

Tab 1	SB 338 by Baxley ; (Identical to H 00251) Senior Management Service Class					
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Tab 2	SB 514 by Burgess (CO-INTRODUCERS) Perry ; (Similar to CS/H 00317) Workforce Education Requirements					
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Tab 3	SB 828 by Hutson ; (Similar to H 01147) Critical Infrastructure					
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Tab 4	SB 1046 by Hooper ; (Identical to H 00773) Public Records/Law Enforcement Geolocation Information					
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Tab 5	SB 1314 by Hooper ; (Identical to H 00971) State Board of Administration Alternative Investments					
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Tab 6	SB 1518 by Berman ; (Identical to H 01223) Lactation Space					
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Brandes, Chair
Senator Gruters, Vice Chair

MEETING DATE: Wednesday, February 2, 2022
TIME: 11:00 a.m.—1:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Brandes, Chair; Senator Gruters, Vice Chair; Senators Farmer, Mayfield, Stargel, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 338 Baxley (Identical H 251)	Senior Management Service Class; Providing that participation in the Senior Management Service Class of the Florida Retirement System is compulsory for each district's assistant regional counsel supervisors, beginning on a specified date, etc. GO 02/02/2022 Favorable JU AP	Favorable Yeas 5 Nays 0
2	SB 514 Burgess (Similar CS/H 317)	Workforce Education Requirements; Authorizing state governmental employing agencies to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment if certain conditions are met; requiring a county, municipality, or special district, respectively, that elects to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment to include a certain notice in job advertisements for the position, etc. GO 02/02/2022 Fav/CS CA RC	Fav/CS Yeas 5 Nays 0
3	SB 828 Hutson (Similar H 1147)	Critical Infrastructure; Citing this act as the "Critical Infrastructure Standards and Procedures Act"; requiring that, beginning on a specified date, asset owners ensure that the operation and maintenance of operational technology comply with specified standards and practices; requiring that certain contracts for critical infrastructure meet specified minimum standards; providing requirements and procedures relating to civil actions based on cybersecurity-breach-related claims; authorizing the Department of Law Enforcement to institute appropriate legal proceedings against a business, a service provider, or another person or entity that violates the act, etc. GO 02/02/2022 Fav/CS MS RC	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
 Wednesday, February 2, 2022, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1046 Hooper (Identical H 773)	Public Records/Law Enforcement Geolocation Information; Defining the term "law enforcement geolocation information"; providing an exemption from public records requirements for law enforcement geolocation information held by a law enforcement agency; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 01/25/2022 Favorable GO 02/02/2022 Fav/CS RC	Fav/CS Yeas 5 Nays 0
5	SB 1314 Hooper (Identical H 971)	State Board of Administration Alternative Investments; Increasing the percentage of certain funds the State Board of Administration may invest in alternative investments, etc. GO 02/02/2022 Favorable CA AP	Favorable Yeas 5 Nays 0
6	SB 1518 Berman (Identical H 1223)	Lactation Space; Requiring at least one lactation space to be provided in each county courthouse; providing requirements for the lactation space; authorizing the use of state or private funds to provide lactation space in appellate courthouses, etc. GO 02/02/2022 Favorable ACJ AP	Favorable Yeas 5 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Investment Advisory Council			
7	Collins, Peter H. (Tampa)	12/12/2025	Recommend Confirm Yeas 5 Nays 0
8	Wendt, Gary C. (Fort Lauderdale)	12/12/2023	Recommend Confirm Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	Presentation by the Florida Housing Finance Corporation		Discussed
10	Presentation by the Cato Institute		Discussed

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Wednesday, February 2, 2022, 11:00 a.m.—1:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 338

INTRODUCER: Senator Baxley

SUBJECT: Senior Management Service Class

DATE: February 1, 2022

REVISED: _____

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

I. Summary:

SB 338 amends s. 121.055, F.S., to make certain supervising employees of the criminal conflict and regional counsel offices members of the Senior Management Service Class (SMSC) (rather than the Regular Class) of the Florida Retirement System (FRS).

For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service, rather than 1.6 percent service credit. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary.

Any employee shifted from the Regular Class to the SMSC is permitted to upgrade retirement credit for service in the same position. The upgraded service credit may not be purchased by the member's employer.

The bill increases the personnel costs incurred by the five offices of the criminal conflict and civil regional counsel by roughly \$700,000 annually for the positions enumerated in the bill for membership in the SMSC.

The bill takes effect on July 1, 2022.

II. Present Situation:

The Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was

consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with active members contributing three percent of their salaries.²

The membership of the FRS is divided into five membership classes:

- The Regular Class³ consists of 550,053 active members and 7,691 in renewed membership;
- The Special Risk Class⁴ includes 75,161 active members and 1,182 in renewed membership;
- The Special Risk Administrative Support Class⁵ has 107 active members and 1 in renewed membership;
- The Elected Officers' Class⁶ has 2,040 active members and 113 in renewed membership; and
- The Senior Management Service Class⁷ has 7,771 active members and 209 in renewed membership.⁸

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the Pension Plan; and
- The defined contribution plan, also known as the Investment Plan.

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.⁹ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.¹⁰ For members initially enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable

¹ Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year 2019-2020, at p. 35. Available online at: https://employer.frs.fl.gov/forms/2019-20_CAFR.pdf (2019-2020 Report)(last visited November 12, 2021).

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Between 1975 and 2011, the FRS was a non-contributory system. Employees were again required to contribute to the system after July 1, 2011. Members in the Deferred Retirement Option Program do not contribute to the system.

³ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁴ The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

⁵ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

⁶ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

⁷ The Senior Management Service Class 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 Senior Management Service designation. Section 121.055, F.S.

⁸ All figures are from Florida Retirement System Pension Plan and Other State Administered Retirement Systems Comprehensive Annual Financial Report Fiscal Year 2019-2020, at p. 163.

⁹ Section 121.025, F.S.

¹⁰ Section 121.021(45)(a), F.S.

service.¹¹ Benefits payable under the pension plan are calculated based on the member's years of creditable service multiplied by the service accrual rate multiplied by the member's average final compensation.¹² For most current members of the pension plan (including members in the Regular Class and the Senior Management Service Class), normal retirement (when first eligible for unreduced benefits) occurs at the earliest attainment of 30 years of service or age 62.¹³ Members initially enrolled in the pension plan on or after July 1, 2011, have longer service requirements. For members initially enrolled after that date, a member in the Regular Class or the Senior Management Service Class (SMSC) must complete 33 years of service or attain age 65.¹⁴

The Regular Class and the SMSC share the same normal retirement dates, average final compensation calculation, and disability/survivor benefits. However, the Regular Class service credit provides a 1.6 percent accrual value for each year of creditable service, while the SMSC earns a 2.0 percent accrual value each year.

Section 121.055, F.S., (1)(j), F.S., authorizes a member of the SMSC to upgrade service credit in the same position from Regular Class accrual value to the SMSC accrual value. Generally, the service credit may be purchased by the employer on behalf of the member.

Investment Plan

In 2000, the Public Employee Optional Retirement Program (investment plan) was created as a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁵ The Board of Trustees of the SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁶

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹⁷ With respect to the employer contributions, a member vests after completing one work year of employment with an FRS employer.¹⁸ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁹ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement

¹¹ Section 121.021(45)(b), F.S.

¹² Section 121.091, F.S.

¹³ Section 121.021(29)(a)1., F.S.

¹⁴ Sections 121.021(29)(a)2. and (b)2., F.S.

¹⁵ Section 121.4501(8), F.S.

¹⁶ FLA CONST. art. IV, s. 4.

¹⁷ Section 121.4501(6)(a), F.S.

¹⁸ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b)-(d), F.S.

¹⁹ Section 121.591, F.S.

benefits.²⁰ An FRS member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.²¹

The table below shows the allocation of contributions made into the FRS for members of the investment plan participating in the Regular Class and SMSC. The contributions are based on a percentage of the member’s gross compensation for the month.

Allocation of Contributions	Regular Class	Senior Management Service Class
Investment Account	6.30%	7.67%
Disability	0.25%	0.26%
In line of duty death	0.05%	0.05%
Administrative Assessments	0.06%	0.06%
Total	6.66%	8.04%

Offices of the Public Defender

In an effort to meet its responsibility to provide counsel to indigent defendants, as guaranteed under the Sixth Amendment and applied to the states in *Gideon v. Wainwright*,²² the Legislature first established the office of the Public Defender in 1963.²³ Subsequently, the Legislature approved a proposal to amend the Florida Constitution to elevate the Office of Public Defender to the level of a constitutional officer, which was approved by the electorate and adopted in 1972.²⁴ The public defender in each circuit is primarily responsible for representing indigent defendants who have been charged or arrested for an enumerated list of criminal offenses and in a limited number of civil proceedings.²⁵ Participation in the Senior Management Service Class of the Florida Retirement System is compulsory for assistant public defenders.²⁶

Criminal Conflict and Civil Regional Counsel

In 2007, the Legislature established five offices of criminal conflict and civil regional counsel.²⁷ When an Office of the Public Defender determines it has a conflict in representing an indigent defendant, the office of criminal conflict and civil regional counsel will be appointed to represent the defendant.²⁸ The office of criminal conflict and civil regional counsel has primary

²⁰ See s. 121.4501(16), F.S.

²¹ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member’s average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

²² *Gideon v. Wainwright*, 372 U.S. 335 (1963)

²³ See ch. 63-409, enacting s. 27.50, F.S. (1963).

²⁴ See art. V, § 18, Fla. Const.

²⁵ See s. 27.51(1), F.S.

²⁶ Section 121.055, F.S.

²⁷ Section 27.511(1), F.S.

²⁸ Section 27.511(5), F.S.

responsibility for representing persons entitled to court-appointed counsel under the Federal or State Constitution or as authorized by law in civil proceedings, such as proceedings to terminate parental rights.²⁹

Each regional counsel is recommended as part of a list of qualified candidates from the Supreme Court Judicial Nominating Commission.³⁰ Thereafter, the Governor appoints the regional counsel from amongst those listed for a term of four years.³¹ The appointment is subject to Senate confirmation.³² Regional counsels serve on a full-time basis and may not engage in the private practice of law while holding office.³³ Each office of criminal conflict and regional counsel is housed, for administrative purposes, in the Justice Administrative Commission (Commission). The regional counsel and the offices are not subject to control, supervision, or direction of the Commission in the performance of their duties.³⁴ However, the employees of the offices are to be governed by the classification plan and the salary and benefits plan for the Commission.³⁵

III. Effect of Proposed Changes:

Section 1 amends s. 121.055, F.S., to make assistant regional counsel supervisors of the criminal conflict and civil regional counsel offices members of the Senior Management Service Class (rather than the Regular Class) of the Florida Retirement System (FRS). For each employee participating in the pension plan of the FRS, this shift means the employee earns 2.0 percent service credit for each year of service. For an employee participating in the investment plan of the FRS, the employee will receive contributions into the investment account equal to 7.67 percent of salary rather than 6.3 percent of salary. There are currently 51 authorized assistant regional counsel supervisor positions among the five offices of criminal conflict and civil regional counsel.

Section 2 provides that the bill will take effect on July 1, 2022.

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 shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

²⁹ Section 27.511(5) and (6), F.S.

³⁰ Section 27.511(3)(a), F.S.

³¹ *Id.*

³² *Id.*

³³ Section 27.511(4), F.S.

³⁴ Section 27.511(2), F.S.

³⁵ *Id.*

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 additional employer-paid contributions for the enumerated positions to be paid annually beginning in Fiscal Year 2022-2023 are estimated to be roughly \$700,000. These funds will be deposited into the Florida Retirement System Trust Fund to be used to pay benefits upon each member's retirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends 121.055 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Baxley

12-00269-22

2022338__

1 A bill to be entitled
 2 An act relating to the Senior Management Service
 3 Class; amending s. 121.055, F.S.; providing that
 4 participation in the Senior Management Service Class
 5 of the Florida Retirement System is compulsory for
 6 each district's assistant regional counsel
 7 supervisors, beginning on a specified date; providing
 8 an effective date.

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

11
 12 Section 1. Paragraph (m) of subsection (1) of section
 13 121.055, Florida Statutes, is amended to read:

14 121.055 Senior Management Service Class.—There is hereby
 15 established a separate class of membership within the Florida
 16 Retirement System to be known as the "Senior Management Service
 17 Class," which shall become effective February 1, 1987.

18 (1)

19 (m)1. Effective July 1, 2020, participation in the Senior
 20 Management Service Class is compulsory for each appointed
 21 criminal conflict and civil regional counsel and each district's
 22 assistant regional counsel chiefs, administrative directors, and
 23 chief investigators.

