholder who operates slot
28 machines in its pari-mutuel facility, the conduct of a
29 combination of at least 150 performances during the preceding
30 year; for a harness permitholder, the conduct of at least 100
31 live regular wagering performances during the preceding year;
32 for a quarter horse permitholder at its facility unless an
33 alternative schedule of at least 20 live regular wagering
34 performances is agreed upon by the permitholder and either the
35 Florida Quarter Horse Racing Association or the horsemen’s
36 association representing the majority of the quarter horse
37 owners and trainers at the facility and filed with the division
38 along with its annual date application, in the 2010-2011 fiscal
39 year, the conduct of at least 20 regular wagering performances,



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40 in the 2011-2012 and 2012-2013 fiscal years, the conduct of at
41 least 30 live regular wagering performances, and for every
42 fiscal year after the 2012-2013 fiscal year, the conduct of at
43 least 40 live regular wagering performances; for a quarter horse
44 permitholder leasing another licensed racetrack, the conduct of
45 160 events at the leased facility; and for a thoroughbred
46 permitholder, the conduct of at least 40 live regular wagering
47 performances during the preceding year. For a permitholder which
48 is restricted by statute to certain operating periods within the
49 year when other members of its same class of permit are
50 authorized to operate throughout the year, the specified number
51 of live performances which constitute a full schedule of live
52 racing or games shall be adjusted pro rata in accordance with
53 the relationship between its authorized operating period and the
54 full calendar year and the resulting specified number of live
55 performances shall constitute the full schedule of live games
56 for such permitholder and all other permitholders of the same
57 class within 100 air miles of such permitholder. A live
58 performance must consist of no fewer than eight races or games
59 conducted live for each of a minimum of three performances each
60 week at the permitholder's licensed facility under a single
61 admission charge.

62 (17) "Intertrack wager" or "intertrack wagering" means a
63 particular form of pari-mutuel wagering in which wagers are
64 accepted at a permitted, in-state track, fronton, or pari-mutuel
65 facility on a race or game transmitted from and performed live
66 at, or simulcast signal rebroadcast from, another in-state pari-
67 mutuel facility.

68 (20) "Meet" or "meeting" means the conduct of live racing



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69 or jai alai, or wagering on intertrack or simulcast events, for
70 any stake, purse, prize, or premium.

71 (21) "Operating day" means a continuous period of 24 hours
72 starting with the beginning of the first performance of a race
73 or game, even though the operating day may start during one
74 calendar day and extend past midnight except that no ~~greyhound~~
75 ~~race or jai alai game~~ may commence after 1:30 a.m.

76 (22) "Pari-mutuel" or "pari-mutuel wagering" means a system
77 of betting on races or games in which the winners divide the
78 total amount bet, after deducting management expenses and taxes,
79 in proportion to the sums they have wagered individually and
80 with regard to the odds assigned to particular outcomes.

81 (23) "Pari-mutuel facility" means the grounds or property
82 of a cardroom, racetrack, fronton, or other facility used by a
83 licensed permitholder for the conduct of pari-mutuel wagering.

84 (24) "Permitholder" or "permittee" means a holder of a
85 permit to conduct pari-mutuel wagering in this state as
86 authorized in this chapter.

87 (27) ~~(26)~~ "Post time" means the time set for the arrival at
88 the starting point of the horses ~~or greyhounds~~ in a race or the
89 beginning of a game in jai alai.

90 ~~(29) "Racing greyhound" means a greyhound that is or was~~
91 ~~used, or is being bred, raised, or trained to be used, in racing~~
92 ~~at a pari-mutuel facility and is registered with the National~~
93 ~~Greyhound Association.~~

94 (31) "Same class of races, games, or permit" means, with
95 respect to a jai alai permitholder, jai alai games or other jai
96 alai permitholders; with respect to a greyhound permitholder,
97 ~~greyhound races or other greyhound permitholders~~ conducting



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98 pari-mutuel wagering; with respect to a thoroughbred
99 permitholder, thoroughbred races or other thoroughbred
100 permitholders; with respect to a harness permitholder, harness
101 races or other harness permitholders; with respect to a quarter
102 horse permitholder, quarter horse races or other quarter horse
103 permitholders.

104 Section 2. Section 550.0115, Florida Statutes, is amended
105 to read:

106 550.0115 Permitholder operating license.—After a permit has
107 been issued by the division, and after the permit has been
108 approved by election, the division shall issue to the
109 permitholder an annual operating license to conduct pari-mutuel
110 wagering operations at the location specified in the permit
111 pursuant to the provisions of this chapter.

112 Section 3. Section 550.01215, Florida Statutes, is amended
113 to read:

114 550.01215 License application; periods of operation;
115 license fees; bond, ~~conversion of permit~~.—

116 (1) Each permitholder shall annually, during the period
117 between December 15 and January 4, file in writing with the
118 division its application for an operating a license for a pari-
119 mutuel facility for the conduct of pari-mutuel wagering during
120 the next state fiscal year, including intertrack and simulcast
121 race wagering to conduct performances during the next state
122 fiscal year. Each application for live performances must shall
123 specify the number, dates, and starting times of all live
124 performances that which the permitholder intends to conduct. It
125 must shall also specify which performances will be conducted as
126 charity or scholarship performances.



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127 (a) ~~In addition,~~ Each application for an operating a
128 license also must ~~shall~~ include:

129 1. For each permitholder, whether the permitholder intends
130 to accept wagers on intertrack or simulcast events.

131 2. For each permitholder that ~~which~~ elects to operate a
132 cardroom, the dates and periods of operation the permitholder
133 intends to operate the cardroom. ~~or,~~

134 3. For each thoroughbred racing permitholder that ~~which~~
135 elects to receive or rebroadcast out-of-state races after 7
136 p.m., the dates for all performances ~~that~~ ~~which~~ the permitholder
137 intends to conduct.

138 (b)1. A greyhound permitholder may not conduct live racing.
139 A jai alai permitholder, harness horse racing permitholder, or
140 quarter horse racing permitholder may elect not to conduct live
141 racing or games. Except as provided in s. 550.5251(1)(b), a
142 thoroughbred permitholder must conduct live racing. A greyhound
143 permitholder, jai alai permitholder, harness horse racing
144 permitholder, or quarter horse racing permitholder that does not
145 conduct live racing or games retains its permit; is a pari-
146 mutuel facility as defined in s. 550.002(23); if such
147 permitholder has been issued a slot machine license, the
148 facility where such permit is located remains an eligible
149 facility as defined in s. 551.102(4), continues to be eligible
150 for a slot machine license pursuant to s. 551.104(3), and is
151 exempt from ss. 551.104(4)(c) and (10) and 551.114(2) and (4);
152 is eligible, but not required, to be a guest track and, if the
153 permitholder is a harness horse racing permitholder, to be a
154 host track for purposes of intertrack wagering and simulcasting
155 pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and



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156 remains eligible for a cardroom license.

157 2. A permitholder or licensee may not conduct live
158 greyhound racing or dogracing in connection with any wager for
159 money or any other thing of value in the state. The division may
160 deny, suspend, or revoke any permit or license under this
161 chapter if a permitholder or licensee conducts live greyhound
162 racing or dogracing in violation of this subparagraph. In
163 addition to, or in lieu of, denial, suspension, or revocation,
164 the division may impose a civil penalty of up to \$5,000 against
165 the permitholder or licensee for a violation of this
166 subparagraph. All penalties imposed and collected must be
167 deposited with the Chief Financial Officer to the credit of the
168 General Revenue Fund.

169 (c) Permitholders may ~~shall be entitled to~~ amend their
170 applications through February 28.

171 (d) Notwithstanding any other provision of law, other than
172 a permitholder issued a permit pursuant to s. 550.3345, a pari-
173 mutuel permitholder may not be issued an operating license for
174 the conduct of pari-mutuel wagering, slot machine gaming, or the
175 operation of a cardroom if the permitholder did not hold an
176 operating license on January 1, 2021.

177 (2) After the first license has been issued to a
178 permitholder, all subsequent annual applications for a license
179 shall be accompanied by proof, in such form as the division may
180 by rule require, that the permitholder continues to possess the
181 qualifications prescribed by this chapter, and that the permit
182 has not been disapproved at a later election.

183 (3) The division shall issue each license no later than
184 March 15. Each permitholder shall operate all performances at



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185 the date and time specified on its license. The division shall
186 have the authority to approve minor changes in racing dates
187 after a license has been issued. The division may approve
188 changes in racing dates after a license has been issued when
189 there is no objection from any operating permitholder located
190 within 50 miles of the permitholder requesting the changes in
191 operating dates. In the event of an objection, the division
192 shall approve or disapprove the change in operating dates based
193 upon the impact on operating permitholders located within 50
194 miles of the permitholder requesting the change in operating
195 dates. In making the determination to change racing dates, the
196 division shall take into consideration the impact of such
197 changes on state revenues. Notwithstanding any other provision
198 of law, and for the 2021-2022 state fiscal year only, the
199 division may approve changes in operating dates for a jai alai
200 permitholder, harness horse racing permitholder, or quarter
201 horse racing permitholder if the request for such changes is
202 received before July 1, 2021.

203 (4) In the event that a permitholder fails to operate all
204 performances specified on its license at the date and time
205 specified, the division shall hold a hearing to determine
206 whether to fine or suspend the permitholder's license, unless
207 such failure was the direct result of fire, strike, war, or
208 other disaster or event beyond the ability of the permitholder
209 to control. Financial hardship to the permitholder shall not, in
210 and of itself, constitute just cause for failure to operate all
211 performances on the dates and at the times specified.

212 (5) In the event that performances licensed to be operated
213 by a permitholder are vacated, abandoned, or will not be used



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214 for any reason, any permitholder shall be entitled, pursuant to
215 rules adopted by the division, to apply to conduct performances
216 on the dates for which the performances have been abandoned. The
217 division shall issue an amended license for all such replacement
218 performances which have been requested in compliance with ~~the~~
219 ~~provisions of this chapter and division rules.~~

220 ~~(6) Any permit which was converted from a jai alai permit~~
221 ~~to a greyhound permit may be converted to a jai alai permit at~~
222 ~~any time if the permitholder never conducted greyhound racing or~~
223 ~~if the permitholder has not conducted greyhound racing for a~~
224 ~~period of 12 consecutive months.~~

225 Section 4. Section 550.0235, Florida Statutes, is amended
226 to read:

227 550.0235 Limitation of civil liability.—No permitholder
228 licensed to conduct pari-mutuel wagering ~~permittee conducting a~~
229 ~~racing meet~~ pursuant to the provisions of this chapter; no
230 division director or employee of the division; and no steward,
231 judge, or other person appointed to act pursuant to this chapter
232 shall be held liable to any person, partnership, association,
233 corporation, or other business entity for any cause whatsoever
234 arising out of, or from, the performance by such permittee,
235 director, employee, steward, judge, or other person of her or
236 his duties and the exercise of her or his discretion with
237 respect to the implementation and enforcement of the statutes
238 and rules governing the conduct of pari-mutuel wagering, so long
239 as she or he acted in good faith. This section shall not limit
240 liability in any situation in which the negligent maintenance of
241 the premises or the negligent conduct of a race contributed to
242 an accident; nor shall it limit any contractual liability.



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243 Section 5. Subsections (1) and (7) of section 550.0351,
244 Florida Statutes, are amended to read:

245 550.0351 Charity racing days.—

246 (1) The division shall, upon the request of a permitholder,
247 authorize each horseracing permitholder, ~~dogracing permitholder,~~
248 and jai alai permitholder up to five charity or scholarship days
249 in addition to the regular racing days authorized by law.

250 ~~(7) In addition to the charity days authorized by this~~
251 ~~section, any dogracing permitholder may allow its facility to be~~
252 ~~used for conducting "hound dog derbies" or "mutt derbies" on any~~
253 ~~day during each racing season by any charitable, civic, or~~
254 ~~nonprofit organization for the purpose of conducting "hound dog~~
255 ~~derbies" or "mutt derbies" if only dogs other than those usually~~
256 ~~used in dogracing (greyhounds) are permitted to race and if~~
257 ~~adults and minors are allowed to participate as dog owners or~~
258 ~~spectators. During these racing events, betting, gambling, and~~
259 ~~the sale or use of alcoholic beverages is prohibited.~~

260 Section 6. Subsection (4) of section 550.0425, Florida
261 Statutes, is amended to read:

262 550.0425 Minors attendance at pari-mutuel performances;
263 restrictions.—

264 ~~(4) Minor children of licensed greyhound trainers, kennel~~
265 ~~operators, or other licensed persons employed in the kennel~~
266 ~~compound areas may be granted access to kennel compound areas~~
267 ~~without being licensed, provided they are in no way employed~~
268 ~~unless properly licensed, and only when under the direct~~
269 ~~supervision of one of their parents or legal guardian.~~

270 Section 7. Subsections (2) and (14) of section 550.054,
271 Florida Statutes, are amended to read:



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272 550.054 Application for permit to conduct pari-mutuel
273 wagering.—

274 (2) Upon each application filed and approved, a permit
275 shall be issued to the applicant setting forth the name of the
276 permitholder, the location of the pari-mutuel facility, the type
277 of pari-mutuel activity desired to be conducted, and a statement
278 showing qualifications of the applicant to conduct pari-mutuel
279 performances under this chapter; however, a permit is
280 ineffectual to authorize any pari-mutuel performances until
281 approved by a majority of the electors participating in a
282 ratification election in the county in which the applicant
283 proposes to conduct pari-mutuel wagering activities. In
284 addition, an application may not be considered, nor may a permit
285 be issued by the division or be voted upon in any county, to
286 conduct horseraces, harness horse races, or pari-mutuel wagering
287 ~~degraces~~ at a location within 100 miles of an existing pari-
288 mutuel facility, or for jai alai within 50 miles of an existing
289 pari-mutuel facility; this distance shall be measured on a
290 straight line from the nearest property line of one pari-mutuel
291 facility to the nearest property line of the other facility.

292 (14) (a) Notwithstanding any other provision of law, a
293 permit for the operation of a pari-mutuel facility, cardroom, or
294 slot machine facility may only be held by facilities with
295 permits on January 1, 2021.

296 **(b)** ~~Any holder of a permit to conduct jai alai may apply to~~
297 ~~the division to convert such permit to a permit to conduct~~
298 ~~greyhound racing in lieu of jai alai if:~~

299 ~~1. Such permit is located in a county in which the division~~
300 ~~has issued only two pari-mutuel permits pursuant to this~~



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301 ~~section;~~

302 ~~2. Such permit was not previously converted from any other~~
303 ~~class of permit; and~~

304 ~~3. The holder of the permit has not conducted jai alai~~
305 ~~games during a period of 10 years immediately preceding his or~~
306 ~~her application for conversion under this subsection.~~

307 ~~(b) The division, upon application from the holder of a jai~~
308 ~~alai permit meeting all conditions of this section, shall~~
309 ~~convert the permit and shall issue to the permitholder a permit~~
310 ~~to conduct greyhound racing. A permitholder of a permit~~
311 ~~converted under this section shall be required to apply for and~~
312 ~~conduct a full schedule of live racing each fiscal year to be~~
313 ~~eligible for any tax credit provided by this chapter. The holder~~
314 ~~of a permit converted under former subsection (14) of this~~
315 ~~section, Florida Statutes 2020, pursuant to this subsection or~~
316 ~~any holder of a permit to conduct greyhound racing located in a~~
317 ~~county in which it is the only permit issued pursuant to this~~
318 ~~section who operates at a leased facility pursuant to s. 550.475~~
319 ~~may move the location for which the permit has been issued to~~
320 ~~another location within a 30-mile radius of the location fixed~~
321 ~~in the permit issued in that county, provided the move does not~~
322 ~~cross the county boundary and such location is approved under~~
323 ~~the zoning regulations of the county or municipality in which~~
324 ~~the permit is located, and upon such relocation may use the~~
325 ~~permit for the conduct of pari-mutuel wagering and the operation~~
326 ~~of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall~~
327 ~~apply to any permit converted under former subsection (14) of~~
328 ~~this section, Florida Statutes 2020, ~~this subsection~~ and shall~~
329 ~~continue to apply to any permit which was previously included~~



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330 under and subject to such provisions before a conversion
331 pursuant to this section occurred.

332 Section 8. Subsection (4) of section 550.09511, Florida
333 Statutes, is amended to read:

334 550.09511 Jai alai taxes; abandoned interest in a permit
335 for nonpayment of taxes.—

336 ~~(4) A jai alai permitholder conducting fewer than 100 live~~
337 ~~performances in any calendar year shall pay to the state the~~
338 ~~same aggregate amount of daily license fees on live jai alai~~
339 ~~games, admissions tax, and tax on live handle as that~~
340 ~~permitholder paid to the state during the most recent prior~~
341 ~~calendar year in which the jai alai permitholder conducted at~~
342 ~~least 100 live performances.~~

343 Section 9. Paragraph (a) of subsection (3) of section
344 550.09512, Florida Statutes, is amended to read:

345 550.09512 Harness horse taxes; abandoned interest in a
346 permit for nonpayment of taxes.—

347 (3) (a) The permit of a harness horse permitholder who is
348 conducting live harness horse performances and who does not pay
349 tax on handle for any such live harness horse performances
350 conducted for a full schedule of live races during any 2
351 consecutive state fiscal years shall be void and may not be
352 reissued shall escheat to and become the property of the state
353 unless such failure to operate and pay tax on handle was the
354 direct result of fire, strike, war, pandemic, or other disaster
355 or event beyond the ability of the permitholder to control.
356 Financial hardship to the permitholder shall not, in and of
357 itself, constitute just cause for failure to operate and pay tax
358 on handle.



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359 Section 10. Subsections (2) and (9) of section 550.105,
360 Florida Statutes, are amended to read:

361 550.105 Occupational licenses of racetrack employees; fees;
362 denial, suspension, and revocation of license; penalties and
363 fines.—

364 (2) (a) The following licenses shall be issued to persons or
365 entities with access to the backside, racing animals, jai alai
366 players' room, jockeys' room, drivers' room, totalisator room,
367 the mutuels, or money room, or to persons who, by virtue of the
368 position they hold, might be granted access to these areas or to
369 any other person or entity in one of the following categories
370 and with fees not to exceed the following amounts for any 12-
371 month period:

372 1. Business licenses: any business such as a vendor,
373 contractual concessionaire, ~~contract kennel~~, business owning
374 racing animals, trust or estate, totalisator company, stable
375 name, or other fictitious name: \$50.

376 2. Professional occupational licenses: professional persons
377 with access to the backside of a racetrack or players' quarters
378 in jai alai such as trainers, officials, veterinarians, doctors,
379 nurses, EMT's, jockeys and apprentices, drivers, jai alai
380 players, owners, trustees, or any management or officer or
381 director or shareholder or any other professional-level person
382 who might have access to the jockeys' room, the drivers' room,
383 the backside, racing animals, ~~kennel compound~~, or managers or
384 supervisors requiring access to mutuels machines, the money
385 room, or totalisator equipment: \$40.

