

Tab 1	SB 156 by Broxson ; (Similar to H 00275) Loss Run Statements 853670—A S WD RC, Broxson btw L.47 - 48: 01/13 07:19 AM
Tab 2	CS/SM 174 by CM, Pizzo (CO-INTRODUCERS) Book ; (Similar to H 01531) Trade
Tab 3	SB 254 by Brodeur (CO-INTRODUCERS) Perry ; (Identical to H 00215) Religious Institutions 294268 A S RCS RC, Brodeur Delete L.17: 01/13 11:18 AM
Tab 4	SM 302 by Burgess (CO-INTRODUCERS) Book, Gibson, Harrell ; (Similar to H 00063) Recognizing Veteran Suicide
Tab 5	SB 312 by Diaz ; (Compare to H 00017) Telehealth
Tab 6	SB 846 by Passidomo ; Florida Statutes
Tab 7	SB 848 by Passidomo ; Florida Statutes
Tab 8	SB 850 by Passidomo ; Florida Statutes
Tab 9	SB 852 by Passidomo ; Florida Statutes
Tab 10	SB 854 by Passidomo ; Florida Statutes
Tab 11	SB 7000 by HP ; (Identical to H 07007) OGSR/Nonviable Birth Certificates
Tab 12	SB 7002 by HP ; (Similar to H 07005) OGSR/Information Relating to Medical Marijuana Held by the Department of Health
Tab 13	SB 7004 by ED ; (Identical to H 07019) OGSR/Technology Systems/State University or a Florida College System Institution
Tab 14	SB 7006 by ED ; OGSR/Campus Emergency Response
Tab 15	SB 7008 by CF ; (Identical to H 07011) OGSR/Substance Abuse Impaired Persons
Tab 16	SB 7010 by CF ; (Identical to H 07017) OGSR/Public and Professional Guardians
Tab 17	SB 7014 by JU ; COVID-19-related Claims Against Health Care Providers
Tab 18	SB 7016 by BI ; OGSR/Information Submitted by Insurers/Department of Financial Services
Tab 19	SB 7018 by BI ; (Compare to H 07013) OGSR/Injured or Deceased Employee/Department of Financial Services
Tab 20	SB 7020 by BI ; OGSR/Office of Financial Regulation

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Passidomo, Chair
Senator Garcia, Vice Chair

MEETING DATE: Thursday, January 13, 2022
TIME: 9:00—10:30 a.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 156 Broxson (Similar H 275)	Loss Run Statements; Specifying the entities that must receive requests for loss run statements; specifying that insurers must provide loss run statements under certain circumstances; revising the required claims history in loss run statements; providing applicability; limiting loss run statement requests with respect to group health insurance policies to group policyholders, etc. BI 11/03/2021 Favorable JU 11/30/2021 Favorable RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 1
2	CS/SM 174 Commerce and Tourism / Pizzo (Similar HM 1531)	Trade; Urging Congress to expeditiously renew trade promotion authority for the executive branch, urging the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and urging Congress to ratify such agreement, etc. CM 10/18/2021 Temporarily Postponed CM 11/02/2021 Fav/CS RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
3	SB 254 Brodeur (Identical H 215)	Religious Institutions; Defining the term "religious institution"; providing that an emergency order may not expressly prohibit religious services or activities; providing an exception under certain circumstances, etc. MS 11/30/2021 Favorable RC 01/13/2022 Fav/CS	Fav/CS Yeas 14 Nays 2
4	SM 302 Burgess (Similar HM 63)	Recognizing Veteran Suicide; Urging Congress to recognize the epidemic of suicide among veterans and to fully fund suicide prevention efforts of the United States Department of Veterans Affairs, etc. MS 11/30/2021 Favorable RC 01/13/2022 Favorable	Favorable Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 13, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 312 Diaz (Compare H 17)	Telehealth; Revising the definition of the term "telehealth"; narrowing the prohibition on prescribing controlled substances through telehealth to include only specified controlled substances, etc. HP 11/03/2021 Favorable BI 12/01/2021 Favorable RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
6	SB 846 Passidomo	Florida Statutes; Adopting the Florida Statutes 2022 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2022 shall be effective immediately upon publication; providing that general laws enacted during the May 17-21, 2021, special session and prior thereto and not included in the Florida Statutes 2022 are repealed; providing that general laws enacted during the November 15-19, 2021, special session and the 2022 regular session are not repealed by this adoption act, etc. RC 01/13/2022 Favorable	Favorable Yeas 14 Nays 0
7	SB 848 Passidomo	Florida Statutes; Deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; and improving the clarity of the statutes and facilitating their correct interpretation, etc. RC 01/13/2022 Favorable	Favorable Yeas 14 Nays 0
8	SB 850 Passidomo	Florida Statutes; Deleting provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), F.S., may be omitted from the 2022 Florida Statutes only through a reviser's bill duly enacted by the Legislature, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
9	SB 852 Passidomo	Florida Statutes; Amending provisions to conform to the directive of the Legislature in section 9 of chapter 2012-116, Laws of Florida, codified as section 11.242(5)(j), Florida Statutes, to prepare a reviser's bill to omit all statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 13, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 854 Passidomo	Florida Statutes; Amending provisions to conform to the directive of the Legislature to the Division of Law Revision in s. 13, ch. 2021-269, Laws of Florida, to replace references to the Division of Pari-mutuel Wagering and references to the Department of Business and Professional Regulation relating to gaming with references to the Florida Gaming Control Commission to conform the Florida Statutes to the transfer of duties in s. 11, ch. 2021-269, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
11	SB 7000 Health Policy (Identical H 7007)	OGSR/Nonviable Birth Certificates; Amending a provision which provides an exemption from public records requirements for certain information included in nonviable birth certificates; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
12	SB 7002 Health Policy (Similar H 7005)	OGSR/Information Relating to Medical Marijuana Held by the Department of Health; Provides an exemption from public records requirements for personal identifying information relating to medical marijuana held by the Department of Health; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
13	SB 7004 Education (Identical H 7019)	OGSR/Technology Systems/State University or a Florida College System Institution; Amending a provision which provides exemptions from public records and public meetings requirements for specified data or information from technology systems owned, under contract, or maintained by a state university or a Florida College System institution and portions of meetings which would reveal such data and information; removing the scheduled repeal of the exemptions, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 13, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	SB 7006 Education	OGSR/Campus Emergency Response; Amending a provision which provides an exemption from public records requirements for any portion of a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management, and for any portion of a public meeting which would reveal information related to a campus emergency response; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
15	SB 7008 Children, Families, and Elder Affairs (Identical H 7011, Compare H 1157, S 1846)	OGSR/Substance Abuse Impaired Persons; Amending a provision relating to an exemption from public records requirements for involuntary assessment and stabilization, court orders, related records, and personal identifying information regarding substance abuse impaired persons; removing the scheduled repeal date of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
16	SB 7010 Children, Families, and Elder Affairs (Identical H 7017)	OGSR/Public and Professional Guardians; Amending a provision which provides an exemption from public records requirements for certain information held by the Department of Elderly Affairs in connection with a filed complaint or subsequently conducted investigation relating to public and professional guardians; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
17	SB 7014 Judiciary (Similar S 610)	COVID-19-related Claims Against Health Care Providers; Extending the duration of liability protections from COVID-19-related claims against health care providers, etc. RC 01/13/2022 Favorable	Favorable Yeas 11 Nays 5
18	SB 7016 Banking and Insurance	OGSR/Information Submitted by Insurers/Department of Financial Services; Amending a provision which provides an exemption from public records requirements for certain information submitted by insurers to the Department of Financial Services; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, January 13, 2022, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	SB 7018 Banking and Insurance (Compare H 7013)	OGSR/Injured or Deceased Employee/Department of Financial Services; Amending a provision which provides an exemption from public records requirements for the personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the Department of Financial Services pursuant to the Workers' Compensation Law; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 15 Nays 0
20	SB 7020 Banking and Insurance	OGSR/Office of Financial Regulation; Amending a provision which provides an exemption from public records requirements for certain information held by the Office of Financial Regulation relating to affiliated international trust entities; removing the scheduled repeal of the exemption; amending a provision which provides an exemption from public records requirements for certain information held by the office relating to qualified limited service affiliates; removing the scheduled repeal of the exemption; amending a provision which provides exemptions from public records requirements for certain information held by the office relating to active investigations of and the regulation of financial institutions; removing the scheduled repeal of the exemption, etc. RC 01/13/2022 Favorable	Favorable Yeas 14 Nays 1