24 2. Effective July 1, 2022, participation in the Senior
 25 Management Service Class is compulsory for each district's
 26 assistant regional counsel supervisors.

27 3. A Senior Management Service Class member under this
 28 paragraph may purchase additional retirement credit in the class
 29 for creditable service within the purview of the Senior

Page 1 of 2

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12-00269-22

2022338__

30 Management Service Class retroactive to October 1, 2007, and may
 31 upgrade retirement credit for such service in accordance with
 32 paragraph (j). However, this service credit may not be purchased
 33 by the employer on behalf of the member.

34 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR DENNIS BAXLEY

12th District

October 13, 2021

The Honorable Chair Jeff Brandes
414 Senate Office Building
400 South Monroe Street
Tallahassee, FL 32399

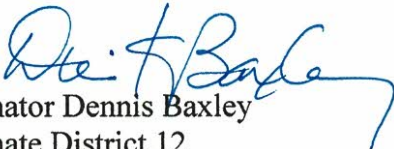
Dear Chairman Brandes,

I would like to request that SB 338 Senior Management Service Class be heard in the next Governmental Oversight and Accountability Committee meeting.

This good bill would allow each appointed criminal conflict and civil regional counsel and each district's assistant regional counsel chiefs, administrative directors, and chief investigators be included in the Senior Management Service Class.

I appreciate your favorable consideration.

Onward & Upward,


Senator Dennis Baxley
Senate District 12

cc: Joe McVaney, Staff Director

REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

2 FEB 22

Meeting Date

SB 0338

Bill Number or Topic

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

GOVERNMENT ACCOUNTABILITY
Committee

Amendment Barcode (if applicable)

Name RICHARD CURREY - REGIONAL CONFLICT COUNSEL REGION 1 Phone 850 384 2449

Address 277 N. BRONOUGH STREET Email richard.currey@rcbf.com

TALLAHASSEE FL 32301
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 514

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Burgess

SUBJECT: Substitution of Work Experience for Postsecondary Educational Requirements

DATE: February 2, 2022 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 514 creates s. 112. 219, F.S., to allow governmental agencies, during the employee hiring process, to substitute equivalent work experience as an alternative to a postsecondary education, if the applicant is otherwise qualified for the position. The bill specifies that work experience may not be substituted for any required licensure, certification, or registration as established by the employing agency and indicated on the position description. The bill defines employing agencies to include any agency or unit of government of the state or any county, municipality, or political subdivision. The bill requires employing agencies who opt to substitute work experience for postsecondary education, to include a notice in the advertisements for such position that substitution is authorized and a description of what education and work equivalencies apply.

The implementation of the bill does not abridge state and federal laws and regulations governing equal opportunity.

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

The bill takes effect July 1, 2022.

II. Present Situation:

State Employment Policy

According to the employment policy of the state, conditions of employment in state government must be made without regard to age, sex, color, religion, national origin, political affiliation, marital status, or disability.¹ The state and its political subdivisions must comply with the Americans with Disabilities Act,² Equal Employment Opportunity Act,³ Florida Civil Rights Act,⁴ and Fair Labor Standards Act.⁵ In addition, the state and its political subdivisions must give preference to veterans for positions of employment.⁶

State Hiring Process

The State's employment process is decentralized with each state agency being responsible for its recruitment, selection, and hiring decisions.⁷ Selection of candidates for employment is based on an assessment of the specific knowledge, skills, and abilities necessary for the successful performance of the position's duties.⁸ After assembling a pool of candidates, an agency's hiring official compares candidates' education, experience, and any necessary license or certification requirements.⁹ Candidates who appear to possess the required knowledge, skills, abilities, licensure and certifications will proceed further in the selection process.¹⁰ The hiring official then determines the candidates who will be asked to participate in additional selection procedures, such as oral interviews or work sample exercises.¹¹ The job-related information gained during the selection process assists the hiring official in making the final selection decision. The final selection decision is the sole responsibility of the employing agency.¹² Agencies are required to document the qualifications of the selected candidate to ensure the candidate meets the minimum requirements specified by the employing agency, any licensure or certification requirements, and possess the requisites for the position.¹³

Section 110.201 F.S., authorizes the Department of Management Services (DMS), in consultation with agencies, to create rules relating to employees and positions in the Career

¹ Section 110.105(2)(a), F.S.

² U.S. Department of Labor, *Employers' Responsibilities, Americans with Disabilities Act*, <https://www.dol.gov/general/topic/disability/employersresponsibilities> (last visited Jan. 28, 2022).

³ U.S. Equal Employment Opportunity Commission, *Overview*, [https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%2%20\(40%20or](https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%2%20(40%20or) (last visited Jan. 28, 2022).

⁴ Section 760.02(7), F.S.

⁵ U.S. Department of Labor, *Wages and the Fair Labor Standards Act*, <https://www.dol.gov/agencies/whd/flsa> (last visited Jan. 28, 2022).

⁶ Section 296.07, F.S.

⁷ Job Candidate Program Manual, Division of Human Resource Management, Department of Management Services, available at https://www.dms.myflorida.com/content/download/99277/573474/Job_Candidate_Program_Manua_l_Final_3-21-17.pdf (last visited January 19, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 110.211(1), F.S.

¹³ Section 110.213(2), F.S.

Service.¹⁴ The statute allows the DMS to adopt rules providing alternative requirements. Section 110.2035, F.S., requires employing agencies to maintain, on a current basis, a position description of each authorized and established position within the agency. The position description shall include a description of the assigned duties and responsibilities, along with any other pertinent information concerning the position.¹⁵ The position description shall serve as a record of the official assignment of duties to the position.¹⁶

The DMS has established rules¹⁷ providing agencies with discretion to establish the duties for any given position, which includes:

- An accurate description of the duties and responsibilities assigned to the position;
- The job related knowledge, skills, and abilities;
- Any licensure, certification, or registration; and
- Any position designators.¹⁸

County and Municipal Powers

Section 125.74, F.S., of the County Administration Law of 1974, enumerates specific powers and duties which the county administrator possesses, including the power to recommend to the board of county commissioners (Board) position classifications and pay plans for all positions in county service. The county administrator is also responsible for selecting, employing, and supervising all personnel, and filling all vacancies, positions, or employment under the jurisdiction of the Board, although the employment of department heads requires confirmation by the Board.¹⁹

Section 166.021, F.S., of Florida's Municipal Home Rule Powers Act, contains general provisions governing the exercise of municipal powers under the framework established in article VIII, section 2(b) of the State Constitution. Section 166.021(1), F.S., grants municipalities the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. The statute grants municipalities the ability to exercise any power for municipal purposes, except when expressly prohibited by law.²⁰

Authority of Special Districts

A "special district" is a unit of local government created for a special purpose operating within a limited geographic boundary.²¹ Special districts are created by general law, special act, local ordinance, or administrative rule of the Governor and Cabinet.²² Special districts are created to

¹⁴ The Career Service system provides uniform pay, job classifications, benefits and recruitment for the majority of non-management jobs within state agencies.

¹⁵ Section 110.2035(5)(a), F.S.

¹⁶ *Id.*

¹⁷ Rule 60L-31.003, F.A.C.

¹⁸ Rule 60L-31.003(1), F.A.C.

¹⁹ Section 125.74(k), F.S.

²⁰ Section 166.021(a), F.S.

²¹ Section 189.012(6), F.S.

²² *Id.*

provide a wide variety of services, such as mosquito control,²³ children's services,²⁴ fire control and rescue,²⁵ and drainage and water control.²⁶

Special districts cooperate and coordinate their activities within the units of general-purpose local government in which they are located.²⁷ Chapter 189, F.S., does not provide special districts the authority to employ people or the ability to set out any requirements regarding education or work experience.

III. Effect of Proposed Changes:

Section 1 creates s. 112.219, F.S., to authorize a head of an employing agency to substitute equivalent work experience in lieu of a postsecondary education, beginning July 1, 2022. Work experience may not be substituted for any required licensure, certification, or registration as established by the agency and indicated on the position description. The section requires any employing agency that elects to substitute work experience for post-secondary education to include a notice in the job advertisement that substitution is authorized and a description of what education and work experience equivalencies apply. This section does not abridge state and federal laws and regulations governing equal opportunity employment.

This section defines the term "employing agency" to mean any agency or unit of government of the state or any county, municipality, or political subdivision thereof, including special districts, that is authorized to employ personnel to carry out the responsibilities of the agency or unit of government.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ Section 388.021(1), F.S.

²⁴ Section 125.901(1), F.S.

²⁵ Section 191.002, F.S.

²⁶ Section 298.01, F.S.

²⁷ Section 189.011(3), F.S.

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:

There is no fiscal impact to the government sector because the bill codifies current practice.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.219 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on February 2, 2022:

The CS:

- Defines the term “employing agency” to mean any agency or unit of government of the state or any county, municipality, or political subdivision thereof, including special districts, that is authorized to employ personnel to carry out the responsibilities of the agency or unit of government.
- Reorganizes the substantive provisions of the bill into Chapter 112, instead of creating multiple new sections within the distinct chapters.

B. Amendments:

None.

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

By Senator Burgess

20-00517-22

2022514__

A bill to be entitled

An act relating to workforce education requirements; creating s. 110.1081, F.S.; authorizing state governmental employing agencies to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment if certain conditions are met; providing construction; creating ss. 125.75, 166.04435, and 189.0195, F.S.; requiring a county, municipality, or special district, respectively, that elects to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment to include a certain notice in job advertisements for the position; providing construction; providing an effective date.

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

Section 1. Section 110.1081, Florida Statutes, is created to read:

110.1081 Substitution of work experience for a postsecondary education requirement.—Effective July 1, 2022, an employing agency may elect to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment if the applicant is otherwise qualified for the position. However, equivalent work experience may not substitute for any required licensure, certification, or registration as established by the agency and indicated on the position description. If an employing agency elects to substitute work experience for postsecondary education, all job

Page 1 of 3

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

20-00517-22

2022514__

advertisements for such position by the employing agency must include notice that substitution is authorized and a description of what education and work experience equivalencies apply. The implementation of this section may not be used to abridge the requirements of equal opportunity and equity in employment accorded by other state law or rules.

Section 2. Section 125.75, Florida Statutes, is created to read:

125.75 Notice of substitution of work experience for a postsecondary education requirement.—Effective July 1, 2022, if a county elects to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment, all job advertisements for such position by the county must include notice that substitution is authorized and a description of what education and work experience equivalencies apply. The implementation of this section may not be used to abridge the requirements of equal opportunity and equity in employment accorded by other state or county law, rules, or ordinances.

Section 3. Section 166.04435, Florida Statutes, is created to read:

166.04435 Notice of substitution of work experience for a postsecondary education requirement.—Effective July 1, 2022, if a municipality elects to substitute equivalent work experience in lieu of a postsecondary education requirement for a position of employment, all job advertisements for such position by the municipality must include notice that substitution is authorized and a description of what education and work experience equivalencies apply. The implementation of this section may not

Page 2 of 3

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

20-00517-22

2022514__

59 be used to abridge the requirements of equal opportunity and
60 equity in employment accorded by other state or municipal law,
61 rules, or ordinances.

62 Section 4. Section 189.0195, Florida Statutes, is created
63 to read:

64 189.0195 Notice of substitution of work experience for a
65 postsecondary education requirement.—Effective July 1, 2022, if
66 a special district elects to substitute equivalent work
67 experience in lieu of a postsecondary education requirement for
68 a position of employment, all job advertisements for such
69 position by the special district must include a notice that
70 substitution is authorized and a description of what education
71 and work experience equivalencies apply. The implementation of
72 this section may not be used to abridge the requirements of
73 equal opportunity and equity in employment accorded by other
74 state, county, or municipal law, rules, or ordinances.

75 Section 5. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: November 19, 2021

I respectfully request that **Senate Bill # 514**, relating to Workforce Education Requirements, be placed on the:

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

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

Senator Danny Burgess
Florida Senate, District 20

The Florida Senate

APPEARANCE RECORD

11/2/22

Meeting Date

514

Bill Number or Topic

Governmental Oversight

Committee

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

Amendment Barcode (if applicable)

Accountability

Sunderman

Sunderman

Name

Phillip

Phone

Address

Email

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/2/22

Meeting Date

SB 514

Bill Number or Topic

Gov. Oversight

Committee

Amendment Barcode (if applicable)

Name

Alice Neira

Phone

904 252 0405

Address

215 S Monroe St

Email

alice@excelined.org

Street

Tallahassee FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Foundation for Florida's Future

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



606634

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.219, Florida Statutes, is created
to read:

112.219 Substitution of work experience for postsecondary
educational requirements.-

(1) Beginning July 1, 2022, the head of an employing agency
may elect to substitute verifiable, related work experience in



606634

11 lieu of postsecondary educational requirements for a position of
12 employment if the person seeking the position of employment is
13 otherwise qualified for such position.