386 3. General occupational licenses: general employees with
387 access to the jockeys' room, the drivers' room, racing animals,



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388 the backside of a racetrack or players' quarters in jai alai,
389 such as grooms, ~~kennel helpers~~, leadouts, pelota makers, cesta
390 makers, or ball boys, or a practitioner of any other occupation
391 who would have access to the animals or, the backside, ~~or the~~
392 ~~kennel compound~~, or who would provide the security or
393 maintenance of these areas, or mutuel employees, totalisator
394 employees, money-room employees, or any employee with access to
395 mutuels machines, the money room, or totalisator equipment or
396 who would provide the security or maintenance of these areas:
397 \$10.

398
399 The individuals and entities that are licensed under this
400 paragraph require heightened state scrutiny, including the
401 submission by the individual licensees or persons associated
402 with the entities described in this chapter of fingerprints for
403 a Federal Bureau of Investigation criminal records check.

404 (b) The division shall adopt rules pertaining to pari-
405 mutuel occupational licenses, licensing periods, and renewal
406 cycles.

407 (9) The tax imposed by this section is in lieu of all
408 license, excise, or occupational taxes to the state or any
409 county, municipality, or other political subdivision, except
410 that, if a race meeting or game is held or conducted in a
411 municipality, the municipality may assess and collect an
412 additional tax against any person conducting live racing or
413 games within its corporate limits, which tax may not exceed \$150
414 per day for horseracing or \$50 per day for ~~dog racing~~ or jai
415 alai. Except as provided in this chapter, a municipality may not
416 assess or collect any additional excise or revenue tax against



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417 any person conducting race meetings within the corporate limits
418 of the municipality or against any patron of any such person.

419 Section 11. Section 550.1155, Florida Statutes, is amended
420 to read:

421 550.1155 Authority of stewards, judges, panel of judges, or
422 player's manager to impose penalties against occupational
423 licensees; disposition of funds collected.-

424 (1) The stewards at a horse racetrack; ~~the judges at a dog~~
425 ~~track;~~ or the judges, a panel of judges, or a player's manager
426 at a jai alai fronton may impose a civil penalty against any
427 occupational licensee for violation of the pari-mutuel laws or
428 any rule adopted by the division. The penalty may not exceed
429 \$1,000 for each count or separate offense or exceed 60 days of
430 suspension for each count or separate offense.

431 (2) All penalties imposed and collected pursuant to this
432 section at each horse ~~or dog~~ racetrack or jai alai fronton shall
433 be deposited into a board of relief fund established by the
434 pari-mutuel permitholder. Each association shall name a board of
435 relief composed of three of its officers, with the general
436 manager of the permitholder being the ex officio treasurer of
437 such board. Moneys deposited into the board of relief fund shall
438 be disbursed by the board for the specific purpose of aiding
439 occupational licenseholders and their immediate family members
440 at each pari-mutuel facility.

441 Section 12. Section 550.1647, Florida Statutes, is amended
442 to read:

443 550.1647 Greyhound permitholders; unclaimed tickets;
444 breaks.-All money or other property represented by any
445 unclaimed, uncashed, or abandoned pari-mutuel ticket which has



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446 remained in the custody of or under the control of any greyhound
447 permitholder authorized to conduct ~~greyhound racing~~ pari-mutuel
448 wagering pools in this state for a period of 1 year after the
449 date the pari-mutuel ticket was issued, if the rightful owner or
450 owners thereof have made no claim or demand for such money or
451 other property within that period of time, shall, ~~with respect~~
452 ~~to live races conducted by the permitholder,~~ be remitted to the
453 state pursuant to s. 550.1645; however, such permitholder shall
454 be entitled to a credit in each state fiscal year in an amount
455 equal to the actual amount remitted in the prior state fiscal
456 year which may be applied against any taxes imposed pursuant to
457 this chapter. In addition, each permitholder shall pay, from any
458 source, ~~including the proceeds from performances conducted~~
459 ~~pursuant to s. 550.0351,~~ an amount not less than 10 percent of
460 the amount of the credit provided by this section to any bona
461 fide organization that promotes or encourages the adoption of
462 greyhounds. As used in this chapter, the term "bona fide
463 organization that promotes or encourages the adoption of
464 greyhounds" means any organization that provides evidence of
465 compliance with chapter 496 and possesses a valid exemption from
466 federal taxation issued by the Internal Revenue Service. Such
467 bona fide organization, as a condition of adoption, must provide
468 sterilization of greyhounds by a licensed veterinarian before
469 relinquishing custody of the greyhound to the adopter. The fee
470 for sterilization may be included in the cost of adoption.

471 Section 13. Section 550.1648, Florida Statutes, is
472 repealed.

473 Section 14. Section 550.175, Florida Statutes, is amended
474 to read:



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475 550.175 Petition for election to revoke permit.—Upon
476 petition of 20 percent of the qualified electors of any county
477 wherein any pari-mutuel wagering racing has been licensed and
478 conducted under this chapter, the county commissioners of such
479 county shall provide for the submission to the electors of such
480 county at the then next succeeding general election the question
481 of whether any permit or permits theretofore granted shall be
482 continued or revoked, and if a majority of the electors voting
483 on such question in such election vote to cancel or recall the
484 permit theretofore given, the division may not thereafter grant
485 any license on the permit so recalled. Every signature upon
486 every recall petition must be signed in the presence of the
487 clerk of the board of county commissioners at the office of the
488 clerk of the circuit court of the county, and the petitioner
489 must present at the time of such signing her or his registration
490 receipt showing the petitioner's qualification as an elector of
491 the county at the time of the signing of the petition. Not more
492 than one permit may be included in any one petition; and, in all
493 elections in which the recall of more than one permit is voted
494 on, the voters shall be given an opportunity to vote for or
495 against the recall of each permit separately. Nothing in this
496 chapter shall be construed to prevent the holding of later
497 referendum or recall elections.

498 Section 15. Subsection (1) of section 550.1815, Florida
499 Statutes, is amended to read:

500 550.1815 Certain persons prohibited from holding racing or
501 jai alai permits; suspension and revocation.—

502 (1) A corporation, general or limited partnership, sole
503 proprietorship, business trust, joint venture, or unincorporated



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504 association, or other business entity may not hold any
505 horseracing or greyhound ~~degrading~~ permit or jai alai fronton
506 permit in this state if any one of the persons or entities
507 specified in paragraph (a) has been determined by the division
508 not to be of good moral character or has been convicted of any
509 offense specified in paragraph (b).

- 510 (a)1. The permitholder;
- 511 2. An employee of the permitholder;
- 512 3. The sole proprietor of the permitholder;
- 513 4. A corporate officer or director of the permitholder;
- 514 5. A general partner of the permitholder;
- 515 6. A trustee of the permitholder;
- 516 7. A member of an unincorporated association permitholder;
- 517 8. A joint venturer of the permitholder;
- 518 9. The owner of more than 5 percent of any equity interest
519 in the permitholder, whether as a common shareholder, general or
520 limited partner, voting trustee, or trust beneficiary; or
- 521 10. An owner of any interest in the permit or permitholder,
522 including any immediate family member of the owner, or holder of
523 any debt, mortgage, contract, or concession from the
524 permitholder, who by virtue thereof is able to control the
525 business of the permitholder.

- 526 (b)1. A felony in this state;
- 527 2. Any felony in any other state which would be a felony if
528 committed in this state under the laws of this state;
- 529 3. Any felony under the laws of the United States;
- 530 4. A felony under the laws of another state if related to
531 gambling which would be a felony under the laws of this state if
532 committed in this state; or



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533 5. Bookmaking as defined in s. 849.25.

534 Section 16. Subsection (2) of section 550.24055, Florida
535 Statutes, is amended to read:

536 550.24055 Use of controlled substances or alcohol
537 prohibited; testing of certain occupational licensees; penalty;
538 evidence of test or action taken and admissibility for criminal
539 prosecution limited.—

540 (2) The occupational licensees, by applying for and holding
541 such licenses, are deemed to have given their consents to submit
542 to an approved chemical test of their breath for the purpose of
543 determining the alcoholic content of their blood and to a urine
544 or blood test for the purpose of detecting the presence of
545 controlled substances. Such tests shall only be conducted upon
546 reasonable cause that a violation has occurred as shall be
547 determined solely by the stewards at a horseracing meeting or
548 the judges or board of judges at a ~~dog track~~ or jai alai meet.
549 The failure to submit to such test may result in a suspension of
550 the person's occupational license for a period of 10 days or
551 until this section has been complied with, whichever is longer.

552 (a) If there was at the time of the test 0.05 percent or
553 less by weight of alcohol in the person's blood, the person is
554 presumed not to have been under the influence of alcoholic
555 beverages to the extent that the person's normal faculties were
556 impaired, and no action of any sort may be taken by the
557 stewards, judges, or board of judges or the division.

558 (b) If there was at the time of the test an excess of 0.05
559 percent but less than 0.08 percent by weight of alcohol in the
560 person's blood, that fact does not give rise to any presumption
561 that the person was or was not under the influence of alcoholic



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562 beverages to the extent that the person's faculties were
563 impaired, but the stewards, judges, or board of judges may
564 consider that fact in determining whether or not the person will
565 be allowed to officiate or participate in any given race or jai
566 alai game.

567 (c) If there was at the time of the test 0.08 percent or
568 more by weight of alcohol in the person's blood, that fact is
569 prima facie evidence that the person was under the influence of
570 alcoholic beverages to the extent that the person's normal
571 faculties were impaired, and the stewards or judges may take
572 action as set forth in this section, but the person may not
573 officiate at or participate in any race or jai alai game on the
574 day of such test.

575
576 All tests relating to alcohol must be performed in a manner
577 substantially similar, or identical, to the provisions of s.
578 316.1934 and rules adopted pursuant to that section. Following a
579 test of the urine or blood to determine the presence of a
580 controlled substance as defined in chapter 893, if a controlled
581 substance is found to exist, the stewards, judges, or board of
582 judges may take such action as is permitted in this section.

583 Section 17. Paragraph (d) of subsection (5), paragraphs (b)
584 and (c) of subsection (6), paragraph (a) of subsection (9), and
585 subsection (13) of section 550.2415, Florida Statutes, are
586 amended to read:

587 550.2415 Racing of animals under certain conditions
588 prohibited; penalties; exceptions.—

589 (5) The division shall implement a split-sample procedure
590 for testing animals under this section.



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591 ~~(d) For the testing of a racing greyhound, if there is an~~
592 ~~insufficient quantity of the secondary (split) sample for~~
593 ~~confirmation of the division laboratory's positive result, the~~
594 ~~division may commence administrative proceedings as prescribed~~
595 ~~in this chapter and consistent with chapter 120.~~

596 (6)

597 ~~(b) The division shall, by rule, establish the procedures~~
598 ~~for euthanizing greyhounds. However, a greyhound may not be put~~
599 ~~to death by any means other than by lethal injection of the drug~~
600 ~~sodium pentobarbital. A greyhound may not be removed from this~~
601 ~~state for the purpose of being destroyed.~~

602 ~~(c) It is a violation of this chapter for an occupational~~
603 ~~licensee to train a greyhound using live or dead animals. A~~
604 ~~greyhound may not be taken from this state for the purpose of~~
605 ~~being trained through the use of live or dead animals.~~

606 (9) (a) The division may conduct a postmortem examination of
607 any animal that is injured at a permitted racetrack while in
608 training or in competition and that subsequently expires or is
609 destroyed. The division may conduct a postmortem examination of
610 any animal that expires while housed at a permitted racetrack,
611 association compound, or licensed kennel ~~or~~ farm. Trainers and
612 owners shall be requested to comply with this paragraph as a
613 condition of licensure.

614 ~~(13) The division may implement by rule medication levels~~
615 ~~for racing greyhounds recommended by the University of Florida~~
616 ~~College of Veterinary Medicine developed pursuant to an~~
617 ~~agreement between the Division of Pari-mutuel Wagering and the~~
618 ~~University of Florida College of Veterinary Medicine. The~~
619 ~~University of Florida College of Veterinary Medicine may provide~~



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620 ~~written notification to the division that it has completed~~
621 ~~research or review on a particular drug pursuant to the~~
622 ~~agreement and when the College of Veterinary Medicine has~~
623 ~~completed a final report of its findings, conclusions, and~~
624 ~~recommendations to the division.~~

625 Section 18. Subsection (8) of section 550.334, Florida
626 Statutes, is amended to read

627 550.334 Quarter horse racing; substitutions.—

628 ~~(8) To be eligible to conduct intertrack wagering, a~~
629 ~~quarter horse racing permitholder must have conducted a full~~
630 ~~schedule of live racing in the preceding year.~~

631 Section 19. Subsections (2) and (4), paragraph (a) of
632 subsection (6), and subsection (11) of section 550.3551, Florida
633 Statutes, are amended to read:

634 550.3551 Transmission of racing and jai alai information;
635 commingling of pari-mutuel pools.—

636 (2) Any horse track, ~~dog track,~~ or fronton licensed under
637 this chapter may transmit broadcasts of races or games conducted
638 at the enclosure of the licensee to locations outside this
639 state.

640 (a) All broadcasts of horseraces transmitted to locations
641 outside this state must comply with the provisions of the
642 Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss.
643 3001 et seq.

644 (b) Wagers accepted by any out-of-state pari-mutuel
645 permitholder or licensed betting system on a race broadcasted
646 under this subsection may be, but are not required to be,
647 included in the pari-mutuel pools of the horse track in this
648 state that broadcasts the race upon which wagers are accepted.



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649 The handle, as referred to in s. 550.0951(3), does not include
650 any wagers accepted by an out-of-state pari-mutuel permitholder
651 or licensed betting system, irrespective of whether such wagers
652 are included in the pari-mutuel pools of the Florida
653 permitholder as authorized by this subsection.

654 (4) Any greyhound permitholder or jai alai permitholder ~~dog~~
655 ~~track or fronton~~ licensed under this chapter may receive at its
656 licensed location broadcasts of dograces or jai alai games
657 conducted at other tracks or frontons located outside the state
658 ~~at the track enclosure of the licensee during its operational~~
659 ~~meeting~~. All forms of pari-mutuel wagering are allowed on
660 dograces or jai alai games broadcast under this subsection. All
661 money wagered by patrons on dograces broadcast under this
662 subsection shall be computed in the amount of money wagered each
663 performance for purposes of taxation under ss. 550.0951 and
664 550.09511.

665 (6) (a) ~~A maximum of 20 percent of the total number of races~~
666 ~~on which wagers are accepted by a greyhound permitholder not~~
667 ~~located as specified in s. 550.615(6) may be received from~~
668 ~~locations outside this state.~~ A permitholder conducting live
669 races or games may not conduct fewer than eight live races or
670 games on any authorized race day except as provided in this
671 subsection. A thoroughbred permitholder may not conduct fewer
672 than eight live races on any race day without the written
673 approval of the Florida Thoroughbred Breeders' Association and
674 the Florida Horsemen's Benevolent and Protective Association,
675 Inc., unless it is determined by the department that another
676 entity represents a majority of the thoroughbred racehorse
677 owners and trainers in the state. If conducting live racing, a



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678 harness permitholder may conduct fewer than eight live races on
679 any authorized race day, ~~except that such permitholder must~~
680 ~~conduct a full schedule of live racing during its race meet~~
681 ~~consisting of at least eight live races per authorized race day~~
682 ~~for at least 100 days.~~ Any harness horse permitholder ~~that~~
683 ~~during the preceding racing season conducted a full schedule of~~
684 ~~live racing may, at any time during its current race meet,~~
685 receive full-card broadcasts of harness horse races conducted at
686 harness racetracks outside this state at the harness track of
687 the permitholder and accept wagers on such harness races. ~~With~~
688 ~~specific authorization from the division for special racing~~
689 ~~events, a permitholder may conduct fewer than eight live races~~
690 ~~or games when the permitholder also broadcasts out of state~~
691 ~~races or games. The division may not grant more than two such~~
692 ~~exceptions a year for a permitholder in any 12-month period, and~~
693 ~~those two exceptions may not be consecutive.~~

694 (11) Greyhound permitholders ~~tracks~~ and jai alai
695 permitholders ~~frontons~~ have the same privileges as provided in
696 this section to horserace permitholders ~~horse tracks~~, as
697 applicable, subject to rules adopted under subsection (10).

698 Section 20. Subsections (1), (3), (4), (5), and (6) of
699 section 550.3615, Florida Statutes, are amended to read:

700 550.3615 Bookmaking on the grounds of a permitholder;
701 penalties; reinstatement; duties of track employees; penalty;
702 exceptions.-

703 (1) Any person who engages in bookmaking, as defined in s.
704 849.25, on the grounds or property of a pari-mutuel facility
705 commits ~~permitholder of a horse or dog track or jai alai fronton~~
706 ~~is guilty of~~ a felony of the third degree, punishable as



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707 provided in s. 775.082, s. 775.083, or s. 775.084.
708 Notwithstanding the provisions of s. 948.01, any person
709 convicted under the provisions of this subsection shall not have
710 adjudication of guilt suspended, deferred, or withheld.

711 (3) Any person who has been convicted of bookmaking in this
712 state or any other state of the United States or any foreign
713 country shall be denied admittance to and shall not attend any
714 pari-mutuel facility ~~racetrack or fronton~~ in this state during
715 its racing seasons or operating dates, including any practice or
716 preparational days, for a period of 2 years after the date of
717 conviction or the date of final appeal. Following the conclusion
718 of the period of ineligibility, the director of the division may
719 authorize the reinstatement of an individual following a hearing
720 on readmittance. Any such person who knowingly violates this
721 subsection commits ~~is guilty of~~ a misdemeanor of the first
722 degree, punishable as provided in s. 775.082 or s. 775.083.

723 (4) If the activities of a person show that this law is
724 being violated, and such activities are either witnessed or are
725 common knowledge by any pari-mutuel facility ~~track or fronton~~
726 employee, it is the duty of that employee to bring the matter to
727 the immediate attention of the permitholder, manager, or her or
728 his designee, who shall notify a law enforcement agency having
729 jurisdiction. Willful failure by the pari-mutuel facility ~~on the~~
730 ~~part of any track or fronton~~ employee to comply with the
731 provisions of this subsection is a ground for the division to
732 suspend or revoke that employee's license for pari-mutuel
733 facility ~~track or fronton~~ employment.

734 (5) Each permittee shall display, in conspicuous places at
735 a pari-mutuel facility ~~track or fronton~~ and in all race and jai



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736 jai alai daily programs, a warning to all patrons concerning the
737 prohibition and penalties of bookmaking contained in this
738 section and s. 849.25. The division shall adopt rules concerning
739 the uniform size of all warnings and the number of placements
740 throughout a pari-mutuel facility ~~track or fronton~~. Failure on
741 the part of the permittee to display such warnings may result in
742 the imposition of a \$500 fine by the division for each offense.

743 (6) This section does not apply to any person ~~attending a~~
744 ~~track or fronton~~ or employed by or attending a pari-mutuel
745 facility ~~a track or fronton~~ who places a bet through the
746 legalized pari-mutuel pool for another person, provided such
747 service is rendered gratuitously and without fee or other
748 reward.

749 Section 21. Section 550.475, Florida Statutes, is amended
750 to read:

751 550.475 Lease of pari-mutuel facilities by pari-mutuel
752 permitholders.—Holders of valid pari-mutuel permits for the
753 conduct of any pari-mutuel wagering ~~jai alai games, dogracing,~~
754 ~~or thoroughbred and standardbred horse racing~~ in this state are
755 entitled to lease any and all of their facilities to any other
756 holder of a same class valid pari-mutuel permit ~~for jai alai~~
757 ~~games, dogracing, or thoroughbred or standardbred horse racing,~~
758 when located within a 35-mile radius of each other; and such
759 lessee is entitled to a permit and license to conduct intertrack
760 wagering and operate its race meet or jai alai games at the
761 leased premises.