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 156

INTRODUCER: Senator Broxson

SUBJECT: Loss Run Statements

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Arnold</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 156 amends two statutes related to insurance loss run statements and repeals a conflicting statute. Specifically, the bill:

- Reduces from 5 years to 3 years the claims history that must be included within a loss run statement.
- Requires an admitted and nonadmitted group health insurer's loss run statement to include certain information.
- Requires an admitted and nonadmitted personal lines insurer to provide loss run statements within 15 days of an insured's request after first providing information on how to obtain a loss run statement from a consumer reporting agency.
- Excludes admitted and nonadmitted life insurers from the requirement to provide loss run statements.
- Specifies that only the group policyholder may request and receive a loss run statement for a group health insurance policy, and repeals a conflicting statute related to group health insurance claims data.

The bill takes effect upon becoming law.

II. Present Situation:

Loss Run Statements

Loss run statements are reports produced by an insurer or consumer reporting agency containing the claims history of a policyholder with an authorized or unauthorized insurer. The loss run statement must contain a claims history for the preceding 5 years or, if the claims history is less than 5 years, a complete claims history with the insurer.¹ Under Florida law, the reports must

¹ See ss. 626.9202 and 627.444, F.S.

contain the policy number, period of coverage, number of claims, the paid losses on all claims, and the date of each loss.² Reports are not required to include supporting claims file documentation such as copies of claim files, investigation reports, evaluation statements, insureds' statements, and documents protected by a common law or statutory privilege.³ Upon receipt of the policyholder's written request, the insurer has 15 days to provide the loss run statement or, for personal lines of insurance, information on how to obtain the loss run statement at no cost through a consumer reporting agency. A personal lines policyholder may request a loss run statement from the insurer after receiving information from a consumer reporting agency. Upon receiving such request, the personal lines insurer must provide the loss run statement within 15 days.⁴

Release of Claims Experience Under Group Health Insurance Policies

In addition to the statutory provisions governing loss run statements described above, group health insurers must also provide the policyholder with claims experience information required for bid for the previous 3 years or for the entire period of coverage, whichever is shorter.⁵ Required information includes, but is not limited to, claim experience, premiums paid, number of insureds on a monthly basis, and dependent status. The insurer is not required to disclose any information deemed confidential by law.⁶ Upon receipt of the policyholder's written request, the insurer has 21 days to provide the claims experience.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 626.9202, F.S., and **Section 2** amends s. 627.444, F.S., to revise several provisions governing loss run statement requirements for nonadmitted and admitted insurers. The bill:

- Reduces from the preceding 5 years to the preceding 3 years the claims history that must be included within a loss run statement.
- Requires that reports from group health insurers include premiums paid, the number of insureds on a monthly basis, and the dependent status.
- Requires that each insurer designate an individual or entity to receive written requests for loss run statements from insureds.
- Requires that the personal lines insurer provide the insured a loss run statement within 15 calendar days after receiving the insured's written request subsequent to the insured providing the insurer with information on obtaining a loss run statement from a consumer reporting agency.
- Exempts life insurers from the requirements for loss run statements.
- Provides that, under a group health insurance policy, only the group policyholder may request and be provided a loss run statement.

² Sections 626.9202(1)(a) and 627.444(1)(a), F.S.

³ *Id.*

⁴ Sections 626.9202(2) and 627.444(2), F.S.

⁵ Section 627.6647(1), F.S.

⁶ Section 627.6647(2), F.S.

⁷ Section 627.6647(1), F.S.

Section 3 repeals s. 627.6647, F.S., to remove conflicting statutory language related to group health insurance claims data.