14 (2) Related work experience may not substitute for any
15 required licensure, certification, or registration required for
16 the position of employment as established by the employing
17 agency and indicated in the advertised description of the
18 position of employment.

19 (3) If the head of an employing agency elects to substitute
20 related work experience for postsecondary educational
21 requirements, the employing agency must include, in all
22 advertisements for the position of employment made by the
23 employing agency, a notice that such substitution is authorized
24 and a description of the related work experience equivalencies
25 that may be substituted for the required postsecondary
26 education.

27 (4) This section does not abridge state and federal laws
28 and regulations governing equal opportunity employment.

29 (5) For purposes of this section, the term "employing
30 agency" means any agency or unit of government of the state or
31 any county, municipality, or political subdivision thereof,
32 including special districts, that is authorized to employ
33 personnel to carry out the responsibilities of the agency or
34 unit of government.

35 Section 2. This act shall take effect July 1, 2022.

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

39 And the title is amended as follows:



606634

40 Delete everything before the enacting clause
41 and insert:

42 A bill to be entitled
43 An act relating to substitution of work experience for
44 postsecondary educational requirements; creating s.
45 112.129, F.S.; authorizing the head of an employing
46 agency, beginning on a specified date, to elect to
47 substitute certain work experience for postsecondary
48 educational requirements under certain circumstances;
49 prohibiting the substitution of certain work
50 experience for postsecondary educational requirements;
51 providing advertising requirements relating to
52 positions of employment; specifying that certain laws
53 and regulations governing equal opportunity employment
54 apply; providing a definition; providing an effective
55 date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 828

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hutson

SUBJECT: Critical Infrastructure

DATE: February 2, 2022 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ponder	McVaney	GO	Fav/CS
2.			MS	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 828 creates the Critical Infrastructure Standards and Procedures Act.

The bill sets forth legislative findings that:

- Standard definitions of the security capabilities for system components are necessary to provide a common language for product suppliers and other control system stakeholders and to simplify the procurement and integration processes for the computers, applications, network equipment, and control devices that make up a control system; and
- The United States National Institute of Standards and Technology Cybersecurity Framework (NIST CSF), which references several relevant cybersecurity standards, including the International Society of Automation ISA 62443 series of standards¹ is an appropriate resource for use in establishing such standard definitions.

The bill defines the terms:

- Automation and control system;
- Automation and control system component;
- Critical infrastructure;

¹ The ISA/IEC 62443 standards are one among many informational materials related to cybersecurity referenced by the *NIST Cybersecurity Framework*, which is a set of guidelines for mitigating organizational cybersecurity risks published by the United States National Institute of Standards and Technology.

- Local Government asset owner; and
- Operational technology.

The bill requires a “local government asset owner”² to:

- Require when procuring automation and control system components, services, or solutions or entering into a contract for the construction, reconstruction, alteration, or design of a critical infrastructure facility that such components, services, and solutions conform to the ISA 62443 series of standards as referenced by the National Institute of Standards and Technology Cybersecurity Framework (NIST CSF), beginning July 1, 2022.
- Ensure that all contracts for the construction, reconstruction, alteration, or design of a critical infrastructure facility require that installed automation and control system components meet the minimum standards for cybersecurity as defined in the ISA 62443 series of standards as referenced by the NIST CSF

The bill requires the Florida Digital Service, in consultation with the Florida Cybersecurity Advisory Council, to adopt rules to implement the act.

The bill takes effect on July 1, 2022.

II. Present Situation:

Cybersecurity and Critical Infrastructure

The United States depends on the reliable function of critical infrastructure. Cybersecurity threats exploit the increased complexity and connectivity of critical infrastructure systems, placing the Nation’s security, economy, and public safety and health at risk.³

“Critical infrastructure” is defined in the U.S. Patriot Act of 2001 to mean “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.”⁴ The critical infrastructure community includes public and private owners and operators, and other entities with a role in securing the Nation’s infrastructure.

The Cybersecurity Enhancement Act of 2014 and the National Institute of Standards and Technology

The Cybersecurity Enhancement Act of 2014 grants the National Institute of Standards and Technology (NIST) power to guide the development of a “voluntary, industry-led set of

² The bill defines a “local government asset owner” to mean a local government owner or entity accountable and responsible for the operation of critical infrastructure and its automation and control system. The term includes the operator of the automation and control system and the equipment under control.

³ *Framework for Improving Critical Infrastructure Cybersecurity*, (NIST CSF), National Institute of Standards and Technology, April 16, 2018, <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf>.

⁴ 42 U.S.C. § 5195c(e).

standards . . . to cost-effectively reduce cyber risks to critical infrastructure.”⁵ NIST implements the Cybersecurity Act through its NIST Cybersecurity Framework (NIST CSF),⁶ which provides a common organizing structure for multiple approaches to cybersecurity by assembling standards, guidelines and practices that are currently working effectively in the industry.⁷

The NIST CSF offers a flexible way to address cybersecurity, including cybersecurity’s effect on physical, cyber, and people dimensions. It is applicable to organizations relying on technology, whether their cybersecurity focus is primarily on information technology, industrial control systems, cyber-physical systems, or connected devices more generally.

The NIST CSF provides a common system of classification for organizations to:

- Describe their current cybersecurity posture;
- Describe their target state for cybersecurity;
- Identify and prioritize opportunities for improvement within the context of a continuous and repeatable process;
- Assess progress toward the target state; and
- Communicate among internal and external stakeholders about cybersecurity risk.

ISA 62443 Series of Standards

The NIST CSF references several informative standards relevant to cybersecurity, including the ISA/IEC 62443 (ISA 62443) which was jointly developed by the International Society of Automation (ISA)⁸ and the International Electrotechnical Commission (IEC).⁹ ISA 62443 addresses security issues unique to industrial automation and control systems (IACS) throughout their lifecycle. The ISA 62443 can be applied to any industrial environment, including critical infrastructure facilities, such as power utilities or nuclear plants, as well as in the health and transport sectors. Thus, the standards illustrate methods to manage distinctive challenges related to the IACS environments, including: (i) the relative criticality of data confidentiality in facilities operations or functions; (ii) potential dangers to personnel, the environment, and society in the event of cyber-physical failures; (iii) the relative difficulty of applying common information technology security techniques without severe systems modifications; and (iv) unique approaches to ensuring systems reliability and integrity in industrial environments.

⁵ See 15 U.S.C. § 272(e)(1)(A)(i). The Cybersecurity Enhancement Act of 2014 (S.1353) became public law 113- 274 on December 18, 2014, and may be found at: <https://www.congress.gov/bill/113th-congress/senatebill/1353/text>.

⁶ Version 1.0 of the NIST Framework was released in 2014, in response to EO 13,636 “Improving Critical Infrastructure Cybersecurity,” issued on February 12, 2013. It was subsequently replaced with version 1.1 in 2018.

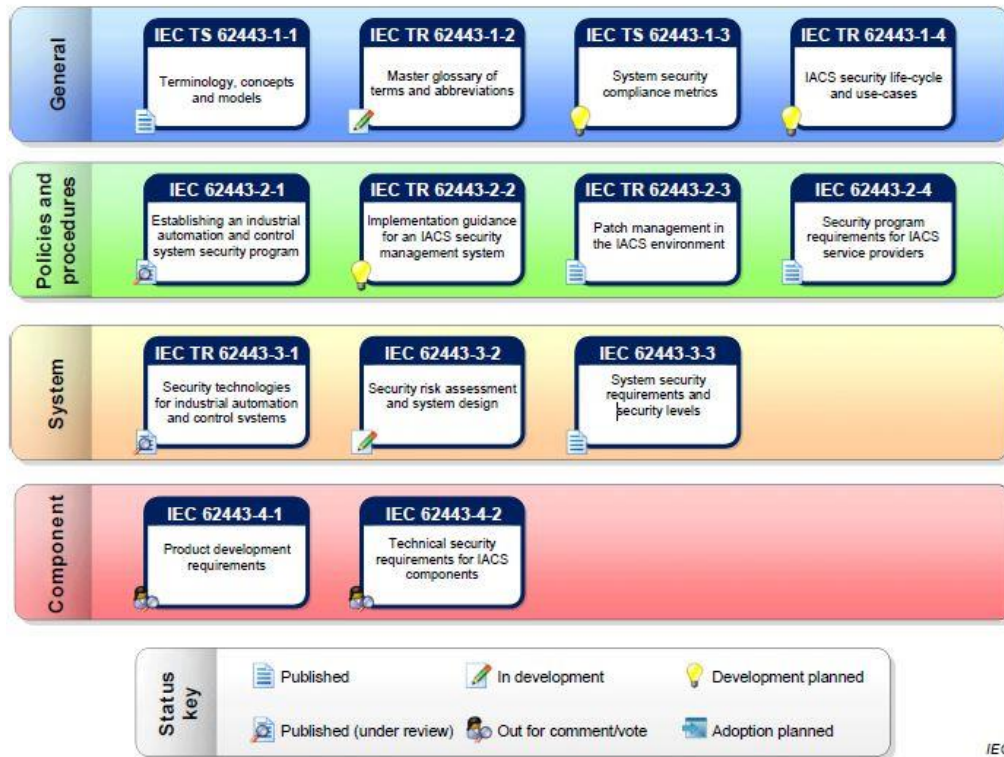
⁷ NIST CSF, *supra* note 5.

⁸ The International Society of Automation (ISA) is a professional association founded in 1945 to create a better world through automation.

⁹ The Electrotechnical Commission (IEC) is a global membership organization. IEC International Standards reflect the global consensus and distilled wisdom of many thousand technical experts who are delegated by their countries to participate in the IEC. The participating experts are organized into technical committees and subcommittees (TC/SC). Each TC defines its scope and area of activity. IEC 62443 was a project of the TC 65, Industrial-process measurement, control and automation

The ISA 62443 is a family of documents structured into a multi-tier grouping of four parts: General (ISA 62443-1); Policies and procedures (ISA 62443-2); System (ISA 62443-3); and Component (ISA 62443-4).¹⁰

Figure 1: ISA 62443 Standards Overview¹¹



ISA 62443-1 defines the elements necessary to establish a cybersecurity management system for industrial automation and control systems (IACS) and provides guidance on how to develop those elements. It defines IACS as a “collection of processes, personnel, hardware, and software that can affect or influence the safe, secure, and reliable operation of an industrial process.” ISA 62443-1 also lists the seven foundational requirements:

- Identification and authentication control;
- Use control;
- System integrity;
- Data confidentiality;
- Restricted data flow;
- Timely response to events; and

¹⁰ Ron Brash, *The Ultimate Guide to Protecting OT Systems with IEC 62443* (June 23, 2021), <https://verveindustrial.com/resources/blog/the-ultimate-guide-to-protecting-ot-systems-with-iec-62443/>.

¹¹ Figure 1 illustrates the relationship of the different parts of the IEC 62443. See International Electrotechnical Commission, *Security for Industrial Automation and Control Systems – Part 4-1: Secure product development lifecycle requirements* https://webstore.iec.ch/preview/info_iec62443-4-1%7Bed1.0%7Db.pdf.

- Resource availability.

ISA 62443-2, policy and procedures, defines the elements necessary to establish a cybersecurity management system for IACS and provides guidance on how to develop those elements. Specifies a comprehensive set of requirements covering IACS service providers that can be used during integration and maintenance activities. ISA 62443-2-4, provides the basis for a larger ISA 62443 initiative to develop “profiles” that address the nuances and realities in different industrial environments, for example, the unique requirements of oil and gas producers versus those of electricity generation and distribution.

ISA 62443-3 sets forth the requirements at the system level, including:

- Defining a system under consideration for an IACS;
- Partitioning the system under consideration into zones and conduits;
- Assessing risk for each zone and conduit;
- Establishing the target security level for each zone and conduit; and
- Documenting the security requirements.

ISA 62443-3-3 provides detailed technical control system requirements associated with the seven foundational requirements provided in ISA 62442-1 including defining the requirements for control system capability security levels. Such requirements would be used by various members of the IACS community.

ISA 62443-4 defines a secure development life-cycle for purpose of developing and maintaining secure products. This life-cycle description includes security requirements definition, secure design, secure implementation (including coding guidelines), verification and validation, defect management, patch management and product end-of-life. These requirements can be applied to new or existing processes for developing, maintaining and retiring hardware, software or firmware.