762 Section 22. Subsection (1) of section 550.5251, Florida
763 Statutes, is amended to read:

764 550.5251 Florida thoroughbred racing; certain permits;



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765 operating days.—

766 (1) (a) Each thoroughbred permitholder shall annually,
767 during the period commencing December 15 of each year and ending
768 January 4 of the following year, file in writing with the
769 division its application to conduct one or more thoroughbred
770 racing meetings during the thoroughbred racing season commencing
771 on the following July 1. Each application shall specify the
772 number and dates of all performances that the permitholder
773 intends to conduct during that thoroughbred racing season. On or
774 before March 15 of each year, the division shall issue a license
775 authorizing each permitholder to conduct performances on the
776 dates specified in its application. Up to February 28 of each
777 year, each permitholder may request and shall be granted changes
778 in its authorized performances; but thereafter, as a condition
779 precedent to the validity of its license and its right to retain
780 its permit, each permitholder must operate the full number of
781 days authorized on each of the dates set forth in its license.

782 (b) A thoroughbred permitholder that has conducted live
783 racing for at least 5 years prior to July 1, 2020, and that has
784 not filed with the division an application to conduct one or
785 more thoroughbred racing meetings under this section for the
786 thoroughbred racing season commencing July 1, 2021, retains its
787 permit; is a pari-mutuel facility as defined in s. 550.002(23);
788 if such permitholder has been issued a slot machine license, the
789 facility where such permit is located remains an eligible
790 facility as defined in s. 551.102(4), continues to be eligible
791 for a slot machine license pursuant to s. 551.104(3), and is
792 exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is
793 eligible, but not required, to be a guest track; and remains



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794 eligible for a cardroom license.

795 Section 23. Subsections (2) and (8) of section 550.615,
796 Florida Statutes, are amended, and subsection (11) is added to
797 that section, to read:

798 550.615 Intertrack wagering.—

799 (2) A pari-mutuel permitholder that has met the applicable
800 requirement for that permitholder to conduct live racing or
801 games under s. 550.01215(1)(b), if any, on January 1, 2021, Any
802 ~~track or fronton licensed under this chapter which in the~~
803 ~~preceding year conducted a full schedule of live racing is~~
804 qualified to, at any time, receive broadcasts of any class of
805 pari-mutuel race or game and accept wagers on such races or
806 games conducted by any class of permitholders licensed under
807 this chapter.

808 (8) In any three contiguous counties of the state where
809 there are only three permitholders, all of which are greyhound
810 permitholders, if any permitholder leases the facility of
811 another permitholder for all or any portion of the conduct of
812 its live race meet pursuant to s. 550.475, such lessee may
813 conduct intertrack wagering at its pre-lease permitted facility
814 throughout the entire year, ~~including while its live meet is~~
815 ~~being conducted at the leased facility, if such permitholder has~~
816 ~~conducted a full schedule of live racing during the preceding~~
817 ~~fiscal year at its pre-lease permitted facility or at a leased~~
818 ~~facility, or combination thereof.~~

819 (11) Any greyhound permitholder licensed under this chapter
820 to conduct pari-mutuel wagering is qualified to, at any time,
821 receive broadcasts of any class of pari-mutuel race or game and
822 accept wagers on such races or games conducted by any class of



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823 permitholders licensed under this chapter.

824 Section 24. Subsection (2) of section 550.6305, Florida
825 Statutes, is amended to read:

826 550.6305 Intertrack wagering; guest track payments;
827 accounting rules.-

828 (2) For the purposes of calculation of odds and payoffs and
829 distribution of the pari-mutuel pools, all intertrack wagers
830 shall be combined with the pari-mutuel pools at the host track.
831 ~~Notwithstanding this subsection or subsection (4), a greyhound~~
832 ~~pari-mutuel permitholder may conduct intertrack wagering without~~
833 ~~combining pari-mutuel pools on not more than three races in any~~
834 ~~week, not to exceed 20 races in a year. All other provisions~~
835 ~~concerning pari-mutuel takeout and payments, including state tax~~
836 ~~payments, apply as if the pool had been combined.~~

837 Section 25. Paragraph (c) of subsection (4) of section
838 551.104, Florida Statutes, is amended to read:

839 551.104 License to conduct slot machine gaming.-

840 (4) As a condition of licensure and to maintain continued
841 authority for the conduct of slot machine gaming, the slot
842 machine licensee shall:

843 (c) If a thoroughbred permitholder, conduct no fewer than a
844 full schedule of live racing or games as defined in s.
845 550.002(11). A permitholder's responsibility to conduct ~~such~~
846 ~~number of~~ live races or games shall be reduced by the number of
847 races or games that could not be conducted due to the direct
848 result of fire, war, hurricane, or other disaster or event
849 beyond the control of the permitholder.

850 Section 26. Subsection (4) of section 551.114, Florida
851 Statutes, is amended to read:



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852 551.114 Slot machine gaming areas.-

853 (4) Designated slot machine gaming areas must ~~may~~ be
854 located at the address specified in the licensed permitholder's
855 slot machine license issued for fiscal year 2020-2021 ~~within the~~
856 ~~current live gaming facility or in an existing building that~~
857 ~~must be contiguous and connected to the live gaming facility. If~~
858 ~~a designated slot machine gaming area is to be located in a~~
859 ~~building that is to be constructed, that new building must be~~
860 ~~contiguous and connected to the live gaming facility.~~

861 Section 27. Subsection (5) of section 565.02, Florida
862 Statutes, is amended to read:

863 565.02 License fees; vendors; clubs; caterers; and others.-

864 (5) A caterer at a pari-mutuel facility licensed under
865 chapter 550 ~~horse or dog racetrack or jai alai fronton~~ may
866 obtain a license upon the payment of an annual state license tax
867 of \$675. Such caterer's license shall permit sales only within
868 the enclosure in which pari-mutuel wagering is conducted ~~such~~
869 ~~racers or jai alai games are conducted, and such licensee shall~~
870 ~~be permitted to sell only during the period beginning 10 days~~
871 ~~before and ending 10 days after racing or jai alai~~ under the
872 authority of the Division of Pari-mutuel Wagering of the
873 Department of Business and Professional Regulation ~~is conducted~~
874 ~~at such racetrack or jai alai fronton~~. Except as in this
875 subsection otherwise provided, caterers licensed hereunder shall
876 be treated as vendors licensed to sell by the drink the
877 beverages mentioned herein and shall be subject to all the
878 provisions hereof relating to such vendors.

879 Section 28. Subsection (5) and paragraph (d) of subsection
880 (13) of section 849.086, Florida Statutes, are amended to read:



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881 849.086 Cardrooms authorized.—

882 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may
883 operate a cardroom in this state unless such person holds a
884 valid cardroom license issued pursuant to this section.

885 (a) Only those persons holding a valid cardroom license
886 issued by the division may operate a cardroom. A cardroom
887 license may only be issued to a licensed pari-mutuel
888 permitholder and an authorized cardroom may only be operated at
889 the same facility at which the permitholder is authorized under
890 its valid pari-mutuel wagering permit to conduct pari-mutuel
891 wagering activities. An initial cardroom license shall be issued
892 to a pari-mutuel permitholder only after its facilities are in
893 place and after it conducts its first day of pari-mutuel
894 activities on live racing or games.

895 (b) After the initial cardroom license is granted, the
896 application for the annual license renewal shall be made in
897 conjunction with the applicant's annual application for its
898 pari-mutuel license. If a permitholder has operated a cardroom
899 during any of the 3 previous fiscal years and fails to include a
900 renewal request for the operation of the cardroom in its annual
901 application for license renewal, the permitholder may amend its
902 annual application to include operation of the cardroom.

903 (c) Notwithstanding any other provision of law, a cardroom
904 license may not be issued to any permitholder that did not hold
905 a cardroom license on January 1, 2021. In order for a cardroom
906 license to be renewed the applicant must have requested, as part
907 of its pari-mutuel annual license application, to conduct at
908 least 90 percent of the total number of live performances
909 conducted by such permitholder during either the state fiscal



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910 ~~year in which its initial cardroom license was issued or the~~
911 ~~state fiscal year immediately prior thereto if the permitholder~~
912 ~~ran at least a full schedule of live racing or games in the~~
913 ~~prior year. If the application is for a harness permitholder~~
914 ~~cardroom, the applicant must have requested authorization to~~
915 ~~conduct a minimum of 140 live performances during the state~~
916 ~~fiscal year immediately prior thereto. If more than one~~
917 ~~permitholder is operating at a facility, each permitholder must~~
918 ~~have applied for a license to conduct a full schedule of live~~
919 ~~racing.~~

920 ~~(d)~~(e) Persons seeking a license or a renewal thereof to
921 operate a cardroom shall make application on forms prescribed by
922 the division. Applications for cardroom licenses shall contain
923 all of the information the division, by rule, may determine is
924 required to ensure eligibility.

925 ~~(e)~~(d) The annual cardroom license fee for each facility
926 shall be \$1,000 for each table to be operated at the cardroom.
927 The license fee shall be deposited by the division with the
928 Chief Financial Officer to the credit of the Pari-mutuel
929 Wagering Trust Fund.

930 (13) TAXES AND OTHER PAYMENTS.—

931 (d)1. Each ~~greyhound and~~ jai alai permitholder that
932 conducts live performances and operates a cardroom facility
933 shall use at least 4 percent of such permitholder's cardroom
934 monthly gross receipts to supplement ~~greyhound purses or~~ jai
935 alai prize money, ~~respectively,~~ during the permitholder's next
936 ensuing pari-mutuel meet.

937 2. Each thoroughbred permitholder or ~~and~~ harness horse
938 racing permitholder that conducts live performances and operates



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939 a cardroom facility shall use at least 50 percent of such
940 permitholder's cardroom monthly net proceeds as follows: 47
941 percent to supplement purses and 3 percent to supplement
942 breeders' awards during the permitholder's next ensuing racing
943 meet.

944 3. No cardroom license or renewal thereof shall be issued
945 to an applicant holding a permit under chapter 550 to conduct
946 pari-mutuel wagering meets of quarter horse racing and
947 conducting live performances unless the applicant has on file
948 with the division a binding written agreement between the
949 applicant and the Florida Quarter Horse Racing Association or
950 the association representing a majority of the horse owners and
951 trainers at the applicant's eligible facility, governing the
952 payment of purses on live quarter horse races conducted at the
953 licensee's pari-mutuel facility. The agreement governing purses
954 may direct the payment of such purses from revenues generated by
955 any wagering or gaming the applicant is authorized to conduct
956 under Florida law. All purses shall be subject to the terms of
957 chapter 550.

958 Section 29. For the purpose of incorporating the amendment
959 made by this act to section 550.002, Florida Statutes, in a
960 reference thereto, paragraph (c) of subsection (2) of section
961 380.0651, Florida Statutes, is reenacted to read:

962 380.0651 Statewide guidelines, standards, and exemptions.-

963 (2) STATUTORY EXEMPTIONS.—The following developments are
964 exempt from s. 380.06:

965 (c) Any proposed addition to an existing sports facility
966 complex if the addition meets the following characteristics:

967 1. It would not operate concurrently with the scheduled



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968 hours of operation of the existing facility;

969 2. Its seating capacity would be no more than 75 percent of
970 the capacity of the existing facility; and

971 3. The sports facility complex property was owned by a
972 public body before July 1, 1983.

973

974 This exemption does not apply to any pari-mutuel facility as
975 defined in s. 550.002.

976

977 If a use is exempt from review pursuant to paragraphs (a)-(u),
978 but will be part of a larger project that is subject to review
979 pursuant to s. 380.06(12), the impact of the exempt use must be
980 included in the review of the larger project, unless such exempt
981 use involves a development that includes a landowner, tenant, or
982 user that has entered into a funding agreement with the state
983 land planning agency under the Innovation Incentive Program and
984 the agreement contemplates a state award of at least \$50
985 million.

986 Section 30. For the purpose of incorporating the amendment
987 made by this act to section 550.002, Florida Statutes, in a
988 reference thereto, paragraph (c) of subsection (4) of section
989 402.82, Florida Statutes, is reenacted to read:

990 402.82 Electronic benefits transfer program.—

991 (4) Use or acceptance of an electronic benefits transfer
992 card is prohibited at the following locations or for the
993 following activities:

994 (c) A pari-mutuel facility as defined in s. 550.002.

995 Section 31. For the purpose of incorporating the amendment
996 made by this act to section 550.002, Florida Statutes, in a



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997 reference thereto, subsection (1) of section 480.0475, Florida
998 Statutes, is reenacted to read:

999 480.0475 Massage establishments; prohibited practices.—

1000 (1) A person may not operate a massage establishment
1001 between the hours of midnight and 5 a.m. This subsection does
1002 not apply to a massage establishment:

1003 (a) Located on the premises of a health care facility as
1004 defined in s. 408.07; a health care clinic as defined in s.
1005 400.9905(4); a hotel, motel, or bed and breakfast inn, as those
1006 terms are defined in s. 509.242; a timeshare property as defined
1007 in s. 721.05; a public airport as defined in s. 330.27; or a
1008 pari-mutuel facility as defined in s. 550.002;

1009 (b) In which every massage performed between the hours of
1010 midnight and 5 a.m. is performed by a massage therapist acting
1011 under the prescription of a physician or physician assistant
1012 licensed under chapter 458, an osteopathic physician or
1013 physician assistant licensed under chapter 459, a chiropractic
1014 physician licensed under chapter 460, a podiatric physician
1015 licensed under chapter 461, an advanced practice registered
1016 nurse licensed under part I of chapter 464, or a dentist
1017 licensed under chapter 466; or

1018 (c) Operating during a special event if the county or
1019 municipality in which the establishment operates has approved
1020 such operation during the special event.

1021 Section 32. This act shall take effect July 1, 2021.

1022
1023 ===== T I T L E A M E N D M E N T =====

1024 And the title is amended as follows:

1025 Delete everything before the enacting clause



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1026 and insert:

1027 A bill to be entitled
1028 An act relating to requirements for pari-mutuel
1029 permitholders to conduct racing or games; amending s.
1030 550.002, F.S.; revising and providing definitions;
1031 amending s. 550.0115, F.S.; conforming provisions to
1032 changes made by the act; amending s. 550.01215, F.S.;
1033 revising the application requirements for an operating
1034 license to conduct pari-mutuel wagering for a pari-
1035 mutuel facility; prohibiting greyhound permitholders
1036 from conducting live racing; authorizing jai alai
1037 permitholders, harness horse racing permitholders, and
1038 quarter horse racing permitholders to elect not to
1039 conduct live racing or games; requiring certain
1040 thoroughbred permitholders to conduct live racing;
1041 specifying that certain permitholders that do not
1042 conduct live racing or games retain their permit and
1043 remain pari-mutuel facilities; specifying that, if
1044 such permitholder has been issued a slot machine
1045 license, the permitholder's facility remains an
1046 eligible facility, continues to be eligible for a slot
1047 machine license, is exempt from certain provisions of
1048 ch. 551, F.S., is eligible to be a guest track, and,
1049 if the permitholder is a harness horse racing
1050 permitholder, is eligible to be a host track for
1051 intertrack wagering and simulcasting, and remains
1052 eligible for a cardroom license; prohibiting a
1053 permitholder or licensee from conducting live
1054 greyhound racing or dogracing in connection with any



1055 wager for money or any other thing of value in the
1056 state; providing administrative and civil penalties;
1057 prohibiting operating licenses from being issued
1058 unless a specified requirement is met; authorizing the
1059 Division of Pari-mutuel Wagering to approve a change
1060 in racing dates for certain permitholders if the
1061 request for a change is received before a specified
1062 date and under certain circumstances; deleting a
1063 provision authorizing the conversion of certain
1064 permits to a jai alai permit under certain
1065 circumstances; amending s. 550.0235, F.S.; conforming
1066 provisions to changes made by the act; amending s.
1067 550.0351, F.S.; deleting a provision relating to hound
1068 dog derbies and mutt derbies; amending s. 550.0425,
1069 F.S.; deleting a provision authorizing certain
1070 children to be granted access to kennel compound areas
1071 under certain circumstances; amending s. 550.054,
1072 F.S.; revising requirements to hold a permit from the
1073 operation of a pari-mutuel facility, cardroom, or slot
1074 machine facility; prohibiting the relocation of
1075 certain facilities and cardrooms and the conversion of
1076 pari-mutuel wagering permits; deleting provisions
1077 relating to the conversion of jai alai permits to
1078 greyhound racing permits; conforming provisions to
1079 changes made by the act; amending s. 550.09511, F.S.;
1080 deleting a provision relating to the payment of
1081 certain taxes and fees by jai alai permitholders
1082 conducting fewer than a specified number of live
1083 performances; amending s. 550.09512, F.S.; revising



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1084 the circumstances for which a harness horse
1085 permitholder's permit is voided for failing to pay
1086 certain taxes; amending ss. 550.105, 550.1155, and
1087 550.1647, F.S.; conforming provisions to changes made
1088 by the act; repealing s. 550.1648, F.S., relating to
1089 greyhound adoptions; amending ss. 550.175 and
1090 550.1815, and 550.24055, F.S.; conforming provisions
1091 to changes made by the act; amending s. 550.2415,
1092 F.S.; deleting provisions relating to the testing,
1093 euthanasia, and training of racing greyhounds;
1094 amending ss. 550.334 and 550.3551, F.S.; conforming
1095 provisions to changes made by the act; amending s.
1096 550.3615, F.S.; conforming provisions to changes made
1097 by the act; prohibiting a person convicted of
1098 bookmaking from attending or being admitted to a pari-
1099 mutuel facility; requiring pari-mutuel facility
1100 employees to notify certain persons of unlawful
1101 activities; providing civil penalties; requiring a
1102 permittee to display certain warnings relating to
1103 bookmaking at his or her pari-mutuel facility;
1104 revising applicability; amending s. 550.475, F.S.;
1105 revising provisions relating to leasing pari-mutuel
1106 facilities; amending s. 550.5251, F.S.; specifying
1107 that certain thoroughbred permitholders who have not
1108 filed an application to conduct specified thoroughbred
1109 racing meetings retain their permits and remain pari-
1110 mutuel facilities; specifying that, if such
1111 permitholder has been issued a slot machine license,
1112 the permitholder's facility remains an eligible



527596

1113 facility and continues to be eligible for a slot
1114 machine license; specifying that such permitholders
1115 are exempt from certain provisions of ch. 551, F.S.,
1116 are eligible to be a guest track, and remains eligible
1117 for a cardroom license; amending s. 550.615, F.S.;
1118 revising requirements relating to intertrack wagering;
1119 specifying that greyhound permitholders are qualified
1120 to receive certain broadcasts and accept specified
1121 wagers; amending s. 550.6305, F.S.; conforming
1122 provisions to changes made by the act; amending s.
1123 551.104, F.S.; conforming provisions to changes made
1124 by the act; amending s. 551.114, F.S.; revising
1125 requirements for the locations of designated slot
1126 machine gaming areas; amending s. 565.02, F.S.;
1127 conforming provisions to changes made by the act;
1128 amending s. 849.086, F.S.; prohibiting a cardroom
1129 license from being issued to certain permitholders;
1130 conforming provisions to changes made by the act;
1131 reenacting ss. 380.0651(2)(c), 402.82(4)(c), and
1132 480.0475(1), F.S., relating to statewide guidelines,
1133 the electronic benefits transfer program, and massage
1134 establishments, respectively, to incorporate the
1135 amendments made to s. 550.002, F.S., in references
1136 thereto; providing an effective date.