Section 4 provides that this act is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.9202 and 627.444.

This bill repeals section 627.6647, 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.



853670

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/13/2022	.	
	.	
	.	
	.	

The Committee on Rules (Broxson) recommended the following:

Senate Amendment (with title amendment)

Between lines 47 and 48

insert:

For purposes of this subsection, an insurer may designate in writing a surplus lines agent to provide a loss run statement to an insured.

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

And the title is amended as follows:

Delete lines 2 - 11



853670

12 and insert:

13 An act relating to loss run statements; amending s.
14 626.9202, F.S.; revising the definition of the term
15 "loss run statement"; specifying the entities that
16 must receive requests for loss run statements;
17 specifying that insurers must provide loss run
18 statements under certain circumstances; authorizing
19 insurers to designate surplus lines agents to provide
20 loss run statements to insureds; revising the required
21 claims history in loss run statements; providing
22 applicability; limiting loss run statement requests
23 with respect to group health insurance policies to
24 group policyholders; amending s. 627.444, F.S.;
25 revising the definition of the term "loss run
26 statement"; specifying the entities that must receive
27 requests for loss run statements; specifying that
28 insurers must provide loss run statements under
29 certain circumstances; revising the required claims
30 history in loss run statements; providing
31 applicability; limiting loss run statement requests
32 with respect to group health insurance policies to
33 group policyholders; repealing s.

By Senator Broxson

1-00235A-22

2022156__

1 A bill to be entitled
 2 An act relating to loss run statements; amending ss.
 3 626.9202 and 627.444, F.S.; revising the definition of
 4 the term "loss run statement"; specifying the entities
 5 that must receive requests for loss run statements;
 6 specifying that insurers must provide loss run
 7 statements under certain circumstances; revising the
 8 required claims history in loss run statements;
 9 providing applicability; limiting loss run statement
 10 requests with respect to group health insurance
 11 policies to group policyholders; repealing s.
 12 627.6647, F.S., relating to release of claims
 13 experience; providing an effective date.

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

16 Section 1. Subsections (1), (2), and (4) of section
 17 626.9202, Florida Statutes, are amended, and subsections (7) and
 18 (8) are added to that section, to read:

19 626.9202 Loss run statements for all lines of insurance.—

20 (1) As used in this section, the term:

21 (a) "Loss run statement" means a report that contains the
 22 policy number, the period of coverage, the number of claims, the
 23 paid losses on all claims, and the date of each loss. The term
 24 does not include supporting claim file documentation, including,
 25 but not limited to, copies of claim files, investigation
 26 reports, evaluation statements, insureds' statements, and
 27 documents protected by a common law or statutory privilege. As
 28 applied to group health insurance, the term means a report that

Page 1 of 4

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

1-00235A-22

2022156__

30 also contains the premiums paid, the number of insureds on a
 31 monthly basis, and the dependent status.

32 (b) "Provide" means to electronically send a document or to
 33 allow access through an electronic portal to view or generate a
 34 document.

35 (2) Notwithstanding any other law, an insurer shall provide
 36 to an insured within 15 calendar days after an individual or
 37 entity designated by the insurer receives ~~receipt of~~ the
 38 insured's written request, either:

39 (a) A loss run statement; or

40 (b) For personal lines of insurance, information on how to
 41 obtain a loss run statement at no charge through a consumer
 42 reporting agency. However, this section does not prohibit an
 43 insured from requesting a loss run statement after receiving
 44 information from a consumer reporting agency, in which case the
 45 insurer shall then provide the loss run statement within 15
 46 calendar days after the individual or entity designated by the
 47 insurer receives the insured's subsequent written request.

48 (4) A loss run statement provided pursuant to this section
 49 must contain a claims history with the insurer for the preceding
 50 3 5 years or, if the claims history is less than 3 5 years, a
 51 complete claims history with the insurer.

52 (7) This section does not apply to a life insurer as
 53 defined in s. 624.602.

54 (8) For group health insurance, only the group policyholder
 55 may request and be provided a loss run statement pursuant to
 56 this section.

57 Section 2. Subsections (1), (2), and (4) of section
 58 627.444, Florida Statutes, are amended, and subsections (7) and

Page 2 of 4

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

1-00235A-22

2022156__

59 (8) are added to that section, to read:

60 627.444 Loss run statements for all lines of insurance.--

61 (1) As used in this section, the term:

62 (a) "Loss run statement" means a report that contains the
63 policy number, the period of coverage, the number of claims, the
64 paid losses on all claims, and the date of each loss. The term
65 does not include supporting claim file documentation, including,
66 but not limited to, copies of claim files, investigation
67 reports, evaluation statements, insureds' statements, and
68 documents protected by a common law or statutory privilege. As
69 applied to group health insurance, the term means a report that
70 also contains the premiums paid, the number of insureds on a
71 monthly basis, and the dependent status.

72 (b) "Provide" means to electronically send a document or to
73 allow access through an electronic portal to view or generate a
74 document.

75 (2) Notwithstanding any other law, an insurer shall provide
76 to an insured within 15 calendar days after an individual or
77 entity designated by the insurer receives ~~receipt of~~ the
78 insured's written request, either:

79 (a) A loss run statement; or

80 (b) For personal lines of insurance, information on how to
81 obtain a loss run statement at no charge through a consumer
82 reporting agency. However, this section does not prohibit an
83 insured from requesting a loss run statement after receiving
84 information from a consumer reporting agency, in which case the
85 insurer shall then provide the loss run statement within 15
86 calendar days after the individual or entity designated by the
87 insurer receives the insured's subsequent written request.

Page 3 of 4

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

1-00235A-22

2022156__

88 (4) A loss run statement provided pursuant to this section
89 must contain a claims history with the insurer for the preceding
90 3 5 years or, if the claims history is less than 3 5 years, a
91 complete claims history with the insurer.

92 (7) This section does not apply to a life insurer as
93 defined in s. 624.602.

94 (8) For group health insurance, only the group policyholder
95 may request and be provided a loss run statement pursuant to
96 this section.