The ISA 62443, like most standards and frameworks, offers guidance to improve existing processes for technology project scoping, vendor selection and procurement. For example, an organization that wants to create a machine cell for a new process with a minimum level of security to prevent accidental issues can reference the requirements in ISA-62443-3-3 and other sibling documents to develop pre-selection criteria and achieve its objective. The standards can also be used to dictate how factory and site acceptance testing includes security verification before handoff.¹²

Cybersecurity Intrusions

Oldsmar Water System

On February 5, 2021, hackers remotely accessed the water treatment plant of the city of Oldsmar and changed the levels of lye in the drinking water. At a press conference on February 8, 2021, Sheriff Bob Gualtieri of Pinellas County stated that the hacker changed the level of sodium

¹² Brash, *supra* note 11.

hydroxide— also known as lye¹³ (the main ingredient in liquid drain cleaners) – from about 100 parts per million to 11,100 parts per million, dangerous levels that could have badly sickened residents if it had reached their homes.¹⁴ The intrusion lasted three to five minutes and was mitigated before it could reach the drinking supply and inflict harm.

Colonial Pipeline

On May 7, 2021, Colonial Pipeline, which carries refined gasoline and jet fuel from Texas up the East Coast to New York, shut down its system in response to a ransomware cyberattack.¹⁵ The company quickly notified the Federal Bureau of Investigation (FBI) on the day of the attack. The FBI attributed the cyberattack to DarkSide, a group believed to be based in Russia or Eastern Europe. The pipeline was shut down for approximately six days.

In June 2021, the chief executive of the pipeline company told a Senate committee that it is believed that the cybercriminals accessed its computer via an old virtual private network - commonly known as a V.P.N. - that the company no longer used.¹⁶ It is believed that the damage to the pipeline could have been worse had the company not paid the ransom to DarkSide. Investigators were able to trace 75 Bitcoins worth more than \$4 million through cryptocurrency accounts and recover much of the ransom paid by the company.¹⁷

Bowman Avenue Dam – Rye Brook N.Y.

The Bowman Avenue Dam is located in Rye Brook, New York, a village of about 9,500 residents. The dam's floodgate is only about 15 feet long and two and half feet high. It was primarily built to keep the Blind Brook, a small babbling creek, from flooding homes and businesses nearby. Despite its unassuming size, the dam was a target of a cyberattack in 2013. Seven Iranian computer hackers chose to penetrate the dam's computer-guided controls as part of a plot that also breached or shut down over forty of the nation's largest financial institutions.¹⁸ The attempt failed because the dam was under repair and offline at the time. However, the incident worried American investigators because the attack was aimed at seizing control of a piece of infrastructure.

The National Institute of Standards and Technology in Florida Statutes

Section 531.39, F.S., provides that weights and measures that are traceable to the United States prototype standards supplied by the Federal Government, or approved as being satisfactory by the National Institute of Standards and Technology (NIST), shall be the state primary standards of weights and measures, and shall be maintained in such calibration as prescribed by

¹³ Lye is the main ingredient in liquid drain cleaners and also used to control water acidity and remove metals from drinking water in water treatment plants.

¹⁴ Treatment Plant Intrusion Press Conference, February 8, 2021, <https://www.youtube.com/watch?v=MkXDSOgLQ6M> (last visited December 7, 2021).

¹⁵ David E. Sanger, Clifford Krauss and Nicole Perloth, *Cyberattack Forces a Shutdown of a Top U.S. Pipeline*, New York Times, May 8, 2021, <https://www.nytimes.com/2021/05/08/us/politics/cyberattack-colonial-pipeline.html>.

¹⁶ Clifford Krauss, *Colonial Pipeline chief says an oversight let hackers into its system*, New York Times, June 8, 2021, <https://www.nytimes.com/2021/06/08/business/colonial-pipeline-hack.html?searchResultPosition=4>.

¹⁷ Katie Benner, Nicole Perloth, *U.S. Seizes Share of Ransom From Hackers in Colonial Pipeline Attack*.

¹⁸ Joseph Berger, *A Dam, Small and Unsung, Is Caught Up in an Iranian Hacking Case*, New York Times, March 25, 2016, <https://www.nytimes.com/2016/03/26/nyregion/rye-brook-dam-caught-in-computer-hacking-case.html>.

the National Institute of Standards and Technology. The Department of Agriculture and Consumer Services is required to regulations regarding technical requirements for commercial weighing and measuring devices, which conform to those adopted by the NIST to the extent possible.¹⁹

The Department of Management Services (DMS), acting through the Florida Digital Service, is the lead entity responsible for establishing standards and processes for assessing state agency cybersecurity risks and determining appropriate security measures.²⁰ These standards and processes are required to be consistent with generally accepted technology best practices, including the NIST CSF.²¹ Additionally, the DMS, acting through the Florida Digital Service, must establish procedures for procuring information technology commodities and services that require the commodity or service to meet the NIST CSF.²²

III. Effect of Proposed Changes:

Section 1 provides the act may be cited as the “Critical Infrastructure Standards and Procedures Act.”

This section provides legislative findings that:

- Standard definitions of the security capabilities of system components are necessary to provide a common language for product suppliers and other control system stakeholders and to simplify the procurement and integration processes for the computers, applications, network equipment, and control devices that make up a control system; and
- The United States National Institute of Standards and Technology Cybersecurity Framework (NIST CSF), which references several relevant cybersecurity standards, including the International Society of Automation ISA 62443 series of standards, is an appropriate resource for use in establishing such standard definitions.

This section defines the following terms:

- Automation and control system;
- Automation and control system component;
- Critical infrastructure;
- Local government asset owner; and
- Operation technology.

“Automation and control system” means the personnel, hardware, software, and policies involved in the operation of critical infrastructure which may affect or influence such critical infrastructure’s safe, secure, and reliable operation.

“Automation and control system component” means control systems and complementary hardware and software components that are installed and configured to operate in an automation and control system. Control systems include, but are not limited to:

¹⁹ Section 531.40, F.S.

²⁰ Section 282.318(3), F.S.

²¹ *Id.*

²² Section 282.318(3)(c)13, F.S.

- Distributed control systems, programmable logic controllers, remote terminal units, intelligent electronic devices, supervisory control and data acquisition, networked electronic sensing and control, monitoring and diagnostic systems, and process control systems including basic process control system and safety-instrumented system functions, regardless of whether such functions are physically separate or integrated;
- Associated information and analytic systems, including advanced or multivariable control, online optimizers, dedicated equipment monitors, graphical interfaces, process historians, manufacturing execution systems, and plant information management systems; and
- Associated internal, human, network or machine interfaces used to provide control, safety, and manufacturing operations functionality to continuous, batch, discrete, and other processes as defined in the ISA 62443 series of standards as referenced by the NIST CSF.

“Critical infrastructure” means infrastructure for which all assets, systems, and networks, regardless of whether physical or virtual, are considered vital and vulnerable to cybersecurity attacks as determined by the Florida Digital Service in consultation with the Florida Cybersecurity Advisory Council. The term includes, but is not limited to:

- Public transportation as defined in s. 163.566(8);
- Water and wastewater treatment facilities;
- Public utilities and services subject to the jurisdiction, supervision, powers, and duties of the Florida Public Service Commission;
- Public buildings, including those operated by the State University System;
- Hospitals and public health facilities; and
- Financial services organizations.

“Local government asset owner” means the local government owner or entity accountable and responsible for operation of critical infrastructure and its automation and control system. The term includes the operator of the automation and control system and the equipment under control.

“Operation technology” means the hardware and software that cause or detect a change through the direct monitoring or control of physical devices, systems, processes, or events in critical infrastructure.

This section requires a local government asset owner, beginning on July 1, 2022, when procuring automation and control system components, services, or solutions or entering into a contract for the construction, reconstruction, alteration, or design of a critical infrastructure facility to require that such components, services, and solutions conform to the ISA 62443 series of standards as referenced by the NIST CSF. Such local government asset owner shall ensure that all contracts for the construction, reconstruction, alteration, or design of a critical infrastructure facility require that installed automation and control components meet the minimum standards for cybersecurity as defined in the ISA 62443 series of standards as referenced by the NIST CSF.

Section 2 provides that the Florida Digital Service, in consultation with the Florida Cybersecurity Advisory Council, shall adopt rules to implement this act.

Section 3 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides, in relevant part, that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds ... unless the legislature has determined that such law fulfills an important state interest and unless: the law requiring such expenditure is approved by two-thirds vote of the membership of each house of the legislature;

If counties and municipalities complying with the bill’s requirements related to the ISA 62443 series of standards as referenced by the NIST CSF is deemed to be “requiring” an expenditure under the mandates provision, the legislature may want to consider adding a legislative finding that the bill fulfills an important state interest to ensure such requirements are binding upon 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. None identified. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The entities that charge a fee for access to the ISA 62443 series of standards as referenced by the NIST CSF will experience a positive fiscal impact.

C. **Government Sector Impact:**

Local governmental entities who qualify as a “local government asset owner” will incur additional costs in meeting the requirements under the bill for specified compliance with the ISA 62443 series of standards as referenced by the NIST CSF.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 282.32, F.S.

IX. **Additional Information:**

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

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

CS by Governmental Oversight and Accountability on February 2, 2022:

The amendment:

- Requires “local government asset owners” - a local government owner or entity accountable and responsible for the operation of critical infrastructure and its automation and control system - to:
 - Require when procuring automation and control system components, services, or solutions or entering into a contract for the construction, reconstruction, alteration, or design of a critical infrastructure facility that such components, services, and solutions conform to the ISA 62443 series of standards as referenced by the National Institute of Standards and Technology Cybersecurity Framework (NIST CSF), beginning July 1, 2022.
 - Ensure that all contracts for the construction, reconstruction, alteration, or design of a critical infrastructure facility require that installed automation and control system components meet the minimum standards for cybersecurity as defined in the ISA 62443 series of standards as referenced by the NIST CSF.
- Grants rulemaking authority to the Florida Digital Service, in consultation with the Florida Cybersecurity Advisory Council.
- Removes the grant of civil liability.

B. **Amendments:**

None.

By Senator Hutson

7-00350-22

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A bill to be entitled

An act relating to critical infrastructure; providing a short title; creating s. 943.6873, F.S.; providing legislative findings; defining terms; requiring that, beginning on a specified date, asset owners ensure that the operation and maintenance of operational technology comply with specified standards and practices; requiring, beginning on a specified date, asset owners to require that certain components, services, and solutions conform to such standards and practices; requiring that certain contracts for critical infrastructure meet specified minimum standards; providing requirements and procedures relating to civil actions based on cybersecurity-breach-related claims; authorizing a court to take specified action upon a showing that a business, a service provider, or another person or entity violates the act; authorizing the Department of Law Enforcement to institute appropriate legal proceedings against a business, a service provider, or another person or entity that violates the act; providing procedures for such legal proceedings; providing for departmental actions; requiring the department to adopt rules; providing an effective date.

WHEREAS, the operational technologies that automate the critical infrastructure of and commercial facilities in this state are experiencing a rapid increase in cybersecurity incidents, and the impact is serious, affecting daily life,

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

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public safety, the environment, and economic viability across sectors, and

WHEREAS, the recent cybersecurity intrusion of the public water system in Oldsmar, the hacking and shutdown of the Colonial Pipeline by the criminal enterprise Darkside, the infiltration of the Bowman Dam in Rye Brook, New York, by Iranian hackers in 2013, and the intrusion of numerous federal agencies by suspected Russian hackers underscore the need to provide the public and private sectors with clarity and support in improving control systems cybersecurity, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Critical Infrastructure Standards and Procedures Act."

Section 2. Section 943.6873, Florida Statutes, is created to read:

943.6873 Critical infrastructure standards; civil actions.-

(1) The Legislature finds that a standard definition of the security capabilities for system components will provide a common language for product suppliers and all other control system stakeholders, simplifying the procurement and integration processes for the computers, applications, network equipment, and control devices that make up a control system. The United States National Institute of Standards and Technology (NIST) published the NIST Cybersecurity Framework, which references several relevant cybersecurity standards, including the internationally recognized ISA/IEC 62443 series of standards. These standards define a set of measures and benchmarks

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59 specifically built to guide organizations through the process of
 60 assessing the risk associated with a particular automation and
 61 control system and in identifying and applying security
 62 countermeasures to reduce that risk.

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

64 (a) "Asset owner" means the public or private owner of, or
 65 the entity accountable and responsible for operation of, the
 66 critical infrastructure and the automation and control system.
 67 The asset owner is also the operator of the automation and
 68 control system components and the equipment under its control.