601528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (527596)

Delete lines 189 - 295

and insert:

there is no objection from any operating permitholder that is conducting live racing or games and that is located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the



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11 permitholder requesting the change in operating dates. In making
12 the determination to change racing dates, the division shall
13 take into consideration the impact of such changes on state
14 revenues. Notwithstanding any other provision of law, and for
15 the 2021-2022 state fiscal year only, the division may approve
16 changes in operating dates for a jai alai permitholder, harness
17 horse racing permitholder, or quarter horse racing permitholder
18 if the request for such changes is received before July 1, 2021.

19 (4) In the event that a permitholder fails to operate all
20 performances specified on its license at the date and time
21 specified, the division shall hold a hearing to determine
22 whether to fine or suspend the permitholder's license, unless
23 such failure was the direct result of fire, strike, war, or
24 other disaster or event beyond the ability of the permitholder
25 to control. Financial hardship to the permitholder shall not, in
26 and of itself, constitute just cause for failure to operate all
27 performances on the dates and at the times specified.

28 (5) In the event that performances licensed to be operated
29 by a permitholder are vacated, abandoned, or will not be used
30 for any reason, any permitholder shall be entitled, pursuant to
31 rules adopted by the division, to apply to conduct performances
32 on the dates for which the performances have been abandoned. The
33 division shall issue an amended license for all such replacement
34 performances which have been requested in compliance with ~~the~~
35 ~~provisions of~~ this chapter and division rules.

36 ~~(6) Any permit which was converted from a jai alai permit~~
37 ~~to a greyhound permit may be converted to a jai alai permit at~~
38 ~~any time if the permitholder never conducted greyhound racing or~~
39 ~~if the permitholder has not conducted greyhound racing for a~~



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40 ~~period of 12 consecutive months.~~

41 Section 4. Section 550.0235, Florida Statutes, is amended
42 to read:

43 550.0235 Limitation of civil liability.—No permitholder
44 licensed to conduct pari-mutuel wagering ~~permittee conducting a~~
45 ~~racing meet~~ pursuant to the provisions of this chapter; no
46 division director or employee of the division; and no steward,
47 judge, or other person appointed to act pursuant to this chapter
48 shall be held liable to any person, partnership, association,
49 corporation, or other business entity for any cause whatsoever
50 arising out of, or from, the performance by such permittee,
51 director, employee, steward, judge, or other person of her or
52 his duties and the exercise of her or his discretion with
53 respect to the implementation and enforcement of the statutes
54 and rules governing the conduct of pari-mutuel wagering, so long
55 as she or he acted in good faith. This section shall not limit
56 liability in any situation in which the negligent maintenance of
57 the premises or the negligent conduct of a race contributed to
58 an accident; nor shall it limit any contractual liability.

59 Section 5. Subsections (1) and (7) of section 550.0351,
60 Florida Statutes, are amended to read:

61 550.0351 Charity racing days.—

62 (1) The division shall, upon the request of a permitholder,
63 authorize each horseracing permitholder, ~~dogracing permitholder,~~
64 and jai alai permitholder up to five charity or scholarship days
65 in addition to the regular racing days authorized by law.

66 ~~(7) In addition to the charity days authorized by this~~
67 ~~section, any dogracing permitholder may allow its facility to be~~
68 ~~used for conducting "hound dog derbies" or "mutt derbies" on any~~



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69 ~~day during each racing season by any charitable, civic, or~~
70 ~~nonprofit organization for the purpose of conducting "hound dog~~
71 ~~derbies" or "mutt derbies" if only dogs other than those usually~~
72 ~~used in dogracing (greyhounds) are permitted to race and if~~
73 ~~adults and minors are allowed to participate as dog owners or~~
74 ~~spectators. During these racing events, betting, gambling, and~~
75 ~~the sale or use of alcoholic beverages is prohibited.~~

76 Section 6. Subsection (4) of section 550.0425, Florida
77 Statutes, is amended to read:

78 550.0425 Minors attendance at pari-mutuel performances;
79 restrictions.-

80 ~~(4) Minor children of licensed greyhound trainers, kennel~~
81 ~~operators, or other licensed persons employed in the kennel~~
82 ~~compound areas may be granted access to kennel compound areas~~
83 ~~without being licensed, provided they are in no way employed~~
84 ~~unless properly licensed, and only when under the direct~~
85 ~~supervision of one of their parents or legal guardian.~~

86 Section 7. Subsections (2) and (14) of section 550.054,
87 Florida Statutes, are amended to read:

88 550.054 Application for permit to conduct pari-mutuel
89 wagering.-

90 (2) Upon each application filed and approved, a permit
91 shall be issued to the applicant setting forth the name of the
92 permitholder, the location of the pari-mutuel facility, the type
93 of pari-mutuel activity desired to be conducted, and a statement
94 showing qualifications of the applicant to conduct pari-mutuel
95 performances under this chapter; however, a permit is
96 ineffectual to authorize any pari-mutuel performances until
97 approved by a majority of the electors participating in a



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98 ratification election in the county in which the applicant
99 proposes to conduct pari-mutuel wagering activities. In
100 addition, an application may not be considered, nor may a permit
101 be issued by the division or be voted upon in any county, to
102 conduct horseraces, harness horse races, or pari-mutuel wagering
103 ~~degraces~~ at a location within 100 miles of an existing pari-
104 mutuel facility, or for jai alai within 50 miles of an existing
105 pari-mutuel facility; this distance shall be measured on a
106 straight line from the nearest property line of one pari-mutuel
107 facility to the nearest property line of the other facility.

108 (14) (a) Notwithstanding any other provision of law, a
109 permit for the operation of a pari-mutuel facility, cardroom, or
110 slot machine facility may only be held by permitholders with
111 permits on January 1, 2021, and new permits may not be approved
112 or issued after January 1, 2021.



480942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Hutson) recommended the following:

1 **Senate Amendment to Amendment (527596) (with title**
2 **amendment)**

3
4 Between lines 836 and 837
5 insert:

6 Section 25. Subsections (1), (4), and (5) of section
7 550.6308, Florida Statutes, are amended to read:

8 550.6308 Limited intertrack wagering license.—In
9 recognition of the economic importance of the thoroughbred
10 breeding industry to this state, its positive impact on tourism,



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11 and of the importance of a permanent thoroughbred sales facility
12 as a key focal point for the activities of the industry, a
13 limited license to conduct intertrack wagering is established to
14 ensure the continued viability and public interest in
15 thoroughbred breeding in Florida.

16 (1) Upon application to the division on or before January
17 31 of each year, any person that is licensed to conduct public
18 sales of thoroughbred horses pursuant to s. 535.01 ~~and~~ that has
19 conducted at least 8 ~~15~~ days of thoroughbred horse sales at a
20 permanent sales facility in this state for at least 3
21 consecutive years, ~~and that has conducted at least 1 day of~~
22 ~~nonwagering thoroughbred racing in this state, with a purse~~
23 ~~structure of at least \$250,000 per year for 2 consecutive years~~
24 before such application, shall be issued a license, subject to
25 the conditions set forth in this section, to conduct intertrack
26 wagering at such a permanent sales facility ~~during the following~~
27 ~~periods:~~

- 28 ~~(a) Up to 21 days in connection with thoroughbred sales;~~
29 ~~(b) Between November 1 and May 8;~~
30 ~~(c) Between May 9 and October 31 at such times and on such~~
31 ~~days as any thoroughbred, jai alai, or a greyhound permitholder~~
32 ~~in the same county is not conducting live performances; provided~~
33 ~~that any such permitholder may waive this requirement, in whole~~
34 ~~or in part, and allow the licensee under this section to conduct~~
35 ~~intertrack wagering during one or more of the permitholder's~~
36 ~~live performances; and~~
37 ~~(d) During the weekend of the Kentucky Derby, the~~
38 ~~Preakness, the Belmont, and a Breeders' Cup Meet that is~~
39 ~~conducted before November 1 and after May 8.~~



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40
41 No more than one such license may be issued, and no such license
42 may be issued for a facility located within 50 miles of any for-
43 profit thoroughbred permitholder's track.

44 ~~(4) Intertrack wagering under this section may be conducted~~
45 ~~only on thoroughbred horse racing, except that intertrack~~
46 ~~wagering may be conducted on any class of pari-mutuel race or~~
47 ~~game conducted by any class of permitholders licensed under this~~
48 ~~chapter if all thoroughbred, jai alai, and greyhound~~
49 ~~permitholders in the same county as the licensee under this~~
50 ~~section give their consent.~~

51 ~~(5) The licensee shall be considered a guest track under~~
52 ~~this chapter. The licensee shall pay 2.5 percent of the total~~
53 ~~contributions to the daily pari-mutuel pool on wagers accepted~~
54 ~~at the licensee's facility on greyhound races or jai alai games~~
55 ~~to the thoroughbred permitholder that is conducting live races~~
56 ~~for purses to be paid during its current racing meet. If more~~
57 ~~than one thoroughbred permitholder is conducting live races on a~~
58 ~~day during which the licensee is conducting intertrack wagering~~
59 ~~on greyhound races or jai alai games, the licensee shall~~
60 ~~allocate these funds between the operating thoroughbred~~
61 ~~permitholders on a pro rata basis based on the total live handle~~
62 ~~at the operating permitholders' facilities.~~

63
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Between lines 1122 and 1123

67 insert:

68 550.6308, F.S.; revising requirements for a limited



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69 intertrack wagering license; revising requirements for
70 intertrack wagering; deleting requirements for limited
71 intertrack wagering licensees to make specified
72 payments; amending s.



455452

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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The Committee on Appropriations (Hutson) recommended the following:

1 **Senate Amendment to Amendment (527596) (with title**
2 **amendment)**

3
4 Delete line 1021
5 and insert:

6 Section 32. This act shall take effect July 1, 2021, but
7 only if SB 7076 or similar legislation takes effect, if such
8 legislation is adopted in the same legislative session or an
9 extension thereof and becomes a law.

10



455452

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

12 And the title is amended as follows:

13 Delete line 1136

14 and insert:

15 thereto; providing a contingent effective date.



208346

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2021	.	
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	.	
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The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment to Amendment (527596)

Delete lines 905 - 913

and insert:

a valid pari-mutuel wagering permit on January 1, 2021. In order for a cardroom license to be renewed for a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which



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11 | its initial cardroom license was issued or the state fiscal year
12 | immediately prior thereto if the permitholder ran at least a
13 | full schedule of live racing or games in the prior year. ~~If the~~
14 | ~~application is for a harness permitholder~~

By the Committee on Regulated Industries

580-04019-21

20217080__

1 A bill to be entitled
 2 An act relating to requirements for pari-mutuel
 3 permitholders to conduct live racing or games;
 4 amending s. 550.002, F.S.; revising definitions;
 5 defining the terms "permitholder" and "permittee";
 6 deleting the term "racing greyhound"; amending s.
 7 550.0115, F.S.; making technical changes; amending s.
 8 550.01215, F.S.; revising the application requirements
 9 for an operating license to conduct pari-mutuel
 10 wagering for a pari-mutuel facility; prohibiting
 11 greyhound permitholders from conducting live racing;
 12 authorizing jai alai permitholders, harness horse
 13 racing permitholders, and quarter horse racing
 14 permitholders to elect not to conduct live racing or
 15 games; requiring thoroughbred permitholders to conduct
 16 live racing; specifying that certain permitholders
 17 that do not conduct live racing or games retain their
 18 permit and remain pari-mutuel facilities; specifying
 19 that, if such permitholder has been issued a slot
 20 machine license, the permitholder's facility remains
 21 an eligible facility, continues to be eligible for a
 22 slot machine license, is exempt from certain
 23 provisions of ch. 551, F.S., is eligible to be a guest
 24 track, and, if the permitholder is a harness horse
 25 racing permitholder, is eligible to be a host track
 26 for intertrack wagering and simulcasting, and remains
 27 eligible for a cardroom license; authorizing the
 28 Division of Pari-mutuel Wagering to approve a change
 29 in racing dates for a permitholder if the request for

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

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20217080__

30 a change is received before a specified date and under
 31 certain circumstances; deleting a provision
 32 authorizing the conversion of certain permits to a jai
 33 alai permit under certain circumstances; amending s.
 34 550.0235, F.S.; conforming provisions to changes made
 35 by the act; amending s. 550.0351, F.S.; deleting a
 36 provision relating to hound dog derbies and mutt
 37 derbies; amending s. 550.0425, F.S.; deleting a
 38 provision authorizing certain children to be granted
 39 access to kennel compound areas under certain
 40 circumstances; amending s. 550.054, F.S.; deleting
 41 provisions relating to the conversion of jai alai
 42 permits to greyhound racing permits; conforming
 43 provisions to changes made by the act; amending s.
 44 550.09511, F.S.; deleting a provision relating to the
 45 payment of certain taxes and fees by jai alai
 46 permitholders conducting fewer than a specified number
 47 of live performances; amending s. 550.09512, F.S.;
 48 revising the circumstances for which a harness horse
 49 permitholder's permit is voided for failing to pay
 50 certain taxes; amending ss. 550.105 and 550.1155,
 51 F.S.; conforming provisions to changes made by the
 52 act; amending s. 550.1647, F.S.; conforming a
 53 provision to changes made by the act; repealing s.
 54 550.1648, F.S., relating to greyhound adoptions;
 55 amending ss. 550.175 and 550.1815, F.S.; conforming
 56 provisions to changes made by the act; amending s.
 57 550.24055, F.S.; conforming provisions to changes made
 58 by the act; amending s. 550.2415, F.S.; deleting

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59 provisions relating to the testing, euthanasia, and
 60 training of racing greyhounds; amending s. 550.334,
 61 F.S.; conforming provisions to changes made by the
 62 act; amending s. 550.3551, F.S.; making technical
 63 changes; conforming provisions to changes made by the
 64 act; amending s. 550.3615, F.S.; making technical
 65 changes; prohibiting a person convicted of bookmaking
 66 from attending or being admitted to a pari-mutuel
 67 facility; requiring pari-mutuel facility employees to
 68 notify certain persons of unlawful activities;
 69 providing civil penalties; requiring a permittee to
 70 display certain warnings relating to bookmaking at his
 71 or her pari-mutuel facility; revising applicability;
 72 amending s. 550.475, F.S.; revising provisions
 73 relating to leasing pari-mutuel facilities; amending
 74 s. 550.615, F.S.; revising requirements relating to
 75 intertrack wagering; specifying that greyhound
 76 permitholders are qualified to receive certain
 77 broadcasts and accept specified wagers; amending s.
 78 550.6305, F.S.; conforming provisions to changes made
 79 by the act; amending s. 551.104, F.S.; conforming
 80 provisions to changes made by the act; amending s.
 81 551.114, F.S.; revising requirements for the locations
 82 of designated slot machine gaming areas; amending s.
 83 565.02, F.S.; conforming provisions to changes made by
 84 the act; amending s. 849.086, F.S.; revising
 85 requirements relating to the annual renewal of a
 86 cardroom license; conforming provisions to changes
 87 made by the act; reenacting ss. 380.0651(2)(c),

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88 402.82(4)(c), and 480.0475(1), F.S., relating to
 89 statewide guidelines, the electronic benefits transfer
 90 program, and massage establishments, respectively, to
 91 incorporate the amendments made to s. 550.002, F.S.,
 92 in references thereto; providing an effective date.
 93

94 Be It Enacted by the Legislature of the State of Florida:
 95

96 Section 1. Present subsections (24) through (28) of section
 97 550.002, Florida Statutes, are redesignated as subsections (25)
 98 through (29), respectively, a new subsection (24) is added to
 99 that section, and subsections (11), (17), (20), (21), (22),
 100 (23), and (31) and present subsections (26) and (29) of that
 101 section are amended, to read:

102 550.002 Definitions.—As used in this chapter, the term:
 103 (11) “Full schedule of live racing or games” means, for a
 104 ~~greyhound~~ or jai alai permitholder, the conduct of a combination
 105 of at least 100 live evening or matinee performances during the
 106 preceding year; for a permitholder who has a converted permit or
 107 filed an application on or before June 1, 1990, for a converted
 108 permit, the conduct of a combination of at least 100 live
 109 evening and matinee wagering performances during either of the 2
 110 preceding years; for a jai alai permitholder who does not
 111 operate slot machines in its pari-mutuel facility, who has
 112 conducted at least 100 live performances per year for at least
 113 10 years after December 31, 1992, and whose handle on live jai
 114 alai games conducted at its pari-mutuel facility has been less
 115 than \$4 million per state fiscal year for at least 2 consecutive
 116 years after June 30, 1992, the conduct of a combination of at

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

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117 least 40 live evening or matinee performances during the
 118 preceding year; for a jai alai permitholder who operates slot
 119 machines in its pari-mutuel facility, the conduct of a
 120 combination of at least 150 performances during the preceding
 121 year; for a harness permitholder, the conduct of at least 100
 122 live regular wagering performances during the preceding year;
 123 for a quarter horse permitholder at its facility unless an
 124 alternative schedule of at least 20 live regular wagering
 125 performances is agreed upon by the permitholder and either the
 126 Florida Quarter Horse Racing Association or the horsemen's
 127 association representing the majority of the quarter horse
 128 owners and trainers at the facility and filed with the division
 129 along with its annual date application, in the 2010-2011 fiscal
 130 year, the conduct of at least 20 regular wagering performances,
 131 in the 2011-2012 and 2012-2013 fiscal years, the conduct of at
 132 least 30 live regular wagering performances, and for every
 133 fiscal year after the 2012-2013 fiscal year, the conduct of at
 134 least 40 live regular wagering performances; for a quarter horse
 135 permitholder leasing another licensed racetrack, the conduct of
 136 160 events at the leased facility; and for a thoroughbred
 137 permitholder, the conduct of at least 40 live regular wagering
 138 performances during the preceding year. For a permitholder which
 139 is restricted by statute to certain operating periods within the
 140 year when other members of its same class of permit are
 141 authorized to operate throughout the year, the specified number
 142 of live performances which constitute a full schedule of live
 143 racing or games shall be adjusted pro rata in accordance with
 144 the relationship between its authorized operating period and the
 145 full calendar year and the resulting specified number of live

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

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146 performances shall constitute the full schedule of live games
 147 for such permitholder and all other permitholders of the same
 148 class within 100 air miles of such permitholder. A live
 149 performance must consist of no fewer than eight races or games
 150 conducted live for each of a minimum of three performances each
 151 week at the permitholder's licensed facility under a single
 152 admission charge.

153 (17) "Intertrack wager" or "intertrack wagering" means a
 154 particular form of pari-mutuel wagering in which wagers are
 155 accepted at a permitted, in-state track, fronton, or pari-mutuel
 156 facility on a race or game transmitted from and performed live
 157 at, or simulcast signal rebroadcast from, another in-state pari-
 158 mutuel facility.