97 Section 3. Section 627.6647, Florida Statutes, is repealed.

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

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 6, 2022

I respectfully request that **Senate Bill #156**, relating to Loss Runs Statements, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Doug Broxson".

Senator Doug Broxson
Florida Senate, District 1

APPEARANCE RECORD

156

1/13/2022

Meeting Date

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Paul Runk**

Phone **850-527-9761**

Address **200 W. College Ave. Suite 104**
Street

Email **paul@fahp.net**

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 Assoc. of Health Plans

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 \(flsenate.gov\)](#)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SM 174

INTRODUCER: Commerce and Tourism Committee and Senator Pizzo

SUBJECT: Trade

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vigrass</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Vigrass</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SM 174 urges Congress to renew Trade Promotion Authority (TPA) to the executive branch. The memorial also encourages the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and encourages Congress to ratify such an agreement.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

II. Present Situation:

Trade Promotion Authority

Although the President has the authority to negotiate treaties with foreign countries, Congress has the sole authority to regulate international trade.¹ “The President shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two thirds of the Senators present concur.”²

Since 1974, Congress has enacted TPA legislation that defines U.S. negotiating objectives and priorities for trade agreements and establishes consultation and notification requirements for the

¹ U.S. CONST. art. 1, s.8

² U.S. CONST. art. 2, s.2

President to follow throughout the negotiation process.³ TPA does not provide new power to the executive branch, but rather, TPA is a legislative procedure through which Congress defines U.S. negotiating objectives and details the oversight process used during trade negotiations.⁴

TPA is only extended for limited periods, so Congress periodically reconsiders legislation to extend it and to outline future negotiation objectives.⁵ The most recent TPA expired on July 1, 2021. This precludes the opportunity to fast track trade agreements between the United States and other countries.⁶

Free Trade Agreements

A Free Trade Agreement is an agreement between two or more countries where the parties involved agree on certain trade obligations for the purpose of reducing barriers and providing a more stable and transparent trading environment. It also allows an easier process for U.S. companies to export products or services to partner markets.⁷ All U.S. Free Trade Agreements (FTAs), except the agreement with Jordan, were considered in Congress under TPA.⁸

The U.S. currently has FTAs with 20 countries. The current U.S. FTA partner countries include: Australia; Bahrain; Canada; Chile; Colombia; Costa Rica; Dominican Republic; El Salvador; Guatemala; Honduras; Israel; Jordan; Korea; Mexico; Morocco; Nicaragua; Oman; Panama; Peru; and Singapore.⁹ In 2020, the U.S., Mexico, and Canada renegotiated the North American Free Trade Agreement and entered into force the United States-Mexico-Canada Agreement on July 1, 2020.¹⁰

US and UK Trade Negotiations

In July of 2017, the U.S. – UK Trade and Investment Working Group was established to provide commercial progress for the UK and U.S. businesses, workers, and consumers to prepare for the UK's withdrawal from the European Union. On May 5, 2020, the U.S. and UK announced the formal launch of trade agreement negotiations.¹¹

³ Office of the United States Trade Representative, *Trade Promotion Authority*, available at <https://ustr.gov/trade-topics/trade-promotion-authority> (last visited Oct. 15, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Congressional Research Service, *Brexit and Outlook for US-UK Free Trade Agreement* (Jan. 14, 2021), available at <https://fas.org/sgp/crs/row/IF11123.pdf> (last visited Oct. 15, 2021).

⁷ International Trade Administration, *U.S. Free Trade Agreements*, available at <https://2016.export.gov/FTA/index.asp> (last visited Oct. 15, 2021).

⁸ Congressional Research Service, *Major Votes on Free Trade Agreements and Trade Promotion Authority* (July 22, 2020), available at <https://fas.org/sgp/crs/row/R45846.pdf> (last visited Oct. 15, 2021).

⁹ Office of the United States Trade Representative, *Free Trade Agreements*, available at <https://ustr.gov/trade-agreements/free-trade-agreements> (last visited Oct. 15, 2021).

¹⁰ Office of the United States Trade Representative, *United States-Mexico-Canada Agreement*, available at <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement> (last visited Oct. 15, 2021).

¹¹ Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, available at <https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations> (last visited Oct. 15, 2021).

With total trade at over \$250 billion a year, the U.S. and the UK are each other's largest source of foreign direct investment with about \$1 trillion invested in each other's economies.¹² More than 1.25 million U.S. workers are employed by British companies in the U.S., and over 1.5 million Britons are employed by U.S. affiliates. Additionally, the UK is the United States' 7th largest trading partner and the 5th largest export destination for U.S. goods and services.¹³

Current Trade Agreements

As part of the U.S. – UK Trade and Investment Working Group, the U.S. and the UK have signed agreements on specific products that were covered by existing agreements the U.S. maintains with the EU.¹⁴ These agreements between the U.S. and UK were entered into force on December 31, 2020, to ensure that there was no disruption in trade for specific products between the U.S. and UK. These new agreements include U.S. – UK Agreement on Trade in Wine; U.S. – UK Agreement on Mutual Recognition of Certain Distilled Spirits/Spirits Drinks; Agreement on Mutual Recognition; and Agreement on the Mutual Recognition of Certificates of Conformity for Marine Equipment.¹⁵

As of January 1, 2021, EU Trade Agreements no longer apply to the UK. The UK has sought to replicate the effects of previous trade agreements to ensure continuity for UK business.¹⁶ In 2018, the Trump Administration notified Congress, under TPA, of its intent to enter comprehensive FTA negotiations with the UK. The U.S. and UK conducted five rounds of negotiations in 2020, with negotiations pending over outstanding issues.¹⁷ The most recent TPA, which was established under the Obama administration, expired on July 1, 2021.¹⁸

III. Effect of Proposed Changes:

CS/SM 174 urges Congress to renew TPA to the executive branch. The memorial also encourages the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the U.S. and UK, and encourages Congress to ratify such an agreement.

Copies of this memorial will be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

¹² U.S. Department of State, *U.S. Relations with the United Kingdom*. (Feb. 6, 2020), available at <https://www.state.gov/u-s-relations-with-united-kingdom/> (last visited Oct. 15, 2021).