69 (b) "Automation and control system" means a collection of
 70 personnel, hardware, software, and policies associated with the
 71 operation of the critical infrastructure which can affect or
 72 influence its safe, secure, and reliable operation.

73 (c) "Automation and control system component" means control
 74 systems and any complementary hardware and software components
 75 installed and configured to operate in an automation and control
 76 system. These systems include, but are not limited to:

77 1. Control systems, including distributed control systems,
 78 programmable logic controllers, remote terminal units,
 79 intelligent electronic devices, supervisory control and data
 80 acquisition, networked electronic sensing and control,
 81 monitoring and diagnostic systems, and process control systems
 82 that include physically separate or integrated basic process
 83 control system and safety-instrumented system functions;

84 2. Associated information systems, such as advanced or
 85 multivariable control, online optimizers, dedicated equipment
 86 monitors, graphical interfaces, process historians,
 87 manufacturing execution systems, and plant information

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88 management systems; and

89 3. Associated internal, human, network, or machine
 90 interfaces used to provide control, safety, and manufacturing
 91 operations functionality to continuous, batch, discrete, and
 92 other processes as defined by the International Society of
 93 Automation ISA/IEC 62443 series of standards as referenced by
 94 the NIST Cybersecurity Framework.

95 (d) "Critical infrastructure" means all physical and
 96 virtual assets, systems, and networks considered vital and
 97 vulnerable to cybersecurity attacks, as determined by the
 98 department in consultation with the Florida Digital Service and
 99 the Florida Cybersecurity Advisory Council. Critical
 100 infrastructure includes, but is not limited to, public
 101 transportation as defined in s. 163.566; water and wastewater
 102 treatment facilities, public utilities, and public services
 103 subject to the jurisdiction, supervision, powers, and duties of
 104 the Florida Public Service Commission; public buildings,
 105 including those operated by the State University System;
 106 hospitals and public health facilities; and financial services
 107 organizations regulated by the Department of Financial Services.

108 (e) "Cybersecurity-breach-related claim" means a legal
 109 proceeding or civil action against an asset owner for failure to
 110 meet the minimum standards required by this section.

111 (f) "Department" means the Department of Law Enforcement.

112 (g) "Operation technology" means the hardware and software
 113 that detects or causes a change through the direct monitoring or
 114 control of physical devices and systems, processes, and events
 115 in the critical infrastructure.

116 (3) Beginning on July 1, 2024, the asset owner shall ensure

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117 that the operation and maintenance of operational technology,
 118 including critical infrastructure, automation control systems,
 119 and automation control system components, are compliant with the
 120 standards and practices defined in the ISA/IEC 62443 series of
 121 standards as referenced by the NIST Cybersecurity Framework,
 122 including annual risk assessments and creation of a mitigation
 123 plan.

124 (4) Beginning on July 1, 2026, when procuring automation
 125 and control system components, services, or solutions, or when
 126 contracting for facility upgrades or the construction of
 127 critical infrastructure facilities, an asset owner shall require
 128 that those components, services, or solutions conform to the
 129 ISA/IEC 62443 series of standards as referenced by the NIST
 130 Cybersecurity Framework for defining measures to assure
 131 conformance. All contracts awarded for construction,
 132 reconstruction, alteration, design, or commissioning of
 133 facilities identified as critical infrastructure must require
 134 that installed automation and control components meet the
 135 minimum standards for cybersecurity as defined by the ISA/IEC
 136 62443 series of standards as referenced by the NIST
 137 Cybersecurity Framework.

138 (5) In any civil action based on a cybersecurity-breach-
 139 related claim, including a civil action brought by the
 140 department pursuant to subsection (6):

141 (a) A court shall determine as a matter of law whether the
 142 defendant made a good faith effort to comply with subsection (3)
 143 or subsection (4), as applicable.

144 (b) If the court determines that the defendant made such a
 145 good faith effort, the defendant is immune from civil liability.

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146 (c) If the court determines that the defendant did not make
 147 such a good faith effort, the plaintiff may proceed with the
 148 action.

149 (d) The trial court, upon a showing that any business,
 150 service provider, or other person or entity is in violation of
 151 this section, may take any of the following actions:

152 1. Issue a temporary or permanent injunction.

153 2. Impose a civil penalty of not more than \$2,500 for each
 154 unintentional violation or \$7,500 for each intentional
 155 violation.

156 3. Award reasonable costs of enforcement, including
 157 reasonable attorney fees and costs.

158 4. Grant any other relief as the court deems appropriate.

159 (6) If the department has reason to believe that any
 160 business, service provider, or other person or entity is in
 161 violation of this section and that proceedings would be in the
 162 public interest, the department may institute an appropriate
 163 legal proceeding, which may include a civil action, against such
 164 party.

165 (a) After the department has notified a business in writing
 166 of an alleged violation, the department may grant the business,
 167 service provider, or other person or entity a 30-day period to
 168 cure the alleged violation. The department may consider the
 169 number of violations, the substantial likelihood of injury to
 170 the public, or the safety of persons or property in determining
 171 whether to grant the 30-day period to cure an alleged violation.

172 (b) If the business, service provider, or other person or
 173 entity cures the alleged violation to the satisfaction of the
 174 department and provides proof of such cure to the department,

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175 the department may issue a letter of guidance to the business,
176 service provider, or other person or entity which indicates that
177 the business, service provider, or other person or entity will
178 not be offered a 30-day cure period for any future violation. If
179 the business, service provider, or other person or entity fails
180 to cure the violation within 30 days, the department may bring a
181 legal proceeding against the business for the alleged violation.

182 (7) The department shall adopt rules, in consultation with
183 the Florida Digital Service and the Florida Cybersecurity
184 Advisory Council, to implement and administer this section.

185 Section 3. This act shall take effect October 1, 2022.

The Florida Senate

APPEARANCE RECORD

2/2/2021
Meeting Date

828
Bill Number or Topic

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

Government Oversight + Acc.
Committee

Amendment Barcode (if applicable)

Name Andre Ristaino Phone 919-323-7660

Address 67 T.W. Alexander drive Email ~~arista~~ aristaino@isa.org
Street

Wilmington NC 27709
City State Zip

Speaking: For Against Information **OR** Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)



452698

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 282.32, Florida Statutes, is created to
read:

282.32 Critical infrastructure standards and procedures.-

(1) This section may be cited as the "Critical
Infrastructure Standards and Procedures Act."

(2) The Legislature finds that standard definitions of the



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11 security capabilities of system components are necessary to
12 provide a common language for product suppliers and other
13 control system stakeholders and to simplify the procurement and
14 integration processes for the computers, applications, network
15 equipment, and control devices that make up a control system.
16 The United States National Institute of Standards and Technology
17 Cybersecurity Framework (NIST CSF), which references several
18 relevant cybersecurity standards, including the International
19 Society of Automation ISA 62443 series of standards, is an
20 appropriate resource for use in establishing such standard
21 definitions.

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

23 (a) "Automation and control system" means the personnel,
24 hardware, software, and policies involved in the operation of
25 critical infrastructure which may affect or influence such
26 critical infrastructure's safe, secure, and reliable operation.

27 (b) "Automation and control system component" means control
28 systems and complementary hardware and software components that
29 are installed and configured to operate in an automation and
30 control system. For purposes of this section, the term "control
31 systems" includes, but is not limited to:

32 1. Distributed control systems, programmable logic
33 controllers, remote terminal units, intelligent electronic
34 devices, supervisory control and data acquisition, networked
35 electronic sensing and control, monitoring and diagnostic
36 systems, and process control systems, including basic process
37 control system and safety-instrumented system functions,
38 regardless of whether such functions are physically separate or
39 integrated.



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40 2. Associated information and analytic systems, including
41 advanced or multivariable control, online optimizers, dedicated
42 equipment monitors, graphical interfaces, process historians,
43 manufacturing execution systems, and plant information
44 management systems.

45 3. Associated internal, human, network, or machine
46 interfaces used to provide control, safety, and manufacturing
47 operations functionality to continuous, batch, discrete, and
48 other processes as defined in the ISA 62443 series of standards
49 as referenced by the NIST CSF.

50 (c) "Critical infrastructure" means infrastructure for
51 which all assets, systems, and networks, regardless of whether
52 physical or virtual, are considered vital and vulnerable to
53 cybersecurity attacks as determined by the Florida Digital
54 Service in consultation with the Florida Cybersecurity Advisory
55 Council. The term includes, but is not limited to, public
56 transportation as defined in s. 163.566(8); water and wastewater
57 treatment facilities; public utilities and services subject to
58 the jurisdiction, supervision, powers, and duties of the Public
59 Service Commission; public buildings, including buildings
60 operated by the state university system; hospitals and public
61 health facilities; and financial services organizations.

62 (d) "Local government asset owner" means the local
63 government owner or entity accountable and responsible for
64 operation of critical infrastructure and its automation and
65 control system. The term includes the operator of the automation
66 and control system and the equipment under control.

67 (e) "Operational technology" means the hardware and
68 software that cause or detect a change through the direct



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69 monitoring or control of physical devices, systems, processes,
70 or events in critical infrastructure.

71 (4) Beginning July 1, 2022, a local government asset owner
72 procuring automation and control system components, services, or
73 solutions or entering into a contract for the construction,
74 reconstruction, alteration, or design of a critical
75 infrastructure facility must require that such components,
76 services, and solutions conform to the ISA 62443 series of
77 standards as referenced by the NIST CSF. Such local government
78 asset owner shall ensure that all contracts for the
79 construction, reconstruction, alteration, or design of a
80 critical infrastructure facility require that installed
81 automation and control system components meet the minimum
82 standards for cybersecurity as defined in the ISA 62443 series
83 of standards as referenced by the NIST CSF.

84 Section 2. The Florida Digital Service shall, in
85 consultation with the Florida Cybersecurity Advisory Council,
86 adopt rules to implement this act.

87 Section 3. This act shall take effect July 1, 2022.

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete everything before the enacting clause
92 and insert:

93 A bill to be entitled
94 An act relating to critical infrastructure standards
95 and procedures; creating s. 282.32, F.S.; providing a
96 short title; providing legislative findings; providing
97 definitions; requiring a local government asset owner



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98 procuring certain components, services, or solutions
99 or entering into certain contracts to require
100 conformance with certain standards, beginning on a
101 specified date; requiring such local government asset
102 owner to ensure that certain contracts require that
103 certain components meet certain minimum standards;
104 requiring the Florida Digital Service, in consultation
105 with the Florida Cybersecurity Advisory Council, to
106 adopt rules; providing an effective date.

107
108 WHEREAS, the operational technologies that automate the
109 critical infrastructure of daily life are experiencing a rapid
110 increase in cybersecurity incidents, and the impact of such
111 incidents affect life, safety, the environment, and economic
112 viability across sectors, and

113 WHEREAS, the recent cybersecurity hacking and shutdown of
114 the Colonial Pipeline by the criminal enterprise DarkSide in
115 2021; the infiltration of the Bowman Avenue Dam in Rye Brook,
116 New York, by Iranian hackers in 2013; and the intrusion of
117 numerous federal agencies by suspected Russian hackers
118 underscore the need to provide the public and private sectors
119 with clarity and support on how to improve the cybersecurity of
120 control systems, NOW, THEREFORE,

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1046

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Hooper

SUBJECT: Public Records/Law Enforcement Geolocation Information

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
2.	<u>Limonos-Borja</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1046 makes exempt from public inspection and copying requirements law enforcement geolocation information held by a law enforcement agency. This is information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of a law enforcement officer or a law enforcement vehicle. The bill provides that this exemption be applied retroactively. The bill requires law enforcement agencies to disclose law enforcement geolocation information when requested by a state or federal law enforcement agency.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2027, unless reviewed and reenacted by the Legislature.

The bill creates a new public records exemption, therefore, it will require a two-thirds vote of the members present and voting for final passage.

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

The bill takes effect upon becoming a law.

II. Present Situation:

Access to Public Records – Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

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

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

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

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 *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.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

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.⁹ 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.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. 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).

¹¹ *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).

¹² *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).

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S.

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 required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

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

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- 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 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 expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

Geolocation Data

“Geolocation data is data collected via an electronic communications network or service that indicates the position of equipment used by people who are connected to the network or

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

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.

service.”²⁷ Some technologies that collect geolocation data include global positioning system (GPS) units and smartphones. In addition to including information on “latitude, longitude, and altitude of the equipment,” geolocation data can include the “time data was collected, direction of travel, and other detailed information.”²⁸

One concern identified with the use of geolocation data is that the “data can be used to identify people and discern details of where they live, work and travel, potentially enabling stalking and harassment and revealing sensitive destinations....”²⁹

Geolocation Data on Law Enforcement Officers and Law Enforcement Vehicles

Geolocation data on a law enforcement officer may be available to the agency employing the officer. For example, an important source for location information on the officer could be an agency-issued or agency-owned cellphone.³⁰ The agency may have the ability to obtain location information from the cellphone provider either through a built-in GPS capability in the cellphone, a smart app, or through other available means. This location information may include real-time or historical location information.