159 (20) "Meet" or "meeting" means the conduct of live racing
 160 or jai alai, or wagering on intertrack or simulcast events, for
 161 any stake, purse, prize, or premium.

162 (21) "Operating day" means a continuous period of 24 hours
 163 starting with the beginning of the first performance of a race
 164 or game, even though the operating day may start during one
 165 calendar day and extend past midnight except that no ~~greyhound~~
 166 ~~race or~~ jai alai game may commence after 1:30 a.m.

167 (22) "Pari-mutuel" or "pari-mutuel wagering" means a system
 168 of betting on races or games in which the winners divide the
 169 total amount bet, after deducting management expenses and taxes,
 170 in proportion to the sums they have wagered individually and
 171 with regard to the odds assigned to particular outcomes.

172 (23) "Pari-mutuel facility" means the grounds or property
 173 of a cardroom, racetrack, fronton, or other facility used by a
 174 licensed permitholder for the conduct of pari-mutuel wagering.

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

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175 (24) "Permitholder" or "permittee" means a holder of a
 176 permit to conduct pari-mutuel wagering in this state as
 177 authorized in this chapter.

178 ~~(27)(26)~~ "Post time" means the time set for the arrival at
 179 the starting point of the horses ~~or greyhounds~~ in a race or the
 180 beginning of a game in jai alai.

181 ~~(29) "Racing greyhound" means a greyhound that is or was~~
 182 ~~used, or is being bred, raised, or trained to be used, in racing~~
 183 ~~at a pari-mutuel facility and is registered with the National~~
 184 ~~Greyhound Association.~~

185 (31) "Same class of races, games, or permit" means, with
 186 respect to a jai alai permitholder, jai alai games or other jai
 187 alai permitholders; with respect to a greyhound permitholder,
 188 greyhound races or other greyhound permitholders conducting
 189 pari-mutuel wagering; with respect to a thoroughbred
 190 permitholder, thoroughbred races or other thoroughbred
 191 permitholders; with respect to a harness permitholder, harness
 192 races or other harness permitholders; with respect to a quarter
 193 horse permitholder, quarter horse races or other quarter horse
 194 permitholders.

195 Section 2. Section 550.0115, Florida Statutes, is amended
 196 to read:

197 550.0115 Permitholder operating license.—After a permit has
 198 been issued by the division, and after the permit has been
 199 approved by election, the division shall issue to the
 200 permitholder an annual operating license to conduct pari-mutuel
 201 wagering operations at the location specified in the permit
 202 pursuant to the provisions of this chapter.

203 Section 3. Section 550.01215, Florida Statutes, is amended

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204 to read:

205 550.01215 License application; periods of operation;
 206 license fees; bond, conversion of permit.—

207 (1) Each permitholder shall annually, during the period
 208 between December 15 and January 4, file in writing with the
 209 division its application for an operating a license for a pari-
 210 mutuel facility for the conduct of pari-mutuel wagering during
 211 the next state fiscal year, including intertrack and simulcast
 212 race wagering to conduct performances during the next state
 213 fiscal year. Each application for live performances must shall
 214 specify the number, dates, and starting times of all live
 215 performances that which the permitholder intends to conduct. It
 216 must shall also specify which performances will be conducted as
 217 charity or scholarship performances.

218 (a) ~~In addition,~~ Each application for an operating a
 219 license also must shall include:;

220 1. For each permitholder, whether the permitholder intends
 221 to accept wagers on intertrack or simulcast events.

222 2. For each permitholder that which elects to operate a
 223 cardroom, the dates and periods of operation the permitholder
 224 intends to operate the cardroom. ~~or,~~

225 3. For each thoroughbred racing permitholder that which
 226 elects to receive or rebroadcast out-of-state races after 7
 227 p.m., the dates for all performances that which the permitholder
 228 intends to conduct.

229 (b) A greyhound permitholder may not conduct live racing. A
 230 jai alai permitholder, harness horse racing permitholder, or
 231 quarter horse racing permitholder may elect not to conduct live
 232 racing or games. A thoroughbred permitholder must conduct live

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 233 racing. A greyhound permitholder, jai alai permitholder, harness
 234 horse racing permitholder, or quarter horse racing permitholder
 235 that does not conduct live racing or games retains its permit;
 236 is a pari-mutuel facility as defined in s. 550.002(23); if such
 237 permitholder has been issued a slot machine license, the
 238 facility where such permit is located remains an eligible
 239 facility as defined in s. 551.102(4), continues to be eligible
 240 for a slot machine license pursuant to s. 551.104(3), and is
 241 exempt from ss. 551.104(4) (c) and (10) and 551.114(2) and (4);
 242 is eligible, but not required, to be a guest track and, if the
 243 permitholder is a harness horse racing permitholder, to be a
 244 host track for purposes of intertrack wagering and simulcasting
 245 pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and
 246 remains eligible for a cardroom license.

247 (c) Permitholders may ~~shall be entitled to~~ amend their
 248 applications through February 28.

249 (2) After the first license has been issued to a
 250 permitholder, all subsequent annual applications for a license
 251 shall be accompanied by proof, in such form as the division may
 252 by rule require, that the permitholder continues to possess the
 253 qualifications prescribed by this chapter, and that the permit
 254 has not been disapproved at a later election.

255 (3) The division shall issue each license no later than
 256 March 15. Each permitholder shall operate all performances at
 257 the date and time specified on its license. The division shall
 258 have the authority to approve minor changes in racing dates
 259 after a license has been issued. The division may approve
 260 changes in racing dates after a license has been issued when
 261 there is no objection from any operating permitholder located

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 262 within 50 miles of the permitholder requesting the changes in
 263 operating dates. In the event of an objection, the division
 264 shall approve or disapprove the change in operating dates based
 265 upon the impact on operating permitholders located within 50
 266 miles of the permitholder requesting the change in operating
 267 dates. In making the determination to change racing dates, the
 268 division shall take into consideration the impact of such
 269 changes on state revenues. Notwithstanding any other provision
 270 of law, and for the 2021-2022 state fiscal year only, the
 271 division may approve changes in operating dates for
 272 permitholders if the request for such changes is received before
 273 July 1, 2021.

274 (4) In the event that a permitholder fails to operate all
 275 performances specified on its license at the date and time
 276 specified, the division shall hold a hearing to determine
 277 whether to fine or suspend the permitholder's license, unless
 278 such failure was the direct result of fire, strike, war, or
 279 other disaster or event beyond the ability of the permitholder
 280 to control. Financial hardship to the permitholder shall not, in
 281 and of itself, constitute just cause for failure to operate all
 282 performances on the dates and at the times specified.

283 (5) In the event that performances licensed to be operated
 284 by a permitholder are vacated, abandoned, or will not be used
 285 for any reason, any permitholder shall be entitled, pursuant to
 286 rules adopted by the division, to apply to conduct performances
 287 on the dates for which the performances have been abandoned. The
 288 division shall issue an amended license for all such replacement
 289 performances which have been requested in compliance with ~~the~~
 290 ~~provisions of~~ this chapter and division rules.

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291 ~~(6) Any permit which was converted from a jai alai permit~~
 292 ~~to a greyhound permit may be converted to a jai alai permit at~~
 293 ~~any time if the permitholder never conducted greyhound racing or~~
 294 ~~if the permitholder has not conducted greyhound racing for a~~
 295 ~~period of 12 consecutive months.~~

296 Section 4. Section 550.0235, Florida Statutes, is amended
 297 to read:

298 550.0235 Limitation of civil liability.-No permitholder
 299 licensed to conduct pari-mutuel wagering ~~permittee conducting a~~
 300 ~~racing meet~~ pursuant to the provisions of this chapter; no
 301 division director or employee of the division; and no steward,
 302 judge, or other person appointed to act pursuant to this chapter
 303 shall be held liable to any person, partnership, association,
 304 corporation, or other business entity for any cause whatsoever
 305 arising out of, or from, the performance by such permittee,
 306 director, employee, steward, judge, or other person of her or
 307 his duties and the exercise of her or his discretion with
 308 respect to the implementation and enforcement of the statutes
 309 and rules governing the conduct of pari-mutuel wagering, so long
 310 as she or he acted in good faith. This section shall not limit
 311 liability in any situation in which the negligent maintenance of
 312 the premises or the negligent conduct of a race contributed to
 313 an accident; nor shall it limit any contractual liability.

314 Section 5. Subsections (1) and (7) of section 550.0351,
 315 Florida Statutes, are amended to read:

316 550.0351 Charity racing days.-

317 (1) The division shall, upon the request of a permitholder,
 318 authorize each horseracing permitholder, ~~dogracing permitholder,~~
 319 and jai alai permitholder up to five charity or scholarship days

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320 in addition to the regular racing days authorized by law.

321 ~~(7) In addition to the charity days authorized by this~~
 322 ~~section, any dogracing permitholder may allow its facility to be~~
 323 ~~used for conducting "hound dog derbies" or "mutt derbies" on any~~
 324 ~~day during each racing season by any charitable, civic, or~~
 325 ~~nonprofit organization for the purpose of conducting "hound dog~~
 326 ~~derbies" or "mutt derbies" if only dogs other than those usually~~
 327 ~~used in dogracing (greyhounds) are permitted to race and if~~
 328 ~~adults and minors are allowed to participate as dog owners or~~
 329 ~~spectators. During these racing events, betting, gambling, and~~
 330 ~~the sale or use of alcoholic beverages is prohibited.~~

331 Section 6. Subsection (4) of section 550.0425, Florida
 332 Statutes, is amended to read:

333 550.0425 Minors attendance at pari-mutuel performances;
 334 restrictions.-

335 ~~(4) Minor children of licensed greyhound trainers, kennel~~
 336 ~~operators, or other licensed persons employed in the kennel~~
 337 ~~compound areas may be granted access to kennel compound areas~~
 338 ~~without being licensed, provided they are in no way employed~~
 339 ~~unless properly licensed, and only when under the direct~~
 340 ~~supervision of one of their parents or legal guardian.~~

341 Section 7. Subsections (2) and (14) of section 550.054,
 342 Florida Statutes, are amended to read:

343 550.054 Application for permit to conduct pari-mutuel
 344 wagering.-

345 (2) Upon each application filed and approved, a permit
 346 shall be issued to the applicant setting forth the name of the
 347 permitholder, the location of the pari-mutuel facility, the type
 348 of pari-mutuel activity desired to be conducted, and a statement

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349 showing qualifications of the applicant to conduct pari-mutuel
 350 performances under this chapter; however, a permit is
 351 ineffectual to authorize any pari-mutuel performances until
 352 approved by a majority of the electors participating in a
 353 ratification election in the county in which the applicant
 354 proposes to conduct pari-mutuel wagering activities. In
 355 addition, an application may not be considered, nor may a permit
 356 be issued by the division or be voted upon in any county, to
 357 conduct horseraces, harness horse races, or pari-mutuel wagering
 358 ~~degraces~~ at a location within 100 miles of an existing pari-
 359 mutuel facility, or for jai alai within 50 miles of an existing
 360 pari-mutuel facility; this distance shall be measured on a
 361 straight line from the nearest property line of one pari-mutuel
 362 facility to the nearest property line of the other facility.

363 (14)(a) ~~Any holder of a permit to conduct jai alai may~~
 364 ~~apply to the division to convert such permit to a permit to~~
 365 ~~conduct greyhound racing in lieu of jai alai if:~~

366 1. ~~Such permit is located in a county in which the division~~
 367 ~~has issued only two pari-mutuel permits pursuant to this~~
 368 ~~section;~~

369 2. ~~Such permit was not previously converted from any other~~
 370 ~~class of permit; and~~

371 3. ~~The holder of the permit has not conducted jai alai~~
 372 ~~games during a period of 10 years immediately preceding his or~~
 373 ~~her application for conversion under this subsection.~~

374 ~~(b) The division, upon application from the holder of a jai~~
 375 ~~alai permit meeting all conditions of this section, shall~~
 376 ~~convert the permit and shall issue to the permit holder a permit~~
 377 ~~to conduct greyhound racing. A permit holder of a permit~~

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378 ~~converted under this section shall be required to apply for and~~
 379 ~~conduct a full schedule of live racing each fiscal year to be~~
 380 ~~eligible for any tax credit provided by this chapter.~~ The holder
 381 of a permit converted under former subsection (14) of this
 382 section, Florida Statutes 2020, ~~pursuant to this subsection~~ or
 383 any holder of a permit to conduct greyhound racing located in a
 384 county in which it is the only permit issued pursuant to this
 385 section who operates at a leased facility pursuant to s. 550.475
 386 may move the location for which the permit has been issued to
 387 another location within a 30-mile radius of the location fixed
 388 in the permit issued in that county, provided the move does not
 389 cross the county boundary and such location is approved under
 390 the zoning regulations of the county or municipality in which
 391 the permit is located, and upon such relocation may use the
 392 permit for the conduct of pari-mutuel wagering and the operation
 393 of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall
 394 apply to any permit converted under former subsection (14) of
 395 this section, Florida Statutes 2020, ~~this subsection~~ and shall
 396 continue to apply to any permit which was previously included
 397 under and subject to such provisions before a conversion
 398 pursuant to this section occurred.

399 Section 8. Subsection (4) of section 550.09511, Florida
 400 Statutes, is amended to read:
 401 550.09511 Jai alai taxes; abandoned interest in a permit
 402 for nonpayment of taxes.—
 403 ~~(4) A jai alai permit holder conducting fewer than 100 live~~
 404 ~~performances in any calendar year shall pay to the state the~~
 405 ~~same aggregate amount of daily license fees on live jai alai~~
 406 ~~games, admissions tax, and tax on live handle as that~~

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407 ~~permitholder paid to the state during the most recent prior~~
 408 ~~calendar year in which the jai alai permitholder conducted at~~
 409 ~~least 100 live performances.~~

410 Section 9. Paragraph (a) of subsection (3) of section
 411 550.09512, Florida Statutes, is amended to read:

412 550.09512 Harness horse taxes; abandoned interest in a
 413 permit for nonpayment of taxes.-

414 (3) (a) The permit of a harness horse permitholder who is
 415 conducting live harness horse performances and who does not pay
 416 tax on handle for any such live harness horse performances
 417 conducted for a full schedule of live races during any 2
 418 consecutive state fiscal years shall be void and shall escheat
 419 to and become the property of the state unless such failure to
 420 operate and pay tax on handle was the direct result of fire,
 421 strike, war, or other disaster or event beyond the ability of
 422 the permitholder to control. Financial hardship to the
 423 permitholder shall not, in and of itself, constitute just cause
 424 for failure to operate and pay tax on handle.

425 Section 10. Subsections (2) and (9) of section 550.105,
 426 Florida Statutes, are amended to read:

427 550.105 Occupational licenses of racetrack employees; fees;
 428 denial, suspension, and revocation of license; penalties and
 429 fines.-

430 (2) (a) The following licenses shall be issued to persons or
 431 entities with access to the backside, racing animals, jai alai
 432 players' room, jockeys' room, drivers' room, totalisator room,
 433 the mutuels, or money room, or to persons who, by virtue of the
 434 position they hold, might be granted access to these areas or to
 435 any other person or entity in one of the following categories

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436 and with fees not to exceed the following amounts for any 12-
 437 month period:

438 1. Business licenses: any business such as a vendor,
 439 contractual concessionaire, ~~contract kennel~~, business owning
 440 racing animals, trust or estate, totalisator company, stable
 441 name, or other fictitious name: \$50.

442 2. Professional occupational licenses: professional persons
 443 with access to the backside of a racetrack or players' quarters
 444 in jai alai such as trainers, officials, veterinarians, doctors,
 445 nurses, EMT's, jockeys and apprentices, drivers, jai alai
 446 players, owners, trustees, or any management or officer or
 447 director or shareholder or any other professional-level person
 448 who might have access to the jockeys' room, the drivers' room,
 449 the backside, racing animals, ~~kennel compound~~, or managers or
 450 supervisors requiring access to mutuels machines, the money
 451 room, or totalisator equipment: \$40.

452 3. General occupational licenses: general employees with
 453 access to the jockeys' room, the drivers' room, racing animals,
 454 the backside of a racetrack or players' quarters in jai alai,
 455 such as grooms, ~~kennel helpers~~, leadouts, pelota makers, cesta
 456 makers, or ball boys, or a practitioner of any other occupation
 457 who would have access to the animals ~~or~~ the backside, ~~or the~~
 458 ~~kennel compound~~, or who would provide the security or
 459 maintenance of these areas, or mutuel employees, totalisator
 460 employees, money-room employees, or any employee with access to
 461 mutuels machines, the money room, or totalisator equipment or
 462 who would provide the security or maintenance of these areas:
 463 \$10.

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465 The individuals and entities that are licensed under this
 466 paragraph require heightened state scrutiny, including the
 467 submission by the individual licensees or persons associated
 468 with the entities described in this chapter of fingerprints for
 469 a Federal Bureau of Investigation criminal records check.

470 (b) The division shall adopt rules pertaining to pari-
 471 mutuel occupational licenses, licensing periods, and renewal
 472 cycles.

473 (9) The tax imposed by this section is in lieu of all
 474 license, excise, or occupational taxes to the state or any
 475 county, municipality, or other political subdivision, except
 476 that, if a race meeting or game is held or conducted in a
 477 municipality, the municipality may assess and collect an
 478 additional tax against any person conducting live racing or
 479 games within its corporate limits, which tax may not exceed \$150
 480 per day for horseracing or \$50 per day for ~~dog racing or~~ jai
 481 alai. Except as provided in this chapter, a municipality may not
 482 assess or collect any additional excise or revenue tax against
 483 any person conducting race meetings within the corporate limits
 484 of the municipality or against any patron of any such person.

485 Section 11. Section 550.1155, Florida Statutes, is amended
 486 to read:

487 550.1155 Authority of stewards, judges, panel of judges, or
 488 player's manager to impose penalties against occupational
 489 licensees; disposition of funds collected.—

490 (1) The stewards at a horse racetrack, ~~the judges at a dog~~
 491 ~~track,~~ or the judges, a panel of judges, or a player's manager
 492 at a jai alai fronton may impose a civil penalty against any
 493 occupational licensee for violation of the pari-mutuel laws or

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494 any rule adopted by the division. The penalty may not exceed
 495 \$1,000 for each count or separate offense or exceed 60 days of
 496 suspension for each count or separate offense.

497 (2) All penalties imposed and collected pursuant to this
 498 section at each horse ~~or dog~~ racetrack or jai alai fronton shall
 499 be deposited into a board of relief fund established by the
 500 pari-mutuel permitholder. Each association shall name a board of
 501 relief composed of three of its officers, with the general
 502 manager of the permitholder being the ex officio treasurer of
 503 such board. Moneys deposited into the board of relief fund shall
 504 be disbursed by the board for the specific purpose of aiding
 505 occupational licenseholders and their immediate family members
 506 at each pari-mutuel facility.