¹³ U.S. Chamber of Commerce, *U.S.-UK Trade and Investment Ties*, available at <https://www.uschamber.com/international/europe/us-uk-business-council/us-uk-trade-and-investment-ties> (last visited Oct. 15, 2021).

¹⁴ These existing agreements have covered trade with the UK by virtue of the UK's membership in the EU. See Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, available at <https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations> (last visited Oct. 15, 2021).

¹⁵ *Id.*

¹⁶ Gov.UK, *UK trade agreements with non-EU countries*, available at <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries> (last visited Oct. 15, 2021).

¹⁷ Congressional Research Service, *Brexit and Outlook for US-UK Free Trade Agreement* (Jan. 14, 2021), available at <https://fas.org/sgp/crs/row/IF11123.pdf> (last visited Oct. 15, 2021).

¹⁸ *Id.*

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

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

CS by Commerce and Tourism on November 2, 2021:

This amendment corrects the Memorial to reflect current trade conditions. The amendment urges Congress to renew Trade Promotion Authority for the Executive branch.

- B. **Amendments:**

None.

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

By the Committee on Commerce and Tourism; and Senator Pizzo

577-00998-22

2022174c1

Senate Memorial

A memorial to the Congress of the United States and the President of the United States urging Congress to expeditiously renew trade promotion authority for the executive branch, urging the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and urging Congress to ratify such agreement.

WHEREAS, the United States is the United Kingdom's largest single-country trade partner, with a relationship valued at more than \$200 billion; the two countries are each other's largest foreign direct investors, having approximately \$1 trillion invested in their counterpart's economy; and the UK-US Trade and Investment Working Group has been laying the groundwork to strengthen trade and investment ties between the two countries, including through the use of a free trade agreement, and

WHEREAS, the expansion of global trade, especially with the United Kingdom, is of vital importance to the growth of the United States' economy, small business participation in the international marketplace, and job creation, and

WHEREAS, this state would benefit greatly from the ratification of a comprehensive free trade agreement, which, since the United Kingdom is currently the largest foreign direct employer in this state and is the second largest market for tourism, would create employment opportunities for residents of this state as a direct result of reducing and removing barriers to trade and free markets, and

Page 1 of 2

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

577-00998-22

2022174c1

WHEREAS, the successful implementation of a free trade agreement will increase exports to the United Kingdom from this state, and

WHEREAS, the United States Constitution grants the United States Congress exclusive authority to regulate commerce with foreign nations, and

WHEREAS, the negotiation of a successful free trade agreement between the United States and the United Kingdom will require bipartisan cooperation between state, federal, and foreign governments, NOW, THEREFORE,

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

That the Congress of the United States is urged to expeditiously renew trade promotion authority for the executive branch, the executive branch is urged to complete a timely and successful negotiation of a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and the Congress of the United States is urged to ratify such agreement.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

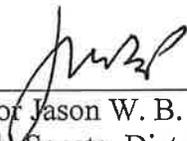
Subject: Committee Agenda Request

Date: November 10, 2021

I respectfully request that **CS/SM 174**, relating to Trade, be placed on the:

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

The most recent Trade Promotion Authority (TPA) expired on July 1, 2021. CS/SM 174 urges Congress to renew TPA; encourages the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the U.S. and the U.K.; and encourages Congress to ratify such an agreement.



Senator Jason W. B. Pizzo
Florida Senate, District 38

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 254

INTRODUCER: Rules Committee and Senators Brodeur and Perry

SUBJECT: Religious Institutions

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Lloyd</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 254 would disallow emergency orders issued under the State Emergency Act which prohibited a religious organization from conducting regular religious services or activities. However, such emergency orders would be permitted to restrict religious activities if such a restriction was part of a general provision which applied uniformly to all entities in an affected jurisdiction and the restriction served a compelling governmental interest and was the least restrictive means of furthering that compelling governmental interest.

The effective date of the bill is July 1, 2022.

II. Present Situation:

COVID-19

Since early 2020, the COVID-19 pandemic has drastically affected the state of Florida. According to data reported by the federal Department of Health and Human Services (HHS), the federal Centers for Disease Control and Prevention (CDC), and the Florida Department of

Health, over three-and-a-half million positive COVID-19 cases have been diagnosed in the state and more than 58,000 Florida residents have died of the virus.^{1,2}

As of November 5, 2021, Florida's infection rate, the number of COVID cases per 100,000, is below the national average and for its region at 51 per 100,000.³ These numbers represent a decline over past infection rates. Florida has also recently shown a significant decrease in COVID-19 death rates and reports a death rate per 100,000 individuals (0.1) that is significantly lower than the national rate (2.3) and the regional rate (4.1).⁴ At least 69 percent of Florida's population has received at least one dose of a COVID-19 vaccination including 81 percent of those over the age of 18.

Stay at Home Orders – Florida

In response to the pandemic, Governor Ron DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak.⁵ More than 50 supplemental executive orders addressing specific conditions followed the initial order.^{6,7} One order provided that certain essential businesses and establishments could operate at diminished capacities at various times during the public health emergency. Essential activities were defined as:

- Attending religious services conducted in churches, synagogues, and houses of worship;
- Participating in recreational activities (consistent with social distancing guidelines) such as walking, biking, hiking, fishing, hunting, running, or swimming;
- Taking care of pets; and
- Caring for or otherwise assisting a loved one or friend.⁸

The emergency order was extended seven times before ending on May 3, 2021. Executive Order No. 21-102, which was effective immediately, directed a return to normal, everyday life and prohibited local political subdivisions and local municipalities from enacting any new emergency

¹ Department of Health and Human Services, *COVID-19 Reported Patient Impact and Hospital Capacity by State Timeseries* (Data set report generated on October 26, 2021), available at <https://healthdata.gov/browse?tags=hhs+covid-19> (last visited October 26, 2021).

² Florida Department of Health, Division of Disease Control and Health Protection, *COVID-19 Weekly Situation Report: State Overview*, available at [Home - Florida Department of Health COVID-19 Outbreak \(floridahealthcovid19.gov\)](https://www.floridahealth.gov/covid-19/outbreak) (last visited Oct. 19, 2021).