Geolocation information on a law enforcement officer may also be available to the law enforcement agency if the officer is driving or riding in an agency-issued or agency-owned vehicle equipped with GPS technology or other means of locating the vehicle and tracking its movement.³¹ There are multiple reasons why a law enforcement agency would track the location and movement of its vehicles including:

- “Identify[ing] which police vehicle is closest to a crime scene and [ensuring] those police officers stay within their assigned zone,” which “can also be helpful if a police officer ever goes missing on the job”;³² and
- “[Providing] directions and up-to-date traffic information, helping police officers get to the scene of a crime or emergency sooner.”³³

Geolocation Data Relating to the Home Address of a Law Enforcement Officer

Section 119.071(4)(d)2.a., F.S., in part, provides a public records exemption for:

- The home addresses of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency;
- The home addresses and places of employment of the spouses and children of such personnel; and
- The locations of schools and day care facilities attended by the children of such personnel.

²⁷ Subcommittee on Cybersecurity, Privacy and Data: *Geolocation Data*, Task Force on Autonomous Vehicles (Oregon), available at <https://www.oregon.gov/ODOT/Get-Involved/Documents/Geolocation%20data%20ER%207-22.pdf> (last visited on Jan. 27, 2022).

²⁸ *Id.*

²⁹ *Id.*

³⁰ See Marc Chase McAliister, *GPS and Cell Phone Tracking of Employees*, 70 Fla. L. Rev. 1265 (2019), available at <https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1438&context=flr> (last visited on Jan. 27, 2022).

³¹ *Id.*

³² *How Police Use GPS for Personal and Vehicle Tracking*, BrickHouse Security, available at <https://www.brickhousesecurity.com/gps-trackers/how-police-use-gps/> (last visited on Jan. 27, 2022).

³³ *Id.*

The term “home addresses” means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, *GPS coordinates, and any other descriptive property information that may reveal the home address.*³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 119.071, F.S., to make exempt from public inspection and copying requirements law enforcement geolocation information held by a law enforcement agency. The section defines the term “law enforcement geolocation information” as information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of a law enforcement officer or a law enforcement vehicle. The section further provides that the exemption be applied retroactively.

Section 1 requires law enforcement agencies to disclose law enforcement geolocation information when requested by a state or federal law enforcement agency.

Section 1 specifies that the exemption does not apply to uniform traffic citations, crash reports, homicide reports, arrest reports, incident reports, or any other official reports issued by an agency which contain law enforcement geolocation information.

Section 1 provides that this new public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2027, unless the Legislature reviews and renews the exemption before that date.

Section 2 provides the following statement of public necessity for the exemption:

[t]he Legislature finds that it is a public necessity that geolocation information of law enforcement officers and law enforcement vehicles be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution so that the safety of this state’s law enforcement officers and the privacy of this state’s residents may be reasonably assured. The Legislature recognizes that the regular and unregulated release of law enforcement geolocation information can pose a danger to officers while on patrol, can potentially result in the exposure of law enforcement officers’ residences, can release otherwise exempt surveillance and investigative techniques, and can inadvertently disclose information about private residents which would otherwise be exempt. Therefore, the Legislature finds that it is a public necessity that law enforcement geolocation information be made exempt from public record requirements and that such exemption be applied retroactively.

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

³⁴ Section 119.071(4)(d)1.a., F.S. (emphasis provided by staff).

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

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

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c), of the Florida Constitution requires a two-thirds vote of the members present and voting in each chamber for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates a new exemption for law enforcement geolocation information held by a law enforcement agency, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c), of the Florida 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 Florida 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 protect the release of law enforcement geolocation information because the regular and unregulated release of law enforcement geolocation information can pose a danger to officers while on patrol, can potentially result in the exposure of law enforcement officers' residences, can release otherwise exempt surveillance and investigative techniques, and can inadvertently disclose information about private residents which would otherwise be exempt. The bill exempts law enforcement geolocation information held by a law enforcement agency. The bill defines "law enforcement geolocation information" and also specifies records to which the exemption does not apply. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector will be subject to the cost, to the extent one is imposed, associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

Law enforcement agencies will incur costs related to redaction of records in responding to public records requests to the extent law enforcement geolocation information are a component of a requested record.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability on February 2, 2022:

The CS adds a requirement that a law enforcement agency disclose law enforcement geolocation information when requested by a state or federal law enforcement agency. The CS also makes the bill take effect upon becoming a law.

B. Amendments:

None.

By Senator Hooper

16-00985A-22

20221046__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; defining the term "law enforcement
 4 geolocation information"; providing an exemption from
 5 public records requirements for law enforcement
 6 geolocation information held by a law enforcement
 7 agency; providing for retroactive application;
 8 providing applicability; providing for future
 9 legislative review and repeal of the exemption;
 10 providing a statement of public necessity; providing
 11 an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (e) is added to subsection (4) of
 16 section 119.071, Florida Statutes, to read:
 17 119.071 General exemptions from inspection or copying of
 18 public records.—
 19 (4) AGENCY PERSONNEL INFORMATION.—
 20 (e)1. As used in this paragraph, the term "law enforcement
 21 geolocation information" means information collected using a
 22 global positioning system or another mapping, locational, or
 23 directional information system that allows tracking of the
 24 location or movement of a law enforcement officer or a law
 25 enforcement vehicle.
 26 2. Law enforcement geolocation information held by a law
 27 enforcement agency is exempt from s. 119.07(1) and s. 24(a),
 28 Art. I of the State Constitution. This exemption applies to such
 29 information held by an agency before, on, or after the effective

Page 1 of 2

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

16-00985A-22

20221046__

30 date of the exemption. This exemption does not apply to uniform
 31 traffic citations, crash reports, homicide reports, arrest
 32 reports, incident reports, or any other official reports issued
 33 by an agency which contain law enforcement geolocation
 34 information.
 35 3. This paragraph is subject to the Open Government Sunset
 36 Review Act in accordance with s. 119.15 and shall stand repealed
 37 on October 2, 2027, unless reviewed and saved from repeal
 38 through reenactment by the Legislature.
 39 Section 2. The Legislature finds that it is a public
 40 necessity that geolocation information of law enforcement
 41 officers and law enforcement vehicles be made exempt from s.
 42 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 43 State Constitution so that the safety of this state's law
 44 enforcement officers and the privacy of this state's residents
 45 may be reasonably assured. The Legislature recognizes that the
 46 regular and unregulated release of law enforcement geolocation
 47 information can pose a danger to officers while on patrol, can
 48 potentially result in the exposure of law enforcement officers'
 49 residences, can release otherwise exempt surveillance and
 50 investigative techniques, and can inadvertently disclose
 51 information about private residents which would otherwise be
 52 exempt. Therefore, the Legislature finds that it is a public
 53 necessity that law enforcement geolocation information be made
 54 exempt from public record requirements and that such exemption
 55 be applied retroactively.
 56 Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Honorable Jeff Brandes, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 25, 2022

I respectfully request that **Senate Bill # 1046**, relating to Public Records/Law Enforcement Geolocation Information, 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 Senate professional staff conducting the meeting

1046

Bill Number or Topic

Amendment Barcode (if applicable)

2-2-2022

Meeting Date

Govt Oversight/Acct

Committee

Name Virginia Hamrick

Phone 850 222 3518

Address 317 E Park Ave

Email vhamrick@Florida1st.org

Street

Tallahassee, FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida First Amendment Foundation

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

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

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

S-001 (08/10/2021)



443222

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

1 Delete line 34
2
3 and insert:
4
5 information. A law enforcement agency shall disclose law
6 enforcement geolocation information upon request from a state or
7 federal law enforcement agency.
8

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

10 And the title is amended as follows:



443222

11 Delete line 8
12 and insert:
13 providing applicability; requiring law enforcement
14 agencies to disclose law enforcement geolocation
15 information to state and federal law enforcement
16 agencies, upon request; providing for future



924638

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 56
and insert: Section 3. 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 Governmental Oversight and Accountability

BILL: SB 1314

INTRODUCER: Senator Hooper

SUBJECT: State Board of Administration Alternative Investments

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1314 modifies the authority of the State Board of Administration to invest in “alternative investments” for the assets of the Florida Retirement System and other mandated funds. The bill increases the maximum percentage of assets a fund may have in alternative investments to 30 percent from 20 percent. Alternative investments include private equity funds, venture funds, hedge funds, and distress funds as well as securities and investments that are not publicly traded and not otherwise authorized in law.

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

The bill takes effect July 1, 2022.

II. Present Situation:

State Board of Administration Investing Duties

The State Board of Administration (SBA) is created in Article IV, s. 4(e) of the Florida Constitution. Its members are the Governor, the Chief Financial Officer, and the Attorney General. The board derives its powers to oversee state funds from Article XII, s. 9 of the Florida Constitution.

The SBA has responsibility for investing the assets of the Florida Retirement System (FRS) Pension Plan and administering the FRS Investment Plan, which combined represent approximately \$217 billion, or 86 percent, of the \$251.7 billion in assets managed by the SBA, as of November 30, 2021. The Pension Plan is a defined benefit plan and the Investment Plan is a defined contribution plan that employees may choose in lieu of the Pension Plan. The SBA also manages over 25 other investment portfolios, with combined assets of \$34 billion, including the

Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Prepaid College Plan, and various debt-service accounts for state bond issues.¹

In investing assets, the SBA follows fiduciary standards of care, subject to certain statutory restrictions and limitations.² Pursuant to s. 215.444, F.S., a nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures. The SBA's authority to invest the funds, including FRS assets, is governed by s. 215.47, F.S., which provides for a "legal list" of the types of investments and for how much of any fund may be invested in each investment type.³

As part of its best interests, maximization, and diversification actions, the SBA invests in multiple asset classes: global equities, fixed income, real estate, strategic investments, and private equity. Relevant to this legislation, s. 215.47(15), F.S., limits the SBA's authority to invest funds in alternative investments at not more than 20 percent of any fund. "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.⁴ The use of alternative investments vehicles was first authorized in 1996 at a maximum of five percent of a fund.⁵ In 2007, the use was expanded to include a broader spectrum of alternative investments, including private equity funds, venture funds, hedge funds, and distress funds.⁶ In 2008, this maximum threshold was increased to 10 percent.⁷ In 2012, the threshold was again increased to 20 percent.⁸

The table below shows key valuation and asset allocation data relating to the investments of the FRS pension plan assets. Over the three year period, the amount invested in the alternative investments (Strategic Investments and Private Equity) grew from 15.17 percent of the assets of the FRS to 17.78 percent of the assets, narrowing the capacity available under the 20 percent maximum threshold.

¹ State Board of Administration "Performance Report to the Trustees for the Month Ending November 30, 2021," issued January 26, 2022.

² Sections 215.44, 215.471, 215.472, 215.4725, and 215.273, F.S.

³ Section 215.47, F.S., sets some key guidelines such as:

- No more than 80 percent of assets may be invested in domestic common stocks.
- No more than 75 percent of assets may be invested in internally managed common stocks.
- No more than 3 percent of equity assets may be invested in the equity securities of any one corporation, except when the securities of that corporation are included in any broad equity index or with approval of the Board; and in such case, no more than 10 percent of equity assets may be invested in the equity securities of any one corporation.
- No more than 80 percent of assets may be placed in corporate fixed income securities.
- No more than 25 percent of assets may be invested in notes secured by FHA-insured or VA-guaranteed first mortgages on Florida real property, or foreign government general obligations with a 25-year default-free history.
- No more than 25 percent of assets may be invested in foreign corporate or commercial securities or obligations.

⁴ Section 215.4401(3)(a), F.S.

⁵ Chapter 199-177, L.O.F., authorized the SBA to invest up to 5 percent of a fund in private equity through participation in limited partnerships and limited liability companies.

⁶ Chapter 2007-98, L.O.F.

⁷ Chapter 2008-31, L.O.F., increased the threshold to 10 percent and expanded this limitation to authorize SBA to invest in securities or investments that are not publicly traded and are not otherwise authorized in s. 214.47, F.S.

⁸ Chapter 2012-112, L.O.F.