507 Section 12. Section 550.1647, Florida Statutes, is amended
 508 to read:

509 550.1647 Greyhound permitholders; unclaimed tickets;
 510 breaks.—All money or other property represented by any
 511 unclaimed, uncashed, or abandoned pari-mutuel ticket which has
 512 remained in the custody of or under the control of any greyhound
 513 permitholder authorized to conduct ~~greyhound racing~~ pari-mutuel
 514 wagering pools in this state for a period of 1 year after the
 515 date the pari-mutuel ticket was issued, if the rightful owner or
 516 owners thereof have made no claim or demand for such money or
 517 other property within that period of time, shall, ~~with respect~~
 518 ~~to live races conducted by the permitholder,~~ be remitted to the
 519 state pursuant to s. 550.1645; however, such permitholder shall
 520 be entitled to a credit in each state fiscal year in an amount
 521 equal to the actual amount remitted in the prior state fiscal
 522 year which may be applied against any taxes imposed pursuant to

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 523 this chapter. In addition, each permitholder shall pay, from any
 524 source, ~~including the proceeds from performances conducted~~
 525 ~~pursuant to s. 550.0351~~, an amount not less than 10 percent of
 526 the amount of the credit provided by this section to any bona
 527 fide organization that promotes or encourages the adoption of
 528 greyhounds. As used in this chapter, the term "bona fide
 529 organization that promotes or encourages the adoption of
 530 greyhounds" means any organization that provides evidence of
 531 compliance with chapter 496 and possesses a valid exemption from
 532 federal taxation issued by the Internal Revenue Service. Such
 533 bona fide organization, as a condition of adoption, must provide
 534 sterilization of greyhounds by a licensed veterinarian before
 535 relinquishing custody of the greyhound to the adopter. The fee
 536 for sterilization may be included in the cost of adoption.

537 Section 13. Section 550.1648, Florida Statutes, is
 538 repealed.

539 Section 14. Section 550.175, Florida Statutes, is amended
 540 to read:

541 550.175 Petition for election to revoke permit.—Upon
 542 petition of 20 percent of the qualified electors of any county
 543 wherein any pari-mutuel wagering racing ~~racing~~ has been licensed and
 544 conducted under this chapter, the county commissioners of such
 545 county shall provide for the submission to the electors of such
 546 county at the then next succeeding general election the question
 547 of whether any permit or permits theretofore granted shall be
 548 continued or revoked, and if a majority of the electors voting
 549 on such question in such election vote to cancel or recall the
 550 permit theretofore given, the division may not thereafter grant
 551 any license on the permit so recalled. Every signature upon

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 552 every recall petition must be signed in the presence of the
 553 clerk of the board of county commissioners at the office of the
 554 clerk of the circuit court of the county, and the petitioner
 555 must present at the time of such signing her or his registration
 556 receipt showing the petitioner's qualification as an elector of
 557 the county at the time of the signing of the petition. Not more
 558 than one permit may be included in any one petition; and, in all
 559 elections in which the recall of more than one permit is voted
 560 on, the voters shall be given an opportunity to vote for or
 561 against the recall of each permit separately. Nothing in this
 562 chapter shall be construed to prevent the holding of later
 563 referendum or recall elections.

564 Section 15. Subsection (1) of section 550.1815, Florida
 565 Statutes, is amended to read:

566 550.1815 Certain persons prohibited from holding racing or
 567 jai alai permits; suspension and revocation.—

568 (1) A corporation, general or limited partnership, sole
 569 proprietorship, business trust, joint venture, or unincorporated
 570 association, or other business entity may not hold any
 571 horseracing or greyhound degrading ~~degrading~~ permit or jai alai fronton
 572 permit in this state if any one of the persons or entities
 573 specified in paragraph (a) has been determined by the division
 574 not to be of good moral character or has been convicted of any
 575 offense specified in paragraph (b).

576 (a)1. The permitholder;

577 2. An employee of the permitholder;

578 3. The sole proprietor of the permitholder;

579 4. A corporate officer or director of the permitholder;

580 5. A general partner of the permitholder;

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581 6. A trustee of the permitholder;

582 7. A member of an unincorporated association permitholder;

583 8. A joint venturer of the permitholder;

584 9. The owner of more than 5 percent of any equity interest

585 in the permitholder, whether as a common shareholder, general or

586 limited partner, voting trustee, or trust beneficiary; or

587 10. An owner of any interest in the permit or permitholder,

588 including any immediate family member of the owner, or holder of

589 any debt, mortgage, contract, or concession from the

590 permitholder, who by virtue thereof is able to control the

591 business of the permitholder.

592 (b)1. A felony in this state;

593 2. Any felony in any other state which would be a felony if

594 committed in this state under the laws of this state;

595 3. Any felony under the laws of the United States;

596 4. A felony under the laws of another state if related to

597 gambling which would be a felony under the laws of this state if

598 committed in this state; or

599 5. Bookmaking as defined in s. 849.25.

600 Section 16. Subsection (2) of section 550.24055, Florida

601 Statutes, is amended to read:

602 550.24055 Use of controlled substances or alcohol

603 prohibited; testing of certain occupational licensees; penalty;

604 evidence of test or action taken and admissibility for criminal

605 prosecution limited.—

606 (2) The occupational licensees, by applying for and holding

607 such licenses, are deemed to have given their consents to submit

608 to an approved chemical test of their breath for the purpose of

609 determining the alcoholic content of their blood and to a urine

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610 or blood test for the purpose of detecting the presence of

611 controlled substances. Such tests shall only be conducted upon

612 reasonable cause that a violation has occurred as shall be

613 determined solely by the stewards at a horseracing meeting or

614 the judges or board of judges at a ~~dogtrack or~~ jai alai meet.

615 The failure to submit to such test may result in a suspension of

616 the person's occupational license for a period of 10 days or

617 until this section has been complied with, whichever is longer.

618 (a) If there was at the time of the test 0.05 percent or

619 less by weight of alcohol in the person's blood, the person is

620 presumed not to have been under the influence of alcoholic

621 beverages to the extent that the person's normal faculties were

622 impaired, and no action of any sort may be taken by the

623 stewards, judges, or board of judges or the division.

624 (b) If there was at the time of the test an excess of 0.05

625 percent but less than 0.08 percent by weight of alcohol in the

626 person's blood, that fact does not give rise to any presumption

627 that the person was or was not under the influence of alcoholic

628 beverages to the extent that the person's faculties were

629 impaired, but the stewards, judges, or board of judges may

630 consider that fact in determining whether or not the person will

631 be allowed to officiate or participate in any given race or jai

632 alai game.

633 (c) If there was at the time of the test 0.08 percent or

634 more by weight of alcohol in the person's blood, that fact is

635 prima facie evidence that the person was under the influence of

636 alcoholic beverages to the extent that the person's normal

637 faculties were impaired, and the stewards or judges may take

638 action as set forth in this section, but the person may not

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639 officiate at or participate in any race or jai alai game on the
640 day of such test.

641

642 All tests relating to alcohol must be performed in a manner
643 substantially similar, or identical, to the provisions of s.
644 316.1934 and rules adopted pursuant to that section. Following a
645 test of the urine or blood to determine the presence of a
646 controlled substance as defined in chapter 893, if a controlled
647 substance is found to exist, the stewards, judges, or board of
648 judges may take such action as is permitted in this section.

649 Section 17. Paragraph (d) of subsection (5), paragraphs (b)
650 and (c) of subsection (6), paragraph (a) of subsection (9), and
651 subsection (13) of section 550.2415, Florida Statutes, are
652 amended to read:

653 550.2415 Racing of animals under certain conditions
654 prohibited; penalties; exceptions.—

655 (5) The division shall implement a split-sample procedure
656 for testing animals under this section.

657 ~~(d) For the testing of a racing greyhound, if there is an~~
658 ~~insufficient quantity of the secondary (split) sample for~~
659 ~~confirmation of the division laboratory's positive result, the~~
660 ~~division may commence administrative proceedings as prescribed~~
661 ~~in this chapter and consistent with chapter 120.~~

662 (6)

663 ~~(b) The division shall, by rule, establish the procedures~~
664 ~~for euthanizing greyhounds. However, a greyhound may not be put~~
665 ~~to death by any means other than by lethal injection of the drug~~
666 ~~sodium pentobarbital. A greyhound may not be removed from this~~
667 ~~state for the purpose of being destroyed.~~

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668 ~~(e) It is a violation of this chapter for an occupational~~
669 ~~licensee to train a greyhound using live or dead animals. A~~
670 ~~greyhound may not be taken from this state for the purpose of~~
671 ~~being trained through the use of live or dead animals.~~

672 (9) (a) The division may conduct a postmortem examination of
673 any animal that is injured at a permitted racetrack while in
674 training or in competition and that subsequently expires or is
675 destroyed. The division may conduct a postmortem examination of
676 any animal that expires while housed at a permitted racetrack,
677 association compound, or licensed ~~kenel~~ ~~or~~ farm. Trainers and
678 owners shall be requested to comply with this paragraph as a
679 condition of licensure.

680 ~~(13) The division may implement by rule medication levels~~
681 ~~for racing greyhounds recommended by the University of Florida~~
682 ~~College of Veterinary Medicine developed pursuant to an~~
683 ~~agreement between the Division of Pari-mutuel Wagering and the~~
684 ~~University of Florida College of Veterinary Medicine. The~~
685 ~~University of Florida College of Veterinary Medicine may provide~~
686 ~~written notification to the division that it has completed~~
687 ~~research or review on a particular drug pursuant to the~~
688 ~~agreement and when the College of Veterinary Medicine has~~
689 ~~completed a final report of its findings, conclusions, and~~
690 ~~recommendations to the division.~~

691 Section 18. Subsection (8) of section 550.334, Florida
692 Statutes, is amended to read

693 550.334 Quarter horse racing; substitutions.—

694 ~~(8) To be eligible to conduct intertrack wagering, a~~
695 ~~quarter horse racing permitholder must have conducted a full~~
696 ~~schedule of live racing in the preceding year.~~

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697 Section 19. Subsections (2) and (4), paragraph (a) of
698 subsection (6), and subsection (11) of section 550.3551, Florida
699 Statutes, are amended to read:

700 550.3551 Transmission of racing and jai alai information;
701 commingling of pari-mutuel pools.-

702 (2) Any horse track, ~~dog track~~, or fronton licensed under
703 this chapter may transmit broadcasts of races or games conducted
704 at the enclosure of the licensee to locations outside this
705 state.

706 (a) All broadcasts of horseraces transmitted to locations
707 outside this state must comply with the provisions of the
708 Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss.
709 3001 et seq.

710 (b) Wagers accepted by any out-of-state pari-mutuel
711 permitholder or licensed betting system on a race broadcasted
712 under this subsection may be, but are not required to be,
713 included in the pari-mutuel pools of the horse track in this
714 state that broadcasts the race upon which wagers are accepted.
715 The handle, as referred to in s. 550.0951(3), does not include
716 any wagers accepted by an out-of-state pari-mutuel permitholder
717 or licensed betting system, irrespective of whether such wagers
718 are included in the pari-mutuel pools of the Florida
719 permitholder as authorized by this subsection.

720 (4) Any greyhound permitholder or jai alai permitholder ~~dog~~
721 ~~track or fronton~~ licensed under this chapter may receive at its
722 licensed location broadcasts of dograces or jai alai games
723 conducted at other tracks or frontons located outside the state
724 ~~at the track enclosure of the licensee during its operational~~
725 ~~meeting~~. All forms of pari-mutuel wagering are allowed on

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726 dograces or jai alai games broadcast under this subsection. All
727 money wagered by patrons on dograces broadcast under this
728 subsection shall be computed in the amount of money wagered each
729 performance for purposes of taxation under ss. 550.0951 and
730 550.09511.

731 (6) (a) ~~A maximum of 20 percent of the total number of races~~
732 ~~on which wagers are accepted by a greyhound permitholder not~~
733 ~~located as specified in s. 550.615(6) may be received from~~
734 locations outside this state. A permitholder conducting live
735 races or games may not conduct fewer than eight live races or
736 games on any authorized race day except as provided in this
737 subsection. A thoroughbred permitholder may not conduct fewer
738 than eight live races on any race day without the written
739 approval of the Florida Thoroughbred Breeders' Association and
740 the Florida Horsemen's Benevolent and Protective Association,
741 Inc., unless it is determined by the department that another
742 entity represents a majority of the thoroughbred racehorse
743 owners and trainers in the state. If conducting live racing, a
744 harness permitholder may conduct fewer than eight live races on
745 any authorized race day, ~~except that such permitholder must~~
746 ~~conduct a full schedule of live racing during its race meet~~
747 ~~consisting of at least eight live races per authorized race day~~
748 ~~for at least 100 days~~. Any harness horse permitholder ~~that~~
749 ~~during the preceding racing season conducted a full schedule of~~
750 ~~live racing may~~, ~~at any time during its current race meet~~,
751 receive full-card broadcasts of harness horse races conducted at
752 harness racetracks outside this state at the harness track of
753 the permitholder and accept wagers on such harness races. ~~With~~
754 ~~specific authorization from the division for special racing~~

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755 ~~events, a permitholder may conduct fewer than eight live races~~
 756 ~~or games when the permitholder also broadcasts out of state~~
 757 ~~races or games. The division may not grant more than two such~~
 758 ~~exceptions a year for a permitholder in any 12-month period, and~~
 759 ~~those two exceptions may not be consecutive.~~

760 (11) Greyhound permitholders ~~tracks~~ and jai alai
 761 permitholders ~~frontons~~ have the same privileges as provided in
 762 this section to horserace permitholders ~~horse tracks~~, as
 763 applicable, subject to rules adopted under subsection (10).

764 Section 20. Subsections (1), (3), (4), (5), and (6) of
 765 section 550.3615, Florida Statutes, are amended to read:

766 550.3615 Bookmaking on the grounds of a permitholder;
 767 penalties; reinstatement; duties of track employees; penalty;
 768 exceptions.—

769 (1) Any person who engages in bookmaking, as defined in s.
 770 849.25, on the grounds or property of a pari-mutuel facility
 771 commits permitholder of a horse or dog track or jai alai fronton
 772 is guilty of a felony of the third degree, punishable as
 773 provided in s. 775.082, s. 775.083, or s. 775.084.

774 Notwithstanding the provisions of s. 948.01, any person
 775 convicted under the provisions of this subsection shall not have
 776 adjudication of guilt suspended, deferred, or withheld.

777 (3) Any person who has been convicted of bookmaking in this
 778 state or any other state of the United States or any foreign
 779 country shall be denied admittance to and shall not attend any
 780 pari-mutuel facility ~~racetrack or fronton~~ in this state during
 781 its racing seasons or operating dates, including any practice or
 782 preparational days, for a period of 2 years after the date of
 783 conviction or the date of final appeal. Following the conclusion

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

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784 of the period of ineligibility, the director of the division may
 785 authorize the reinstatement of an individual following a hearing
 786 on readmittance. Any such person who knowingly violates this
 787 subsection commits is guilty of a misdemeanor of the first
 788 degree, punishable as provided in s. 775.082 or s. 775.083.

789 (4) If the activities of a person show that this law is
 790 being violated, and such activities are either witnessed or are
 791 common knowledge by any pari-mutuel facility ~~track or fronton~~
 792 employee, it is the duty of that employee to bring the matter to
 793 the immediate attention of the permitholder, manager, or her or
 794 his designee, who shall notify a law enforcement agency having
 795 jurisdiction. Willful failure by the pari-mutuel facility on the
 796 part of any track or fronton employee to comply with the
 797 provisions of this subsection is a ground for the division to
 798 suspend or revoke that employee's license for pari-mutuel
 799 facility ~~track or fronton~~ employment.

800 (5) Each permittee shall display, in conspicuous places at
 801 a pari-mutuel facility ~~track or fronton~~ and in all race and jai
 802 alai daily programs, a warning to all patrons concerning the
 803 prohibition and penalties of bookmaking contained in this
 804 section and s. 849.25. The division shall adopt rules concerning
 805 the uniform size of all warnings and the number of placements
 806 throughout a pari-mutuel facility ~~track or fronton~~. Failure on
 807 the part of the permittee to display such warnings may result in
 808 the imposition of a \$500 fine by the division for each offense.

809 (6) This section does not apply to any person ~~attending a~~
 810 ~~track or fronton or~~ employed by or attending a pari-mutuel
 811 facility a track or fronton who places a bet through the
 812 legalized pari-mutuel pool for another person, provided such

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813 service is rendered gratuitously and without fee or other
814 reward.

815 Section 21. Section 550.475, Florida Statutes, is amended
816 to read:

817 550.475 Lease of pari-mutuel facilities by pari-mutuel
818 permitholders.—Holders of valid pari-mutuel permits for the
819 conduct of any pari-mutuel wagering jai alai games, dogracing,
820 ~~or thoroughbred and standardbred horse racing~~ in this state are
821 entitled to lease any and all of their facilities to any other
822 holder of a same class valid pari-mutuel permit ~~for jai alai~~
823 ~~games, dogracing, or thoroughbred or standardbred horse racing,~~
824 when located within a 35-mile radius of each other; and such
825 lessee is entitled to a permit and license to conduct intertrack
826 wagering and operate its race meet or jai alai games at the
827 leased premises.

828 Section 22. Subsections (2) and (8) of section 550.615,
829 Florida Statutes, are amended, and subsection (11) is added to
830 that section, to read:

831 550.615 Intertrack wagering.—

832 (2) A pari-mutuel permitholder that has met the applicable
833 requirement for that permitholder to conduct live racing or
834 games under s. 550.01215(1)(b), if any, Any track or fronton
835 ~~licensed under this chapter which in the preceding year~~
836 ~~conducted a full schedule of live racing~~ is qualified to, at any
837 time, receive broadcasts of any class of pari-mutuel race or
838 game and accept wagers on such races or games conducted by any
839 class of permitholders licensed under this chapter.

840 (8) In any three contiguous counties of the state where
841 there are only three permitholders, all of which are greyhound

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842 permitholders, if any permitholder leases the facility of
843 another permitholder for all or any portion of the conduct of
844 its live race meet pursuant to s. 550.475, such lessee may
845 conduct intertrack wagering at its pre-lease permitted facility
846 throughout the entire year, ~~including while its live meet is~~
847 ~~being conducted at the leased facility, if such permitholder has~~
848 ~~conducted a full schedule of live racing during the preceding~~
849 ~~fiscal year at its pre-lease permitted facility or at a leased~~
850 ~~facility, or combination thereof.~~

851 (11) Any greyhound permitholder licensed under this chapter
852 to conduct pari-mutuel wagering is qualified to, at any time,
853 receive broadcasts of any class of pari-mutuel race or game and
854 accept wagers on such races or games conducted by any class of
855 permitholders licensed under this chapter.

856 Section 23. Subsection (2) of section 550.6305, Florida
857 Statutes, is amended to read:

858 550.6305 Intertrack wagering; guest track payments;
859 accounting rules.—

860 (2) For the purposes of calculation of odds and payoffs and
861 distribution of the pari-mutuel pools, all intertrack wagers
862 shall be combined with the pari-mutuel pools at the host track.
863 ~~Notwithstanding this subsection or subsection (4), a greyhound~~
864 ~~pari-mutuel permitholder may conduct intertrack wagering without~~
865 ~~combining pari-mutuel pools on not more than three races in any~~
866 ~~week, not to exceed 20 races in a year. All other provisions~~
867 ~~concerning pari-mutuel takeout and payments, including state tax~~
868 ~~payments, apply as if the pool had been combined.~~

869 Section 24. Paragraph (c) of subsection (4) of section
870 551.104, Florida Statutes, is amended to read:

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871 551.104 License to conduct slot machine gaming.-
 872 (4) As a condition of licensure and to maintain continued
 873 authority for the conduct of slot machine gaming, the slot
 874 machine licensee shall:

875 (c) If a thoroughbred permitholder, conduct no fewer than a
 876 full schedule of live racing or games as defined in s.
 877 550.002(11). A permitholder's responsibility to conduct ~~such~~
 878 ~~number of~~ live races or games shall be reduced by the number of
 879 races or games that could not be conducted due to the direct
 880 result of fire, war, hurricane, or other disaster or event
 881 beyond the control of the permitholder.