³ The national average for the week of November 5, 2021 is 150 per 100,000 and for the state's designated HHS region, the new COVID-19 case rate per 100,000 is 84. Department of Health and Human Services, *COVID-19 Community Profile Report – Florida*, available at <https://healthdata.gov/Community/COVID-19-State-Profile-Report-Florida/ht94-9tjc> (last visited November 10, 2021).

⁴ Department of Health and Human Services, *COVID-19 Community Profile Report – Florida*, available at <https://healthdata.gov/Community/COVID-19-State-Profile-Report-Florida/ht94-9tjc> (last visited November 10, 2021).

⁵ A state of emergency declared under the State Emergency Management Act may not last for more than 60 days unless it is renewed by the Governor. Section 252.36(2), F.S.

⁶ See List of 2020 Executive Orders, Executive Officer of Governor Ron DeSantis available at <https://www.flgov.com/2020-executive-orders/> (last visited on November 10, 2021).

⁷ See List of 2021 Executive Orders, Executive Officer of Governor Ron DeSantis available at <https://www.flgov.com/2021-executive-orders/> (last visited on November 10, 2021).

⁸ Governor Ron DeSantis, Executive Order 2020-91 (effective April 3, 2021), available at <https://www.flgov.com/2020-executive-orders/> (last visited on November 10, 2021).

orders or restrictions that imposed restrictions or mandates on businesses or individuals because of the COVID-19 emergency.⁹

A second Executive Order, No. 21-101, issued on May 3, 2021 and effective July 1, 2021, suspended any remaining local orders by political subdivisions related to COVID-19 which restricted the rights or liberties of individuals or businesses.¹⁰ In issuing this Executive Order, the Governor stated that the remaining local emergency orders were “not narrowly tailored to serve a public health or safety purpose and unnecessarily restrict individual rights and liberties, including the economic and commercial rights and liberties of business owners in this State.”¹¹

Stay at Home Orders – National Review

On March 16, 2020, President Donald Trump and the White House Coronavirus Task Force issued recommendations to the public on how to help slow the spread of the COVID-19 virus, which built upon previously released CDC guidance. These recommendations advised the public to:

- Follow the instructions of their state and local authorities;
- Stay at home if they felt sick;
- Keep children at home if they are ill;
- Keep the entire household at home, if someone in the household tests positive for the Coronavirus;
- Stay home and away from other people if you are an older American; and
- Stay home and away from other people if you are a person with a serious underlying health condition.¹²

The guidelines further encouraged the public to work or engage in schooling from home whenever possible, to avoid social gatherings of more than 10 people, use pickup or delivery options for food pick-ups, avoid discretionary travel, and to not visit nursing homes or long-term care facilities.

During the “Stay at Home” time period, some other states and local municipalities enacted more restrictive orders and established specific requirements for unique types of gatherings, such as religious services. In March 2020, a pastor in Hillsborough County, Florida, was arrested after holding an in-person church service for hundreds of his members in violation of a local ordinance prohibiting gatherings of more than 10 persons, including at religious institutions.¹³

⁹ Governor Ron DeSantis, Executive Order 2021-102 (effective May 3, 2021), available at https://www.flgov.com/wp-content/uploads/orders/2021/EO_21-102.pdf (last visited on November 10, 2021).

¹⁰ Governor Ron DeSantis, Executive Order 2021 – 101 (effective July 1, 2021), available at [LG-BIZHUB-20210503024737 \(flgov.com\)](https://www.flgov.com/LG-BIZHUB-20210503024737) (last visited on November 10, 2021).

¹¹ See Governor Ron DeSantis, Executive Order 2021-101 (effective July 1, 2021), available at https://www.flgov.com/wp-content/uploads/orders/2021/EO_21-101.pdf (last visited November 10, 2021).

¹² The White House and Centers for Disease Control, *The President’s Coronavirus Guidelines for America (March 16, 2020)*, available at https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf (last visited on October 21, 2021).

¹³ CNN, *Police arrest Florida pastor for holding church services despite stay-at-home order* (March 30, 2020), available at <https://www.cnn.com/2020/03/30/us/florida-pastor-arrested-river-church/index.html> (last visited on October 21, 2021).

The charges were eventually dropped and Governor DeSantis issued a modified Executive Order to include religious services as an essential service.

In May 2020, President Trump called on the nation’s governors to re-open religious institutions under new guidance issued by the CDC. At the time, it was estimated that more than 90 percent of houses of worship had been closed to in-person worship.¹⁴ Archived materials from the CDC from February 2021 for *Communities in Faith* encouraged worshippers to practice the same general hygiene and social distancing standards as in any other workplace or business location, suggested limits on the sharing of materials such as hymnals, prayer books, or other frequently touched books, provided modified methods for the collection of financial contributions to reduce contact, recommended limited physical contact, and asked worshippers to consider pre-packaged food options if meals were offered.¹⁵

Federal and State Law Pertaining to Religious Liberty

Provisions in the Constitutions of Florida and the United States

The relationship between religion and government in the United States is governed by the First Amendment to the United States Constitution, which prevents the government from establishing religion and protects privately initiated expression and activities from government interference and discrimination.¹⁶ Both the U.S. Constitution and the Florida Constitution contain an Establishment Clause, Free Exercise Clause, and protect individual freedom of speech and expression.¹⁷

The First Amendment’s Equal Protection Clause provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.

Similarly, Article I, section 3 of the Florida Constitution states:

There shall be no law respecting the establishment of religion, or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety.

Establishment Clause

The Establishment Clause of the First Amendment to the U.S. Constitution requires the government to maintain neutrality in its treatment of religion. Quoting from its decision in *Sherbert v. Verner*, the U.S. Supreme Court notes that the “door of the Free Exercise Clause

¹⁴ National Public Radio, *President Trump Sides with Churches Asserting a Right to Reopen* (May 23, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/05/23/861386816/president-trump-sides-with-churches-asserting-a-right-to-reopen> (last visited on October 21, 2021).