Asset Class	Dollar Volume (\$ billions) 6/30/2018 ⁹	Percentage of Fund 6/30/2018	Dollar Volume (\$ billions) 6/30/2021 ¹⁰	Percentage of Fund 6/30/2021	Percentage Point Change in Assets Held by Fund
Global Equities	\$89.983	56.08%	\$110.156	55.19%	(0.89)
Fixed Income	\$30.069	18.74%	\$34.551	17.31%	(1.43)
Real Estate	\$14.340	8.93%	\$16.821	8.47%	(0.46)
Strategic Investments	\$12.917	8.05%	\$18.134	9.09%	1.04
Private Equity	\$11.429	7.12%	\$17.339	8.69%	1.57
Cash	\$1.697	1.05%	\$2.596	1.30%	0.25
Total	\$160.438	100%	\$199.600	100%	

The Private Equity asset class is generally described as illiquid with investment obligations contracted over at least a ten year horizon. The Strategic Investments are typically quasi-liquid or illiquid with investment obligations contracted within a ten year period. If the alternative investments pool volume begins to meet or exceed the statutory threshold, the SBA, in balancing its fiduciary duty against the statutory limitations, will be required to forego new investments in the assets class rather than divest in current active investments. Divesting in alternative investment vehicles to stay within the statutory threshold would require the SBA to sell assets prematurely, which may not be in the best interests of the fund.

III. Effect of Proposed Changes:

Section 1 amends s. 215.47, F.S., to increase the amount of funds that may be invested in alternative investments to 30 percent of total fund assets from 20 percent of total fund assets.

Section 2 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ State Board of Administration “Annual Investment Report July 1, 2017 – June 30, 2018,” page 32.

¹⁰ State Board of Administration “Annual Investment Report July 1, 2020 – June 30, 2021,” page 34.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 215.47 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 Hooper

16-01535-22

20221314__

1 A bill to be entitled
2 An act relating to State Board of Administration
3 alternative investments; amending s. 215.47, F.S.;
4 increasing the percentage of certain funds the State
5 Board of Administration may invest in alternative
6 investments; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (15) of section 215.47, Florida
11 Statutes, is amended to read:
12 215.47 Investments; authorized securities; loan of
13 securities.—Subject to the limitations and conditions of the
14 State Constitution or of the trust agreement relating to a trust
15 fund, moneys available for investments under ss. 215.44-215.53
16 may be invested as follows:
17 (15) With no more, in the aggregate, than 30 ~~20~~ percent of
18 any fund in alternative investments through participation in an
19 alternative investment vehicle as those terms are defined in s.
20 215.4401(3)(a), or in securities or investments that are not
21 publicly traded and not otherwise authorized by this section.
22 Section 2. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill # 1314**, relating to State Board of Administration Alternative Investments, 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
Senate professional staff conducting the meeting

1314

Bill Number or Topic

Amendment Barcode (if applicable)

2-2-22
Senate Meeting Date
Government Oversight Committee

Name Lamar Taylor Phone 850 413-1187

Address 1801 Hermitage Blvd Email ~~lamar.taylor@shuff.com~~ lamar.taylor@shuff.com

Tallahassee FL 32308
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: State Board of Administration

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1518
INTRODUCER: Senator Berman
SUBJECT: Lactation Space
DATE: February 1, 2022 REVISED: _____

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

I. Summary:

SB 1518 requires each county courthouse to provide, by January 1, 2023, at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private. The bill requires the lactation space be hygienic, shielded from public view, free from intrusion while occupied, and it must contain an electrical outlet.

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

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

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

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

This bill takes effect July 1, 2022.

II. Present Situation:

Funding Requirements for Court Related Functions

Article V, Section 14 of the State Constitution requires counties to fund the cost of communication services, existing radio systems, existing multi-agency information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial

courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.¹ Counties are not required to fund the state courts system, state attorney's office, public defenders offices, court-appointed counsel or the offices of the clerks of the circuit performing court related functions.² Section 29.008, F.S., defines the term "facility" to mean reasonable and necessary buildings, office space, equipment, furnishings, structures, real estate, easements, and related interests in real estate.³ The county is responsible for the funding of physical modifications and improvements to all facilities in order to comply with the American with Disabilities Act.

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

Courthouse Lactation Room Handbook

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

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

Breastfeeding in Florida

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

¹ Section 29.008, F.S.

² Fla. Const. art. V, s. 14

³ Section 29.008(1), F.S.

⁴ Section 29.004(4), F.S.

⁵ See Florida Legislature, *General Appropriations Act SA-3212*, available at <https://www.flsenate.gov/Session/Bill/2020/5001/BillText/er/PDF>, (last visited January 21, 2022).

⁶ *Id.*

⁷ The Florida Bar, *Board Issue Paper – Women in the Law/Gender Bias*, (Feb. 13, 2017), available at <https://www.floridabar.org/news/resources/issue-04/#IV.%20Facts%20and%20Statistics> (last visited January 21, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 383.015, F.S.

Further, any facility providing maternity services such as breastfeeding can be designated as “baby-friendly.”

Lactation Space in Florida Courthouses

The courthouses that contain a dedicated lactation space include:

- 1st Judicial Circuit Court (Okaloosa County Courthouse);
- 2nd Judicial Circuit Court (Leon County Courthouse);
- 4th Judicial Circuit Court (Duval County Courthouse);
- 5th Judicial Circuit Court (Lake County Courthouse);
- 6th Judicial Circuit Court (St. Petersburg Judicial Building);
- 7th Judicial Circuit Court (St. Johns County Courthouse);
- 8th Judicial Circuit Court (Alachua County Courthouse);
- 9th Judicial Circuit Court (Orange County Courthouse);
- 10th Judicial Circuit Court (Polk County Courthouse);
- 11th Judicial Circuit Courts (including the Coral Gables Courthouse, Dade County Courthouse, Joseph Caleb Center, Lawson E. Courthouse Center, Miami Dade Children’s Courthouse, Richard E. Gerstein Justice Building, and the South Dade Justice Center)¹¹;
- 12th Judicial Circuit Court (Sarasota County Courthouse and Manatee County Judicial Center);
- 13th Judicial Circuit Court (Edgecomb Courthouse);
- 15th Judicial Circuit Court (West Palm Beach Main Courthouse and Delray Beach South County Courthouse);
- 17th Judicial Circuit Court (Broward County Central Courthouse);
- 18th Judicial Circuit Court (Brevard County Courthouse and Seminole County Courthouse);
- 19th Judicial Circuit Court (Martin County Courthouse); and
- 20th Judicial Circuit Court (Lee County Courthouse and Collier County Courthouse).

Counties Designated as Headquarters for District Courts of Appeal

The following is location of the headquarters for each DCA:

- First Appellate District in the Second Judicial Circuit, Tallahassee, Leon County;
- Second Appellate District in the Tenth Judicial Circuit, Lakeland, Polk County;
- Third Appellate District in the Eleventh Judicial Circuit, Miami-Dade County;
- Fourth Appellate District in the Fifteenth Judicial Circuit, Palm Beach County; and
- Fifth Appellate District in the Seventh Judicial Circuit, Daytona Beach, Volusia County.¹²

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

Currently, there is only one DCA that has an established space dedicated to lactation within its courthouse.

¹¹ Florida’s Eleventh Judicial Circuit, *Courthouse Amenities – Lactations Rooms*, available at <https://www.jud11.flcourts.org/About-the-Court/Courthouse-Amenities/Lactation-Rooms>, (last visited January 21, 2022).

¹² Section 35.05, F.S.

¹³ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 29.24, F.S., to require each county courthouse to provide at least one dedicated lactation space outside the confines of a restroom for members of the public to express breast milk or breastfeed in private by January 1, 2023. The dedicated space must be hygienic, shielded from public view, free from intrusion while occupied, and contain an electrical outlet.

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

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

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

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

Section 3 provides the bill take effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

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

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

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

¹⁴ FLA. CONST. art. VII, s. 18(d).

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 21, 2022).

¹⁶ Based on the Florida Demographic Estimating Conference's November 3, 2020, population forecast for 2021 of 21,830,364. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited January 21, 2022).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 29.008 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Berman

31-00056-22

20221518__

A bill to be entitled

An act relating to lactation space; creating s. 29.24, F.S.; requiring at least one lactation space to be provided in each county courthouse; providing requirements for the lactation space; authorizing the use of state or private funds to provide lactation space in appellate courthouses; providing exceptions; declaring that this act fulfills an important state interest; providing an effective date.

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

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

29.24 Lactation space in courthouses.—

(1) Except as otherwise provided in this section, by January 1, 2023, each county courthouse must provide at least one dedicated lactation space outside of the confines of a restroom for members of the public to express breast milk or breastfeed in private. The space must be hygienic, be shielded from public view, be free from intrusion while occupied, and contain an electrical outlet.

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

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

Page 1 of 2

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

31-00056-22

20221518__

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

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

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

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

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

Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Jeff Brandes, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 13, 2022

I respectfully request that **Senate Bill #1518**, relating to Lactation Space, be placed on the:

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

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

Senator Lori Berman
Florida Senate, District 31

Cc: Senator Joe Gruters, Vice Chair
Joe McVaney, Staff Director

The Florida Senate

APPEARANCE RECORD

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

1518 - Lactation Spaces
Bill Number or Topic

2/2/22
Meeting Date

GOA
Committee

Amendment Barcode (if applicable)

Legislative Director
Fla. Association for
WOMEN LAWYERS
Name Thomasine Moore

866-241-3295
Phone

PO Box 721264
Address Street

Lobby Days@FawL.org
Email

Orlando FL 32872
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

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

Peter H. Collins

is duly appointed a member of the
Investment Advisory Council

for a term beginning on the Twentieth day of December, A.D.,
2021, until the Twelfth day of December, A.D., 2025 and is
subject to be confirmed by the Senate during the next regular
session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eleventh day of January, A.D., 2022.*



Secretary of State



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

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

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2022 JAN 11 AM 9:18

County of Hillsborough

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

Investment Advisory Council

(Title of Office)

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

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

[Handwritten Signature]

Signature

Sworn to and subscribed before me by means of physical presence or
online notarization, this 19 day of October, 2021.

[Handwritten Signature]

Signature of Officer Administering Oath or of Notary Public

SARA L. CARDAMONE

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced n/a



ACCEPTANCE

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

Mailing Address: Home Office

2501 S MacDill Avenue

Street or Post Office Box

Tampa, FL 33629

City, State, Zip Code

Peter H. Collins

Print Name

[Handwritten Signature]

Signature

RECEIVED

CERTIFICATION

2022 JAN 11 AM 9:18

STATE OF FLORIDA
COUNTY OF

HILLSBOROUGH

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

PETER H. COLLINS

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

[Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 19 day of October, 2021.

[Signature]

Signature of Notary Public-State of Florida

SARA L. CARDAMONE

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

My commission expires: 6-5-2025

Personally Known OR Produced Identification

Type of Identification Produced n/a



(seal)

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

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

Gary C. Wendt

is duly appointed a member of the
Investment Advisory Council

for a term beginning on the Twenty-First day of September,
A.D., 2021, until the Twelfth day of December, A.D., 2023 and
is subject to be confirmed by the Senate during the next regular
session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eleventh day of January, A.D., 2022.*



Secretary of State



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

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

OATH OF OFFICE
(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2022 JAN 11 AM 9:17

County of Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

Investment Advisory Council Member
(Title of Office)

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

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



Gary C. Wendt
Signature

Sworn to and subscribed before me by means of physical presence or
online notarization, this 14th day of December, 2021

Amy P. Walker
Signature of Officer Administering Oath or of Notary Public

Amy P. Walker
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

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

Mailing Address: Home Office

3055 Harbor Drive

Street or Post Office Box

Ft. Lauderdale, FL

City, State, Zip Code

Gary C. Wendt
Print Name

Gary C. Wendt
Signature

RECEIVED

CERTIFICATION

2022 JAN 11 AM 9:17

STATE OF FLORIDA
COUNTY OF Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

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

JC Wender
Signature of Applicant-Affiant

Sworn to and subscribed before me this 14th day of December, 2021.

Amy P. Walker
Signature of Notary Public-State of Florida

Amy P. Walker
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____



(seal)

**Senate Governmental
Oversight and
Accountability Committee**
February 2, 2022

The Housing Approach

"At Florida Housing, we see ourselves as more than a financial institution. We are a proud partner that assists in the development and rehabilitation of affordable housing. We unlock the doors for first time homebuyers - our children's teachers, the emergency responders serving our communities 24/7, even the unhoused family that is couch surfing and sleeping in their car. These individuals and families are the who and the why. From rental strategies to homeownership, we are committed to ensuring that all Floridians have a safe place to call home."