882 Section 25. Subsection (4) of section 551.114, Florida
 883 Statutes, is amended to read:

884 551.114 Slot machine gaming areas.-
 885 (4) Designated slot machine gaming areas must ~~may~~ be
 886 located at the address specified in the licensed permitholder's
 887 slot machine license issued for fiscal year 2020-2021 ~~within the~~
 888 ~~current live gaming facility or in an existing building that~~
 889 ~~must be contiguous and connected to the live gaming facility. If~~
 890 ~~a designated slot machine gaming area is to be located in a~~
 891 ~~building that is to be constructed, that new building must be~~
 892 ~~contiguous and connected to the live gaming facility.~~

893 Section 26. Subsection (5) of section 565.02, Florida
 894 Statutes, is amended to read:

895 565.02 License fees; vendors; clubs; caterers; and others.-
 896 (5) A caterer at a pari-mutuel facility licensed under
 897 chapter 550 ~~horse or dog racetrack or jai alai fronton~~ may
 898 obtain a license upon the payment of an annual state license tax
 899 of \$675. Such caterer's license shall permit sales only within

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900 the enclosure in which pari-mutuel wagering is conducted ~~such~~
 901 ~~races or jai alai games are conducted, and such licensee shall~~
 902 ~~be permitted to sell only during the period beginning 10 days~~
 903 ~~before and ending 10 days after racing or jai alai~~ under the
 904 authority of the Division of Pari-mutuel Wagering of the
 905 Department of Business and Professional Regulation ~~is conducted~~
 906 ~~at such racetrack or jai alai fronton~~. Except as in this
 907 subsection otherwise provided, caterers licensed hereunder shall
 908 be treated as vendors licensed to sell by the drink the
 909 beverages mentioned herein and shall be subject to all the
 910 provisions hereof relating to such vendors.

911 Section 27. Paragraphs (a) and (b) of subsection (5) and
 912 paragraph (d) of subsection (13) of section 849.086, Florida
 913 Statutes, are amended to read:

914 849.086 Cardrooms authorized.-
 915 (5) LICENSE REQUIRED; APPLICATION; FEES.-No person may
 916 operate a cardroom in this state unless such person holds a
 917 valid cardroom license issued pursuant to this section.

918 (a) Only those persons holding a valid cardroom license
 919 issued by the division may operate a cardroom. A cardroom
 920 license may only be issued to a licensed pari-mutuel
 921 permitholder and an authorized cardroom may only be operated at
 922 the same facility at which the permitholder is authorized under
 923 its valid pari-mutuel wagering permit to conduct pari-mutuel
 924 wagering activities. An initial cardroom license shall be issued
 925 to a pari-mutuel permitholder only after its facilities are in
 926 place and after it conducts its first day of pari-mutuel
 927 activities on live racing or games.

928 (b) After the initial cardroom license is granted, the

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929 application for the annual license renewal shall be made in
 930 conjunction with the applicant's annual application for its
 931 pari-mutuel license. If a permitholder has operated a cardroom
 932 during any of the 3 previous fiscal years and fails to include a
 933 renewal request for the operation of the cardroom in its annual
 934 application for license renewal, the permitholder may amend its
 935 annual application to include operation of the cardroom. ~~In~~
 936 ~~order for a cardroom license to be renewed the applicant must~~
 937 ~~have requested, as part of its pari-mutuel annual license~~
 938 ~~application, to conduct at least 90 percent of the total number~~
 939 ~~of live performances conducted by such permitholder during~~
 940 ~~either the state fiscal year in which its initial cardroom~~
 941 ~~license was issued or the state fiscal year immediately prior~~
 942 ~~thereto if the permitholder ran at least a full schedule of live~~
 943 ~~racing or games in the prior year. If the application is for a~~
 944 ~~harness permitholder cardroom, the applicant must have requested~~
 945 ~~authorization to conduct a minimum of 140 live performances~~
 946 ~~during the state fiscal year immediately prior thereto. If more~~
 947 ~~than one permitholder is operating at a facility, each~~
 948 ~~permitholder must have applied for a license to conduct a full~~
 949 ~~schedule of live racing.~~

(13) TAXES AND OTHER PAYMENTS.—

951 (d)1. Each ~~greyhound and~~ jai alai permitholder that
 952 conducts live performances and operates a cardroom facility
 953 shall use at least 4 percent of such permitholder's cardroom
 954 monthly gross receipts to supplement ~~greyhound purses or~~ jai
 955 alai prize money, ~~respectively~~, during the permitholder's next
 956 ensuing pari-mutuel meet.

957 2. Each thoroughbred permitholder or ~~and~~ harness horse

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958 racing permitholder that conducts live performances and operates
 959 a cardroom facility shall use at least 50 percent of such
 960 permitholder's cardroom monthly net proceeds as follows: 47
 961 percent to supplement purses and 3 percent to supplement
 962 breeders' awards during the permitholder's next ensuing racing
 963 meet.

964 3. No cardroom license or renewal thereof shall be issued
 965 to an applicant holding a permit under chapter 550 to conduct
 966 pari-mutuel wagering meets of quarter horse racing and
 967 conducting live performances unless the applicant has on file
 968 with the division a binding written agreement between the
 969 applicant and the Florida Quarter Horse Racing Association or
 970 the association representing a majority of the horse owners and
 971 trainers at the applicant's eligible facility, governing the
 972 payment of purses on live quarter horse races conducted at the
 973 licensee's pari-mutuel facility. The agreement governing purses
 974 may direct the payment of such purses from revenues generated by
 975 any wagering or gaming the applicant is authorized to conduct
 976 under Florida law. All purses shall be subject to the terms of
 977 chapter 550.

978 Section 28. For the purpose of incorporating the amendment
 979 made by this act to section 550.002, Florida Statutes, in a
 980 reference thereto, paragraph (c) of subsection (2) of section
 981 380.0651, Florida Statutes, is reenacted to read:

982 380.0651 Statewide guidelines, standards, and exemptions.—

983 (2) STATUTORY EXEMPTIONS.—The following developments are
 984 exempt from s. 380.06:

985 (c) Any proposed addition to an existing sports facility
 986 complex if the addition meets the following characteristics:

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987 1. It would not operate concurrently with the scheduled
 988 hours of operation of the existing facility;
 989 2. Its seating capacity would be no more than 75 percent of
 990 the capacity of the existing facility; and
 991 3. The sports facility complex property was owned by a
 992 public body before July 1, 1983.
 993
 994 This exemption does not apply to any pari-mutuel facility as
 995 defined in s. 550.002.
 996
 997 If a use is exempt from review pursuant to paragraphs (a)-(u),
 998 but will be part of a larger project that is subject to review
 999 pursuant to s. 380.06(12), the impact of the exempt use must be
 1000 included in the review of the larger project, unless such exempt
 1001 use involves a development that includes a landowner, tenant, or
 1002 user that has entered into a funding agreement with the state
 1003 land planning agency under the Innovation Incentive Program and
 1004 the agreement contemplates a state award of at least \$50
 1005 million.
 1006 Section 29. For the purpose of incorporating the amendment
 1007 made by this act to section 550.002, Florida Statutes, in a
 1008 reference thereto, paragraph (c) of subsection (4) of section
 1009 402.82, Florida Statutes, is reenacted to read:
 1010 402.82 Electronic benefits transfer program.—
 1011 (4) Use or acceptance of an electronic benefits transfer
 1012 card is prohibited at the following locations or for the
 1013 following activities:
 1014 (c) A pari-mutuel facility as defined in s. 550.002.
 1015 Section 30. For the purpose of incorporating the amendment

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1016 made by this act to section 550.002, Florida Statutes, in a
 1017 reference thereto, subsection (1) of section 480.0475, Florida
 1018 Statutes, is reenacted to read:
 1019 480.0475 Massage establishments; prohibited practices.—
 1020 (1) A person may not operate a massage establishment
 1021 between the hours of midnight and 5 a.m. This subsection does
 1022 not apply to a massage establishment:
 1023 (a) Located on the premises of a health care facility as
 1024 defined in s. 408.07; a health care clinic as defined in s.
 1025 400.9905(4); a hotel, motel, or bed and breakfast inn, as those
 1026 terms are defined in s. 509.242; a timeshare property as defined
 1027 in s. 721.05; a public airport as defined in s. 330.27; or a
 1028 pari-mutuel facility as defined in s. 550.002;
 1029 (b) In which every massage performed between the hours of
 1030 midnight and 5 a.m. is performed by a massage therapist acting
 1031 under the prescription of a physician or physician assistant
 1032 licensed under chapter 458, an osteopathic physician or
 1033 physician assistant licensed under chapter 459, a chiropractic
 1034 physician licensed under chapter 460, a podiatric physician
 1035 licensed under chapter 461, an advanced practice registered
 1036 nurse licensed under part I of chapter 464, or a dentist
 1037 licensed under chapter 466; or
 1038 (c) Operating during a special event if the county or
 1039 municipality in which the establishment operates has approved
 1040 such operation during the special event.
 1041 Section 31. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/15/2021
Meeting Date

7080
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title hobbyist

Address 205 S. Adams St.
Street

Phone 931-265-8999

Tallahassee FL 32301
City State Zip

Email lauren@e.ricksconsultants.com

Speaking: For Against Information

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

Representing FLORIDA STANDARD BRED BREEDERS + OWNERS 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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

April 15, 2021

Meeting Date

S 7080

Bill Number (if applicable)

Topic Pari-mutuel legislation

Amendment Barcode (if applicable)

Name Lonny Powell

Job Title Chief Executive Officer

Address 801 S W 60th Avenue

Phone 352-629-2160

Street

Ocala

FL

34474

Email lpowell@ftboa.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Thoroughbred Breeders and Owners 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)

CourtSmart Tag Report

Room: KB 412
Caption: Senate Appropriations Committee

Case No.: -

Type:
Judge:

Started: 4/15/2021 9:06:00 AM

Ends: 4/15/2021 2:24:37 PM

Length: 05:18:38

9:06:03 AM Sen. Stargel (Chair)
9:08:00 AM S 1450
9:08:07 AM Sen. Rodriguez
9:10:10 AM S 1568
9:10:14 AM Sen. Rodriguez
9:10:52 AM S 1570
9:10:56 AM Sen. Rodriguez
9:11:51 AM Am. 874262
9:11:58 AM Sen. Rodriguez
9:12:36 AM Am. 891770
9:12:50 AM Sen. Broxson
9:13:21 AM Am. 874262 (cont.)
9:13:38 AM S 1570 (cont.)
9:14:48 AM S 1898
9:14:50 AM Sen. Rodriguez
9:15:44 AM Matthew Choy, Director, The Florida Chamber of Commerce (waives in support)
9:15:53 AM Debbie Mortham, Florida Advocacy Director, The Foundation for Florida's Future (waives in support)
9:16:03 AM Karen Mazzola, Legislation Committee Chair, Florida Parent Teacher Association (waives in support)
9:17:06 AM S 1728
9:17:16 AM Sen. Baxley
9:17:42 AM Sen. Powell
9:17:51 AM Sen. Baxley
9:18:55 AM Sen. Powell
9:19:04 AM Sen. Baxley
9:19:07 AM Sen. Powell
9:19:19 AM Sen. Baxley
9:19:33 AM Sen. Gibson
9:20:05 AM Sen. Baxley
9:20:58 AM Sen. Bean (Chair)
9:21:03 AM Sen. Gibson
9:21:27 AM Sen. Baxley
9:22:20 AM Sen. Gibson
9:23:11 AM Sen. Baxley
9:24:04 AM Sen. Rouson
9:24:13 AM Sen. Baxley
9:25:02 AM Sen. Gibson
9:25:25 AM Sen. Baxley
9:26:13 AM Sen. Powell
9:27:43 AM Sen. Baxley
9:30:24 AM S 838
9:30:42 AM PCS 412016
9:30:50 AM Sen. Boyd
9:32:11 AM Am. 212474
9:32:17 AM Sen. Hooper
9:33:21 AM Jason Harrell, Director of Legislative & Public Affairs, Florida Court Clerks & Comptrollers (waives in support)
9:33:52 AM S 838 (cont.)
9:34:00 AM Jason Harrell, Director of Legislative & Public Affairs, Florida Court Clerks & Comptrollers (waives in support)
9:34:08 AM Jenna Hodgens, Senior Director of Government Relations, Hillsborough County Clerk & Comptrollers (waives in support)
9:34:20 AM David Shepp, Lobbyist, Polk County Clerk of Court (waives in support)

9:35:30 AM S 1470
9:35:38 AM Sen. Boyd
9:36:10 AM Sen. Brandes
9:36:15 AM Sen. Boyd
9:36:33 AM Joy Ryan, Lobbyist, Florida Life and Health Insurance Guaranty Association (waives in support)
9:37:42 AM S 1126
9:37:52 AM Sen. Harrell
9:38:16 AM PCS 300690
9:38:56 AM Am. 330308
9:39:00 AM Sen. Harrell
9:39:51 AM S 1126 (cont.)
9:41:01 AM S 260
9:41:02 AM Sen. Harrell
9:41:33 AM Am. 491526
9:41:40 AM Sen. Harrell
9:41:58 AM S 260 (cont.)
9:43:14 AM S 1324
9:43:17 AM Sen. Harrell
9:44:10 AM Sen. Powell
9:44:31 AM Sen. Harrell
9:45:07 AM Sen. Gibson
9:45:23 AM Sen. Harrell
9:45:56 AM Sen. Gibson
9:46:06 AM Sen. Harrell
9:46:26 AM Sen. Gibson
9:46:41 AM Sen. Harrell
9:47:16 AM Sen. Pizzo
9:47:34 AM Sen. Harrell
9:47:48 AM Sen. Pizzo
9:47:52 AM Sen. Harrell
9:48:02 AM Sen. Brandes
9:49:38 AM Sen. Harrell
9:51:27 AM S 130
9:51:28 AM PCS 154204
9:51:49 AM Sen. Rouson
9:51:55 AM Am. 556044
9:52:11 AM S 130 (cont.)
9:52:14 AM Sen. Rouson
9:53:40 AM Steve Leifman, Judge, Steering Committee on Probelom-Solving Courts (waives in support)
9:54:33 AM Sen. Pizzo
9:54:50 AM Sen. Rouson
9:56:13 AM S 1326
9:56:18 AM Sen. Harrell
9:57:51 AM S 506
9:57:53 AM Sen. Garcia
10:00:12 AM S 1526
10:00:42 AM Karen Woodall, Director, Florida Center for Fiscal & Economic Policy (waives in support)
10:00:59 AM Sen. Garcia
10:02:53 AM S 1598
10:02:56 AM Sen. Gruters
10:03:52 AM Am. 205350
10:03:58 AM Sen. Gruters
10:04:55 AM Meredith Standfield, Director of Legislative & Cabinet Affairs (waives in support)
10:05:24 AM S 1598 (cont.)
10:05:26 AM Sen. Brandes
10:05:32 AM Sen. Gruters
10:05:37 AM Sen. Brandes
10:05:43 AM Sen. Gruters
10:08:04 AM Sen. Brandes
10:08:11 AM Sen. Gruters
10:08:35 AM Sen. Farmer
10:08:59 AM Sen. Gruters

10:09:23 AM Sen. Farmer
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10:10:02 AM Sen. Farmer
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10:10:34 AM Sen. Gruters
10:10:58 AM Sen. Farmer
10:11:07 AM Sen. Gruters
10:11:20 AM Sen. Pizzo
10:11:39 AM Sen. Gruters
10:12:03 AM Sen. Pizzo
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10:12:50 AM Sen. Pizzo
10:12:54 AM Sen. Gruters
10:13:03 AM Sen. Pizzo
10:13:19 AM Sen. Gruters
10:13:31 AM Sen. Broxson
10:13:38 AM Sen. Gurters
10:13:51 AM Sen. Broxson
10:14:16 AM Sen. Gruters
10:14:19 AM Sen. Broxson
10:14:26 AM Sen. Gruters
10:14:42 AM M. Stanfield (waives in support)
10:15:06 AM Sen. Pizzo
10:15:24 AM M. Stanfield
10:15:55 AM Sen. Pizzo
10:16:06 AM M. Stanfield
10:16:09 AM Sen. Pizzo
10:16:21 AM M. Stanfield
10:16:32 AM Sen. Farmer
10:16:44 AM M. Stanfield
10:17:09 AM Sen. Farmer
10:17:28 AM M. Stanfield
10:17:45 AM Tim Meenan, Lobbyist, NAIFA-FLORIDA (waives in support)
10:18:04 AM BG Murphy, Director of Government Affairs, Florida Associaton of Insurance Agents (waives in support)
10:18:22 AM Sen. Farmer
10:21:07 AM Sen. Brandes
10:23:09 AM Sen. Pizzo
10:24:16 AM Sen. Gruters
10:26:46 AM S 1568
10:26:50 AM Sen. Rodriguez
10:27:26 AM Am. 165628
10:27:36 AM Sen. Rodriguez
10:27:40 AM Am. 715880
10:27:43 AM Sen. Rodriguez
10:28:20 AM Sen. Powell
10:29:37 AM Am. 328528
10:29:46 AM Sen. Rodriguez
10:30:24 AM Am. 649510
10:30:35 AM Sen. Rodriguez
10:31:15 AM Am. 65826
10:31:20 AM Sen. Rodriguez
10:31:53 AM Am. 847040
10:32:08 AM Sen. Rodriguez

10:33:30 AM Sen. Passidomo
10:33:43 AM Sen. Rodriguez
10:34:00 AM S 1568 (cont.)
10:35:10 AM S 184
10:35:19 AM Sen. Berman
10:36:01 AM Am. 954168
10:36:09 AM Sen. Berman
10:37:10 AM Sen. Brandes
10:37:22 AM Sen. Berman
10:37:24 AM Sen. Brandes
10:37:32 AM Sen. Berman
10:37:39 AM Sen. Brandes
10:38:09 AM Sen. Berman
10:38:35 AM Nancy Stewart, Legislative Counsel, Federation of Manufactured Home Owners of Florida, Inc. (waives in support)
10:38:45 AM Barbara Devine, Lobbyist, Florida Alliance for Retired Americans (waives in support)
10:39:37 AM Sen. Farmer
10:40:40 AM Sen. Stargel (Chair)
10:40:42 AM S 750
10:40:49 AM Sen. Gruters
10:41:48 AM Am. 783100
10:41:49 AM Sen. Gruters
10:42:37 AM Am. 523368
10:42:42 AM Sen. Hutson
10:42:48 AM Am. 448154
10:42:50 AM Sen. Hutson
10:42:55 AM Am. 593970
10:43:03 AM Sen. Hutson
10:44:15 AM Am. 783100 (cont.)
10:44:38 AM S 750 (cont.)
10:44:40 AM Sen. Powell
10:45:03 AM Sen. Gurters
10:45:26 AM Sen. Powell
10:45:40 AM Sen. Gruters
10:46:16 AM Sen. Powell
10:46:28 AM Sen. Gruters
10:46:32 AM Sen. Powell
10:46:44 AM Sen. Gruters
10:46:57 AM Sen. Powell
10:47:08 AM Sen. Gruters
10:47:19 AM Sen. Farmer
10:47:37 AM Sen. Gurters
10:47:43 AM Sen. Farmer
10:47:57 AM Sen. Gruters
10:48:14 AM Sen. Farmer
10:48:24 AM Sen. Gurters
10:48:30 AM Sen. Hutson
10:49:26 AM Sen. Farmer
10:49:30 AM Sen. Hutson
10:49:42 AM Sen. Farmer
10:49:50 AM Sen. Stewart
10:50:13 AM Sen. Gruters
10:50:43 AM Marco Paredes, Lobbyist, Encore Capital Management (waives in support)
10:50:49 AM Gary Hunter, Shareholder, Association of Florida Community Developers (waives in support)
10:50:57 AM Dane Bennett, Director of Government Affairs, Florida Home Builders Association
10:51:53 AM David Cruz, Legislative Counsel, Florida League of Cities
10:53:39 AM Sen. Pizzo
10:54:07 AM D. Cruz
10:54:44 AM Sen. Pizzo
10:55:02 AM D. Cruz
10:55:39 AM Sen. Farmer
10:56:05 AM D. Cruz