¹⁵ Centers for Disease Control and Prevention, *Considerations for Communities of Faith* (Updated February 19, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/faith-based.html> (last visited on October 21, 2021).

¹⁶ U.S. CONSTITUTION. Amend. I.

¹⁷ U.S. CONSTITUTION. Amend. 1; FLA. CONSTITUTION, Art. 1, sections 3 and 4.

stands tightly closed against any governmental regulation of religious beliefs as such,”¹⁸ and a regulation may appear to be neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion.¹⁹

The incorporation of the Fourteenth Amendment into the First Amendment protections extended the Congressional prohibition from making any law respecting the establishment of religion or prohibiting the free exercise of religion to also include actions by the states. The first court case appeared in 1931, *Stromberg v. California*, and additional protections were presented in *Cantwell v. Connecticut* in 1940.²⁰ The *Cantwell* court said:

The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. The constitutional inhibition of legislation on the subject of religion has a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts – freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection. In every case, the power to regulate must be so exercised or not, in attaining a permissible end, unduly to infringe the protected freedom.²¹

Free Speech and Expression

However, the right to practice religious freedom is not absolute. In the United States Supreme Court case, *Reynolds v. United States*, 98 U.S. 145 (1879), a case which addressed a federal statute outlawing bigamy and some worshippers under the Church of Latter Day Saints which believed their religion mandated the practice, the Court upheld his conviction and the authority that Congress had to outlaw bigamy. The Court said, “Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and, in effect permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.”²² Additional precedent which applied protection under the Equal Protection Clause of the Fourteenth Amendment was decided in *Prince v. Massachusetts* during the October 1943 term, when the

¹⁸ Quoting from *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

¹⁹ *Wisconsin v. Yoder*, 406 U.S. 205, 220. In *Yoder*, the respondents had been convicted of violating the state’s compulsory school attendance law which required all children to attend school until the age of 16. The Yoders and other respondents had withdrawn their children after the eighth grade in accordance with their Amish religious beliefs.

²⁰ See *Stromberg v. California*, 283 U.S. 359. In *Stromberg*, a young camp counselor was charged with violating the state penal code for displaying a red flag in a public place under one of three conditions related to government opposition or incitement of violence. After being found guilty, she appealed on the grounds that the conviction was a violation of her free speech. The majority opinion of the U.S. Supreme Court stated that free speech, including certain nonverbal expressive conduct such as waving a red flag, was protected under the First Amendment and made clear that the First Amendment applied to state actions. States could place limits on speech which incited violence or threatened the overthrow of the government.

²¹ *Cantwell, et al v. Connecticut*, 310 U.S. 296, 303-304 (1940).

²² *Reynolds v. United States*, 98 U.S.145, 166-167. (1879)

United States Supreme Court further recognized that the right to practice religion was not an unlimited privilege, however; stating, “the right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death.”²³ The court stated that while “religious training and activity, whether performed by adult or child, are protected by the Fourteenth Amendment against interference by state action, except insofar as they violate reasonable regulations adopted for the protection of the public health, morals and welfare.”²⁴

During the issuance of *Stay at Home Orders* by state officials and local governments during the COVID-19 pandemic, churches and religious organizations challenged some of those orders which had resulted in the suspension of in-person religious services or those which limited in-person services or gatherings in general to a certain number of persons or households. These challenges alleged that such orders were unconstitutional on several grounds: The free exercise of religion, right to assembly, and the equal protection clause under the First Amendment and the Fourteenth Amendment.

In some states, social distancing standards, group sizes, or meeting limitations varied based on essential or non-essential services, the type of entity (commercial, non-commercial, religious, bar, or restaurant), or the infection levels in a given area. Concerns were raised in different court filings and orders which specifically identified what the parties believed were unique situations for religious gatherings as opposed to other gatherings such as the potential length of services and extended contact between worshippers, exposure to singing or chanting, clusters of large groups in enclosed spaces, multiple households from within and without the area in a confined indoor area, and the ability to deliver religious services through alternative means.²⁵ State or local governments often argued that the pandemic warranted unique actions and that such actions met a compelling governmental interest.

However, a law that burdens religious practices need not be justified by a compelling governmental interest if it is neutral and of general applicability, meaning that the provision would apply uniformly to all similarly situated entities.²⁶ If such laws do restrict or infringe solely upon religious practices, then the law will be subject to strict scrutiny as to whether it can be justified by a compelling state interest and is it narrowly drawn to satisfy that state interest or is there another less restrictive means available to further the government’s compelling interest. One of the first applications of strict scrutiny and review for a compelling governmental interest was the U.S. Supreme Court case, *Jacobson v. Massachusetts* in 1905, which recognized that the state acting under its police powers could require individuals to be vaccinated for smallpox or face a fine. “The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community.”²⁷

²³ *Prince v. Massachusetts*, 321 U.S.158, 166-167 (1943).

²⁴ *Prince v. Massachusetts*, 321 U.S. 158, 172 (1943).

²⁵ See *South Bay United Pentecostal Church, et al v. Newsom*, 592 U.S. ____ (2021), *Roman Catholic Diocese of Brooklyn, New York v. Cuomo*, 592 U.S. ____ (2020), *Calvary Chapel Dayton Valley v. Sisolak*, 591 U.S. ____ (2020), and *Legacy Church v. Kunkel*, 455 F.Supp. 3d 1100 (D.N.M. 2020).

²⁶ *Church of the Lukumi Babulu Aye, Inc. v. et al v. City of Hialeah*, 508 U.S. 520, 531 (1993), citing *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990).

²⁷ *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).