Trey Price, Executive Director

What is Affordable Housing?

- Safe, decent housing where households pay no more than 30% of their gross income for housing costs including utilities
- The National Low Income Housing Coalition (NLIHC) reports the following Florida-specific data as of 2021:
 - 79.0% of Extremely Low-Income households (0-30% AMI) are severely cost burdened (pay more than 50% of their income to rent)
 - 53.9% of Very Low-Income households (31-50% AMI) are severely cost burdened
 - 17.9% of Low-Income households (51-80% AMI) are severely cost burdened

What is Florida Housing?



SAIL: The State Apartment Incentive Loan Program

- Funding allocation is based on the Shimberg Center for Housing Studies' Triennial Rental Market Study, which reports data on the number of cost burdened households throughout the state, focusing on legislatively designated demographic need, as well as data reflecting the amount of affordable and available rental units throughout the State.
- SAIL funding is administered through competitive solicitations that are specifically tailored to demonstrated geographic and demographic needs, as opposed to a one size fits all approach. The allocation strategy is developed in conjunction with for-profit and nonprofit stakeholders and local government partners through public workshops and leverages significant federal resources.
- In the past 5 years, SAIL dollars have financed 11,605 units, while leveraging \$118,292,947 in federal Low-Income Housing Tax Credits and \$1,052,051,839 in private activity bond allocation.

QUESTIONS?

THANK YOU!

The Florida Senate

APPEARANCE RECORD

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

Florida Housing Finance Corp.

Bill Number or Topic

2/2/2022

Meeting Date

Gov. Oversight + Accountability

Committee

Amendment Barcode (if applicable)

Name Trey Price

Phone (850) 488-4197

Address 227 N. Bronough St. Ste. 5000

Street

Email Katie.norman@Floridahousing.org

Tallahassee

City

FL

State

32301

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Housing Finance Corporation

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

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

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

S-001 (08/10/2021)

The Importance of Market-Based Housing Reform

Michael Tanner
Senior Fellow
Cato Institute
February 2022

Florida is Suffering a Shortage of Affordable Housing

- 25% of families are housing cost burdened
- 63% of low-income Floridians

Housing is a Crucial Determinant of Economic Opportunity

Your Zip-Code Can Influence:

- i. Education
- ii. Jobs
- iii. Crime and Policing
- iv. Health – Physical and Mental

In addition

- Lack of Housing Contributes to Homelessness

There are more than 27,000 homeless Floridians

3rd highest in nation

- Perpetuates Racial Segregation
- Changes Landlord vs Tenant Dynamics
- Slows Economic Growth

Lack of Affordable Housing in Florida

A Simple Reason:

Demand > Supply

- *Government interference in housing market*

Exclusionary Zoning: Bad from the Start

1910

Baltimore adopts the first race-based zoning ordinance, designating blocks by race of residents

1917

Supreme Court bans explicit raced-based zoning in *Buchanan v Warley*

1921

Federal committee advises local governments on zoning laws - many committee members were segregationists

1927

Supreme Court allows zoning by type of land use under *Euclid v Ambler*, decided by a 6-3 majority

1934

Federal Housing Administration created, refuses to insure mortgages for integrated neighborhoods

1968

Fair Housing Act Passes

HB 1339 (2220) a Start, but...

- Permissive not prescriptive
- Doesn't apply to market rate housing
- Too many ways for localities to get around it

What Florida Can Do:

- Allow accessory dwelling units and multifamily buildings on all residential lots
- Establish by-right/ministerial approval for housing to cut red tape and veto points for NIMBY
- Reform other zoning and land-use regulations (lot size, setbacks, parking, etc.)
- Preemption may be necessary to protect property rights in face of government overreach
- Consider revising 2011 Community Planning Act

The Importance of Market-Based Housing Reform

Questions?

CATO
INSTITUTE

WHITES ONLY

Single-family Zoning

Bad from the start

Single-family only zones were created in a direct response to the Supreme Court's decision that cities could not explicitly zone segregated racial areas. Today, the same government regulations that were instituted to further segregation inflate home prices and rent for families.

1910

Baltimore adopts the first race-based zoning ordinance, designating blocks by race of resident

1917

Supreme Court bans explicit race-based zoning in *Buchanan v Warley*

1921

Federal committee advises local governments on zoning laws, many committee members were segregationists

1927

Supreme Court allows zoning by type of land use under *Euclid v Ambler*, decided by 6-3 majority

1934

Federal Housing Administration created, refuses to insure mortgages for integrated neighborhoods

WHAT DOES REFORM LOOK LIKE?

- Allow small multifamily buildings, like duplexes, triplexes and four-plexes on all residential parcels
- Allow accessory dwelling units (also called granny flats or casitas) on all lots
- Create ministerial approval processes for housing to cut regulatory red tape and veto points for NIMBYs
- Reform land-use regulations like mandatory parking requirements, minimum lot sizes, and setback requirements

BE BOLD WITH REFORMS

- Some cities have just renamed their single-family zones, doing nothing substantive
- Bad regulations have a cost: strict zoning is correlated with higher home prices and rents
- It's more than how many homes go on a lot:
 - Parking requirements can add tens of thousands of dollars to home prices
 - Setback requirements (mandating space between structures and property line) effectively ban townhomes

The Florida Senate

APPEARANCE RECORD

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

2/2/22

Meeting Date

Cato Institute

Bill Number or Topic

GOV OVERSIGHT

Committee

Amendment Barcode (if applicable)

Name

MICHAEL TANNER

Phone

202.841.7797

Address

1000 MASSACHUSETTS AVE

Email

MTANNER@CATO.ORG

Street

WASHINGTON

City

DC

State

20001

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Banking and Insurance
Governmental Oversight and Accountability
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR KELLI STARGEL

22nd District

February 1, 2022

The Honorable Jeff Brandes
Committee on Governmental Oversight and Accountability, Chair
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Brandes:

I respectfully request to be excused from the February 2 committee meeting for Governmental Oversight and Accountability.

Sincerely,

A handwritten signature in blue ink that reads "Kelli Stargel".

Kelli Stargel

cc: Joe McVaney/Staff Director
Virginia Ponder/Deputy Staff Director
Tamra Redig/ CAA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 420 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Governmental Oversight and Accountability Committee

Judge:

Started: 2/2/2022 11:01:58 AM

Ends: 2/2/2022 12:17:58 PM

Length: 01:16:01

11:02:02 AM Meeting called to order by Chair Brandes
11:02:23 AM Roll Call; Quorum is present
11:02:36 AM Tab 1 - SB 338, Senior Management Service Class by Senator Baxley
11:02:46 AM Senator Baxley explains SB 338
11:03:26 AM Richard Curry with the Regional Conflict Counsel waives in support
11:03:59 AM Senator Baxley closes on the bill
11:04:01 AM Roll Call on SB 338
11:04:04 AM SB 338 is reported favorably
11:04:16 AM Tab 4 - SB 1046, Public Records/Law Enforcement Geolocation Information by Senator Hooper
11:04:39 AM Senator Hooper explains SB 1046
11:04:58 AM Amendment Barcode 443222
11:05:19 AM Senator Hooper explains the amendment
11:05:25 AM Amendment adopted
11:05:33 AM Amendment Barcode 924638
11:05:52 AM Senator Hooper explains the amendment; Amendment adopted
11:05:55 AM Back on bill as amended
11:05:59 AM Senator Torres asks a question on the bill as amended
11:07:31 AM Back and forth between Senator Hooper and Senator Torres
11:08:00 AM Virginia Hamrick with First Amendment Foundation speaking against the bill
11:08:48 AM Senator Brandes in response
11:09:37 AM Virginia Hamrick in response
11:10:42 AM Senator Torres in debate
11:11:34 AM Senator Hooper closes on bill
11:12:14 AM Roll Call on CS/SB 1046
11:13:17 AM CS/SB 1046 reported favorably
11:13:20 AM Tab 5 - SB 1314, State Board of Administration Alternative Investments by Senator Hooper
11:13:42 AM Senator Hooper explains SB 1314
11:14:09 AM Senator Torres asks a series of questions
11:16:00 AM Lamar Taylor from the State Board of Administration speaking for information
11:18:35 AM Senator Torres asks Lamar Taylor a question
11:19:41 AM Lamar Taylor in response
11:20:02 AM Senator Torres asks a follow up question
11:20:27 AM Lamar Taylor in response
11:20:34 AM Senator Hooper closes on bill
11:20:42 AM Roll call on SB 1314
11:20:48 AM SB 1314 reported favorably
11:21:05 AM Tab 3 - SB 828, Critical Infrastructure by Senator Hutson
11:21:22 AM Senator Hutson explains SB 828
11:21:59 AM Amendment Barcode 452698
11:22:24 AM Senator Hutson explains the amendment
11:22:37 AM Amendment adopted
11:22:47 AM Andre Ristaino speaking for information
11:23:04 AM Senator Hutson closes on the bill
11:23:12 AM Roll call on CS/SB 828
11:23:17 AM CS/SB 828 reported favorably
11:23:29 AM Tab 2 - SB 514, Workforce Education by Senator Burgess
11:23:51 AM Senator Burgess explains the bill
11:24:00 AM Amendment Barcode 606634
11:24:07 AM Senator Burgess explains the amendment
11:24:23 AM Amendment adopted
11:24:35 AM Back on bill as amended
11:24:42 AM Senator Torres asks a question

11:25:35 AM Alice Neira representing Foundation for Florida's Future waiving in support
11:25:45 AM Phillip Suderman representing Americans for Prosperity waiving in support
11:25:52 AM Senator Burgess closes on the bill
11:25:54 AM Roll Call on CS/SB 514
11:25:57 AM CS/SB 514 is reportedly favorably
11:26:08 AM Tab 6 - SB 1518, Lactation Space by Senator Berman
11:26:16 AM Senator Berman explains the bill
11:27:10 AM Thomasina Moore representing the Florida Association for Women Lawyers waives in support
11:27:26 AM Senator Berman closes on the bill
11:27:40 AM Roll call on SB 1518
11:27:44 AM SB 1518 is reported favorably
11:27:57 AM Take up tab 7 and 8 on appointments (Appointees: Peter H. Collins and Gary C. Wendt)
11:28:15 AM Motion by Senator Gruters to recommend confirmation of the appointees
11:28:28 AM Roll call
11:28:34 AM Appointees are recommended favorably for confirmation
11:28:41 AM Presentation by Trey Price, Executive Director of the Florida Housing Finance Corporation
11:29:09 AM Trey Price presents on Florida Housing
11:37:29 AM Senator Brandes makes a comment on the presentation
11:38:00 AM Trey Price responds to comment
11:38:43 AM Senator Brandes asks a question
11:39:05 AM Trey Price responds
11:39:11 AM Senator Brandes asks another question
11:39:17 AM Trey Price in response
11:39:26 AM Senator Brandes asks another question
11:39:46 AM Trey Price in response
11:40:03 AM Trey Price discusses the SHIP program
11:41:08 AM Senator Torres asks a series of questions
11:43:52 AM Trey Price in response
11:46:25 AM Senator Farmer asks a question
11:47:30 AM Trey Price responds
11:48:50 AM Senator Brandes makes a comment regarding Senator Farmer's question
11:49:04 AM Senator Farmer responds
11:49:16 AM Senator Mayfield asks a question
11:49:27 AM Trey Price responds
11:54:43 AM Senator Brandes asks a question
11:54:51 AM Trey Price responds
11:55:04 AM Senator Brandes makes comments on Florida Housing
11:55:36 AM Presentation by Mike Tanner of the Cato Institute
12:04:37 PM Senator Brandes asks a question
12:04:38 PM Mike Tanner in response
12:06:34 PM Senator Brandes comments on Florida Housing
12:07:06 PM Senator Brandes asks a question
12:07:20 PM Mike Tanner in response
12:09:06 PM Senator Brandes asks a question
12:09:14 PM Mike Tanner in response
12:10:24 PM Senator Farmer asks a question
12:10:31 PM Mike Tanner in response
12:11:08 PM Senator Farmer asks a follow up question
12:12:05 PM Mike Tanner in response
12:12:43 PM Senator Farmer comments
12:12:50 PM Senator Torres asks a question
12:13:03 PM Mike Tanner in response
12:14:49 PM Senator Torres asks a follow up question
12:15:23 PM Mike Tanner in response
12:16:33 PM Senator Brandes asks a question
12:16:38 PM Mike Tanner in response
12:17:31 PM Motion by Senator Farmer to be recorded as voting in the affirmative for SB 338
12:17:48 PM Meeting is adjourned