10:56:32 AM Rusty Payton, Chief Executive Officer, Florida Home Builders Association
10:57:01 AM Bob Mckee, Deputy Director of Public Policy, Florida Association of Counties
10:57:29 AM Mark Jeffries, Citizen, Orange County
10:58:26 AM Sen. Pizzo
11:00:22 AM Sen. Powell
11:02:04 AM Sen. Stewart
11:03:48 AM Sen. Farmer
11:05:04 AM Sen. Perry
11:06:29 AM Sen. Gruters
11:08:06 AM S 794
11:08:10 AM Sen. Bean
11:08:56 AM Jane Johnson, Executive Director, Florida Association of Centers for Independent Living (waives in support)
11:09:57 AM S 1948
11:10:03 AM Sen. Bean
11:12:23 AM Am. 538568
11:12:24 AM Am. 185376
11:12:32 AM Sen. Bean
11:13:13 AM Sen. Stewart
11:14:10 AM Sen. Bean
11:15:04 AM Sen. Gibson
11:15:12 AM Sen. Bean
11:15:42 AM Sen. Gibson
11:17:03 AM Sen. Bean
11:17:49 AM Sen. Gibson
11:18:19 AM Sen. Bean
11:20:09 AM Sen. Stewart
11:20:40 AM Sen. Bean
11:21:49 AM John Schrader, Director of Legislative and Cabinet Affairs, Florida Department of Economic Opportunity (waives in support)
11:21:56 AM Karen Woodall, Executive Director, Florida Center for Fiscal and Economic Policy
11:23:55 AM S 1948 (cont.)
11:23:57 AM Sen. Pizzo
11:25:22 AM Sen. Bean
11:26:14 AM S 98
11:26:21 AM Sen. Albritton
11:27:35 AM Am. 151258
11:27:50 AM Am. 960408
11:27:54 AM Sen. Albritton
11:28:15 AM Am. 151258 (cont.)
11:28:36 AM S 98 (cont.)
11:28:43 AM Erick Prutsman, Lobbyist, Alarm Association of Florida (waives in support)
11:28:53 AM Debbie Mortham, Florida Advocacy Director, the Foundation for Florida's Future (waives in support)
11:29:01 AM Chris Camody, Attorney, Career Sources of Central Florida, Tampa Bay and Pinellas
11:30:02 AM Sen. Gibson
11:33:04 AM Sen. Albritton
11:33:52 AM Sen. Bean (Chair)
11:34:27 AM S 468
11:34:30 AM Sen. Bracy
11:35:07 AM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers (waives in support)
11:35:15 AM Carrie Boyd, Policy Counsel, SPLC Action Fund (waives support)
11:35:27 AM Karen Woodall, Director, Florida Center for Fiscal and Economic Policy (waives in support)
11:35:48 AM Sen. Rouson
11:37:27 AM S 1404
11:37:32 AM PCS 817458
11:37:37 AM Sen. Hooper
11:38:40 AM Sen. Brandes
11:39:07 AM Sen. Gibson
11:39:45 AM Sen. Hooper
11:40:56 AM S 748
11:41:03 AM Sen. Brandes
11:42:06 AM William Large, President, Florida Justice Reform (support)

11:42:13 AM Erick Maclure, Deputy State Courts Administrator, State Court System (waives in support)
11:43:18 AM S 1166
11:43:23 AM PCS 891930
11:43:28 AM Sen. Brandes
11:44:34 AM Carrie Boyd, Policy Counsel, SPLC Action Fund (waives in support)
11:44:42 AM Karen Woodall, Director, Florida Center for Fiscal and Economic Policy (waives in support)
11:45:50 AM S 1382
11:45:54 AM Sen. Perry
11:46:39 AM Am. 860116
11:46:43 AM Sen. Perry
11:46:54 AM Am. 248302
11:47:08 AM Sen. Perry
11:47:18 AM S 1382 (cont.)
11:47:22 AM Christian Camara, Lobbyist, Institute for Justice (waives in support)
11:48:41 AM S 1864
11:48:48 AM Sen. Perry
11:48:56 AM Am. 919762
11:49:36 AM Sen. Powell
11:49:51 AM Sen. Perry
11:50:30 AM Sen. Book
11:50:57 AM Sen. Perry
11:51:39 AM Debbie Mortham, Florida Advocacy Director, The Foundation for Florida's Future (waives in support)
11:51:46 AM Karen Mazzola, Legislation Committee Chair, Florida Parent Teacher Association (waives in support)
11:52:10 AM Sen. Book
11:52:30 AM Sen. Perry
11:53:37 AM S 2010
11:53:38 AM Sen. Diaz
11:54:16 AM Am. 269026
11:54:25 AM Sen. Diaz
11:55:44 AM S 2010 (cont.)
11:56:58 AM S 1966
11:57:03 AM Sen. Diaz
11:57:48 AM Am. 819462
11:57:53 AM Sen. Diaz
11:58:29 AM Am. 425248
11:58:42 AM Sen. Diaz
11:58:57 AM Sen. Bean
11:59:10 AM Mark Anderson, Lobbyist, Chief Executive Officers of Management Companies (waives in support)
11:59:50 AM Am. 135066
12:00:00 PM Sen. Brandes
12:01:59 PM Sen. Farmer
12:02:08 PM Sen. Brandes
12:02:32 PM Sen. Diaz
12:02:47 PM Sen. Brandes
12:03:07 PM Sen. Bean
12:04:40 PM S 1966 (cont.)
12:06:25 PM Sen. Gibson
12:07:22 PM Sen. Bean
12:07:34 PM Barbara DeVane, Florida Now (waives in support)
12:07:44 PM Karen Woodall, Director, Florida Center for Fiscal & Economic Policy (waives in support)
12:08:06 PM Sen. Book
12:08:30 PM Sen. Bean
12:08:34 PM Sen. Gibson
12:08:42 PM Sen. Bean
12:09:42 PM S 168
12:09:45 PM Sen. Hooper
12:10:41 PM Nancy Stewart, Legislative Counsel, Federation of Manufactured Home Owners of Florida, Inc.
12:10:59 PM Sen. Hooper
12:12:03 PM S 770
12:12:08 PM Sen. Burgess
12:13:20 PM Sen. Powell
12:13:52 PM Sen. Burgess

12:14:02 PM Sen. Powell
12:15:06 PM Sen. Burgess
12:16:00 PM Sen. Powell
12:16:18 PM Sen. Burgess
12:16:50 PM Lieutenant Colonel Gorman, National Guard
12:18:14 PM Sen. Powell
12:18:54 PM Sen. Bean
12:19:06 PM Lt. Col. Gorman
12:19:18 PM Sen. Bean
12:19:23 PM Lt. Col. Gorman
12:19:43 PM Sen. Passidomo
12:20:05 PM Lt. Col. Gorman
12:20:38 PM Sen. Burgess
12:21:26 PM Sen. Pizzo
12:22:16 PM Sen. Burgess
12:22:51 PM Lt. Col. Gorman
12:24:04 PM Sen. Pizzo
12:24:27 PM Lt. Col. Gorman
12:25:43 PM Sen. Pizzo
12:27:15 PM S 1408
12:27:23 PM Sen. Burgess
12:28:16 PM Erick Puntman, Lobbyist, Florida Fire Marshals & Inspectors Association (waives in support)
12:28:25 PM Ray Colburn, Executive Director, Florida Fire Chiefs' Association (waives in support)
12:28:33 PM BG Murphy, Director of Government Affairs, Florida Association of Insurance Agents (waives in support)
12:28:39 PM Meredith Standfield, Director of Legislative & Cabinet Affairs, Department of Financial Services (waives in support)
12:28:52 PM Tim Meenan, Lobbyist, NAIFA-Florida (waives in support)
12:29:12 PM Sen. Farmer
12:30:04 PM Sen. Burgess
12:31:02 PM Sen. Farmer
12:31:47 PM Sen. Burgess
12:32:00 PM M. Stanfield
12:32:20 PM Sen. Farmer
12:32:46 PM M. Stanfield
12:33:59 PM Sen. Farmer
12:34:06 PM M. Stanfield
12:34:25 PM Sen. Farmer
12:34:41 PM M. Stanfield
12:34:54 PM Sen. Farmer
12:35:21 PM M. Stanfield
12:35:26 PM Sen. Farmer
12:35:32 PM M. Stanfield
12:35:48 PM Sen. Farmer
12:36:26 PM M. Stanfield
12:36:43 PM Sen. Farmer
12:36:46 PM Sen. Brandes
12:36:58 PM M. Stanfield
12:37:01 PM Sen. Brandes
12:37:18 PM M. Stanfield
12:37:27 PM Sen. Broxson
12:38:07 PM M. Stanfield
12:39:03 PM S 1194
12:40:02 PM Sen. Hooper
12:40:32 PM Am. 702774
12:40:43 PM Sen. Hooper
12:42:33 PM Am. 944220
12:42:43 PM Sen. Book
12:43:33 PM Rana Brown, Lobbyist, Miami Dade Transportation Planning Organization (waives in support)
12:44:17 PM Am. 795108
12:44:34 PM Sen. Book
12:44:56 PM R. Brown (waives in support)
12:45:37 PM Am. 702774 (cont.)

12:45:53 PM S 1194 (cont.)
12:46:04 PM Sen. Hooper
12:47:00 PM S 694
12:47:07 PM Sen. Rodrigues
12:48:03 PM Am. 426204
12:48:07 PM Sen. Rodrigues
12:48:29 PM Kenya Cory, Lobbyist, Natural Waste and Recycling Association - Florida Chapter (waive in support)
12:48:52 PM Am. 403980
12:48:55 PM Sen. Rodrigues
12:49:27 PM Kenya Cory, Lobbyist, Natural Waste and Recycling Association - Florida Chapter
12:50:34 PM Sen. Gibson
12:50:37 PM Sen. Rodrigues
12:50:42 PM Sen. Gibson
12:50:59 PM Sen. Rodrigues
12:51:03 PM Sen. Gibson
12:51:27 PM Sen. Rodrigues
12:52:25 PM Sen. Gibson
12:53:03 PM Sen. Rodrigues
12:53:25 PM Sen. Book
12:53:43 PM Sen. Rodrigues
12:53:51 PM Sen. Pizzo
12:54:00 PM Sen. Broxson
12:54:51 PM Sen. Rodrigues
12:55:26 PM Sen. Pizzo
12:56:00 PM Sen. Rodrigues
12:56:35 PM Sen. Pizzo
12:57:06 PM Sen. Rodrigues
12:57:55 PM S 694 (cont.)
12:58:00 PM Kenya Cory, Lobbyist, Natural Waste and Recycling Association - Florida Chapter (waives in support)
12:58:22 PM Sen. Pizzo
12:59:57 PM Sen. Rodrigues
1:02:23 PM S 470
1:02:28 PM Sen. Bracy
1:02:51 PM Carrie Byrd, Policy Counsel, SPLC Action Fund (waives in support)
1:02:56 PM Karen Woodall, Director, Florida Center for Fiscal & Economic Policy (waives in support)
1:04:02 PM S 366
1:04:06 PM Sen. Hutson
1:04:33 PM Am. 441292
1:04:38 PM Sen. Hutson
1:04:50 PM Am. 217338
1:04:56 PM Sen. Hutson
1:05:26 PM S 366 (cont.)
1:05:34 PM Debbie Mortham, Florida Advocacy Director, the Foundation for Florida's Future (waives in support)
1:05:39 PM Alexis Calatayud, Director of Legislative Affairs, Florida Department of Education (waives in support)
1:05:45 PM Matthew Choy, Director, The Florida Chamber of Commerce (waives in support)
1:06:47 PM S 1086
1:07:02 PM PCS 518944
1:07:14 PM Sen. Hutson
1:07:33 PM Sen. Brandes
1:07:41 PM Sen. Hutson
1:08:22 PM Sen. Brandes
1:08:30 PM Sen. Hutson
1:08:57 PM Sen. Rouson
1:09:24 PM Sen. Hutson
1:09:47 PM Am. 321860
1:09:53 PM Sen. Hutson
1:10:51 PM S 1086 (cont.)
1:11:53 PM S 1448
1:12:00 PM Sen. Jones
1:13:13 PM Am. 567488
1:13:18 PM Sen. Jones
1:13:58 PM S 1448 (cont.)

1:14:10 PM Sen. Pizzo
1:14:35 PM Sen. Jones
1:15:36 PM S 1024
1:15:42 PM Sen. Brodeur
1:15:57 PM PCS 716122
1:17:19 PM S 1146
1:17:23 PM Sen. Brodeur
1:17:51 PM Am. 690558
1:18:00 PM Sen. Pizzo
1:18:45 PM Am. 785726
1:18:51 PM Sen. Brodeur
1:19:27 PM S 1146 (cont.)
1:19:32 PM Rusty Payton, Chief Executive Officer, Florida Home Builders Association (waives in support)
1:20:34 PM S 1906
1:20:39 PM Sen. Brodeur
1:21:18 PM Am. 636278
1:21:31 PM Sen. Farmer
1:23:22 PM Karen Woodall, Director, Florida Center for Fiscal & Economic Policy
1:25:41 PM Dr. Rich Templin, Florida American Federation of Labor – Congress of Industrial Organizations
1:27:11 PM Ida Eskamani, Florida Rising
1:28:03 PM Sen. Brodeur
1:28:45 PM Am. 196634
1:28:53 PM Am. 973418
1:29:05 PM Sen. Brodeur
1:29:15 PM Sen. Powell
1:30:11 PM Sen. Pizzo
1:31:11 PM Sen. Brodeur
1:32:17 PM Dr. R. Templin
1:32:48 PM K. Woodall
1:33:12 PM I. Eskamani (waives in support)
1:33:31 PM Sen. Pizzo
1:34:26 PM Am. 609816
1:34:30 PM Sen. Farmer
1:35:02 PM K. Woodall
1:35:53 PM Dr. R. Templin
1:37:34 PM I. Eskamani (waives in support)
1:38:08 PM Sen. Brodeur
1:38:56 PM Sen. Farmer
1:40:07 PM S 1906 (cont.)
1:40:25 PM K. Woodall
1:40:56 PM Sen. Farmer
1:41:38 PM Sen. Stewart
1:43:37 PM Sen. Pizzo
1:45:40 PM Sen. Powell
1:46:29 PM Sen. Stargel
1:46:42 PM Sen. Brodeur
1:48:13 PM S 7060
1:48:24 PM PCS 574708
1:48:31 PM Sen. Brodeur
1:49:11 PM Alex Bickley, Director of Legislative Affairs, Florida Department of Environmental Protection
1:49:16 PM David Cullen, Lobbyist, Sierra Club Florida
1:51:07 PM Sen. Farmer
1:51:40 PM Sen. Gainer
1:51:45 PM Sen. Brodeur
1:52:47 PM S 7062
1:52:55 PM Sen. Brodeur
1:53:38 PM Am. 828060
1:53:44 PM Sen. Brodeur
1:54:10 PM Alex Bickley, Director of Legislative Affairs, Florida Department of Environmental Protection (waives in support)
1:54:31 PM S 7062 (cont.)
1:54:34 PM A. Bickley (waives in support)

1:54:40 PM David Shepp, Lobbyist, City of Lakeland (waives in support)
1:55:46 PM S 7076
1:56:03 PM Am. 309496
1:56:10 PM Sen. Hutson
1:57:46 PM Sen. Brandes
1:57:49 PM Sem. Hutson
1:57:58 PM Sen. Brandes
1:58:06 PM Sen. Hutson
1:58:21 PM Sen. Powell
1:58:36 PM Sen. Hutson
1:58:53 PM Sen. Pizzo
1:59:06 PM Sen. Hutson
1:59:25 PM Sen. Pizzo
1:59:40 PM Sen. Hutson
1:59:52 PM Sen. Pizzo
2:00:02 PM Sen. Brandes
2:00:07 PM Sen. Hutson
2:00:53 PM Sen. Brandes
2:01:25 PM Sen. Hutson
2:01:48 PM Am. 949352
2:01:54 PM Sen. Hutson
2:02:34 PM Am. 309496 (cont.)
2:02:48 PM Sen. Pizzo
2:03:41 PM S 7076 (cont.)
2:03:51 PM Sen. Brandes
2:04:10 PM Sen. Hutson
2:04:29 PM Sen. Gibson
2:04:45 PM Sen. Hutson
2:05:13 PM Sen. Pizzo
2:05:59 PM Sen. Hutson
2:07:29 PM S 7078
2:07:42 PM Am. 679930
2:07:56 PM Sen. Hutson
2:09:02 PM S 7078 (cont.)
2:10:00 PM s 7080
2:10:17 PM Am. 527596
2:10:29 PM Sen. Hutson
2:11:16 PM Sen. Farmer
2:11:20 PM Sen. Hutson
2:11:26 PM Am. 601258
2:11:34 PM Sen. Hutson
2:12:10 PM Am. 480942
2:12:15 PM Sen. Hutson
2:13:02 PM Am. 208386
2:13:06 PM Sen. Hutson
2:13:39 PM S 7080 (cont.)
2:13:43 PM Am. 527596 (cont.)
2:15:20 PM Lauren Jackson, Lobbyist, Florida Standardbred Breeders and Owners Association
2:19:11 PM Sen. Book
2:19:41 PM Sen. Hutson
2:20:55 PM Motions (Vote After Roll Call; Change Vote)
2:21:02 PM Sen. Gibson
2:21:17 PM Sen. Powell
2:21:36 PM Sen. Passidomo
2:21:46 PM Sen. Bean
2:21:59 PM Sen. Gainer
2:22:38 PM Sen. Broxson
2:22:43 PM Sen. Mayfield
2:22:55 PM Sen. Hutson
2:22:59 PM Sen. Diaz
2:23:04 PM Sen. Farmer
2:23:19 PM Sen. Pizzo

2:23:37 PM	Sen. Stewart
2:23:43 PM	Sen. Bracy
2:24:00 PM	Sen. Rouson
2:24:12 PM	Sen. Albritton
2:24:22 PM	Sen. Stargel