COVID-19 Legal Challenges

California, Illinois, Kentucky, Minnesota, New York, and New Mexico are examples of states which imposed restrictions on various types of gatherings during the height of the COVID-19 pandemic, including some restrictions which were unique to religious gatherings. Injunctions were filed with disparate outcomes from Spring 2020 through the Summer 2021. Several cases reached the United States Supreme Court. In California, the United States Court of Appeals for the Ninth District, initially found in favor of the Governor's COVID-19 in-person restrictions as they applied to worship services in an October 2020 ruling finding that the restrictions did not treat secular and religious activities differently; however, this ruling was then appealed to the United States Supreme Court. At that time, California was the only state to ban all indoor religious activities. Restrictions in New Mexico were also upheld in federal court in the Spring of 2020 as the court found that the state's orders did not violate the free exercise of religion because the order was neutral and generally applicable with no evidence of religious animus, was in the public's interest to achieve limits in the state's COVID-19 outbreak, and met a compelling state interest.²⁸ These factors had to be balanced against the public's right to gather.

In November 2020, the United State Supreme Court enjoined enforcement of executive orders in the state of New York relating to specific attendance limits at religious services based on certain areas classified as red or orange zones. The government classified these zones based on their COVID-19 infection rates. In a red zone, for example, religious services were capped at no more than 10 persons and in an orange zone, the limit was 25.²⁹ However, in the same red zone where a religious organization was limited to 10 individuals, a business that was identified as "essential" was permitted to admit as many persons as they wished and in an orange zone, a non-essential business could admit as many patrons as they determined was appropriate.³⁰ The court found that because these restrictions were not rules of general applicability, they must satisfy "strict scrutiny" and must be "narrowly tailored to serve a compelling state interest."³¹ While the court admitted to not being public health experts, the opinion stated:

Members of this Court are not public health experts, and we should respect the judgment of those with special expertise and responsibility in this area. But even in a pandemic, the Constitution cannot be put away and forgotten. The restrictions at issue here, by effectively barring many from attending religious services, strike at the very heart of the First Amendment's guarantee of religious liberty. Before allowing this to occur, we have a duty to conduct a serious examination of the need for such a drastic measure.³²

The United States Supreme Court in *Harvest Rock, et al v. Newsom, Governor of Ca.*, remanded the case to the Ninth District Court of Appeals for further consideration in light of the court's

²⁸ *Legacy Church, Inc. v. Kathyleen M. Kunkel and the State of New Mexico*, 455 F.Supp.3d 1100(D.N.M. 2020).

²⁹ *Roman Catholic Diocese of Brooklyn, New York, v. Andrew M. Cuomo, Governor of New York*, 592 U.S. _____(2020) (slip op., at 3).

³⁰ *Roman Catholic Diocese of Brooklyn, New York, v. Andrew M. Cuomo, Governor of New York*, 592 U.S. _____(2020) (slip op., at 3).

³¹ *Roman Catholic Diocese of Brooklyn, New York, v. Andrew M. Cuomo, Governor of New York*, 592 U.S. _____(2020) (slip op., at 4).

³² *Roman Catholic Diocese of Brooklyn, New York, v. Andrew M. Cuomo, Governor of New York*, 592 U.S. _____(2020) (slip op., at 6).

ruling in *Roman Catholic Diocese of Brooklyn, New York v. Cuomo*, 592 U.S. ____ (2020). A subsequent court ruling in February 2021 under *South Bay United Pentecostal Church, et al, v. Newsom*, 592 U.S. ____ (2021) was also taken into consideration when the Ninth District Court of Appeals re-heard the *Harvest Rock* request for injunctive relief on remand. Speaking in *South Bay*, Justice Barrett said in her concurring statement, “The whole point of strict scrutiny is to test the government’s assertions, and our precedents make plain that it has always been a demanding and rarely satisfied standard. Even in times of crisis - perhaps especially in times of crisis - we have a duty to hold governments to the Constitution.”³³ By April 2021, the United States Supreme Court had noted in *Tandon v. Newsom*, that this case was the fifth time the Court had summarily rejected the California’s Blueprint System and COVID-19 restrictions on religious exercises.³⁴

Religious Freedom Restoration Acts

The Religious Freedom Restoration Act of 1993

In 1993, Congress passed the Religious Freedom Restoration Act (RFRA) to establish rights which exceeded those found under the free exercise of religion clause of the United States Constitution.³⁵ The legislation created a heightened standard of review for government actions that substantially burden an individual’s right to practice his or her religion. The legislation further prohibits a substantial burden on an individual’s right to practice religion even if the burden is the result of a rule of general applicability unless the rule fulfills a compelling governmental interest and it represents the least restrictive means of achieving that compelling government interest.³⁶ Congress acted in 1993 following the Supreme Court’s decision in *Employment Division v. Smith* whereby two members of a Native American tribe were denied unemployment benefits after they were fired for using peyote, a Schedule I controlled substance, as part of a religious ceremony.³⁷ In upholding the denial of benefits to the two members of the Native American tribe, the Court discussed how it would not apply the balancing test of *Sherbert* to require exemptions saying that such exceptions were better handled through an individualized government assessment process and not the courts.³⁸

The original federal legislation included all government action – federal, state, and local. However, the reach of RFRA was reduced following a decision in *City of Boerne v. Flores* in 1997 when the Court held that the federal statute could not reach beyond the federal government.³⁹ In 2000, Congress passed the *Religious Land Use and Institutionalized Persons Act of 2000* which implemented a compelling interest test for specific types of state actions on land use regulations or the development of land. Additional regulations are also extended to any state or local government who accepts federal assistance to prohibit substantial burdens on individuals who are in institutions and their exercise of religious freedom. An institution is defined as a jail, prison, correctional facilities, or institutions for the mentally ill or for juveniles awaiting trial.⁴⁰

³³ *South Bay United Pentecostal Church v. Newsom*, 592 U.S. ____ (2021); Justice Barrett concurring opinion.

³⁴ *Ritesh Tandon, et al v. Gavin Newsom, Governor of California, et al*, 593 U.S. ____ (2021) (slip op., at 4).

³⁵ *Religious Freedom Restoration Act of 1993*, Pub. L. 103-141(1993).

³⁶ *Religious Freedom Restoration Act of 1993*, Pub. L. 103-141, §2 (1993).

³⁷ See *Employment Division v. Smith*, 494 U.S. 872 (1990).

³⁸ *Employment Division v. Smith*, 494 U.S. 872, 883-884 (1990).

³⁹ *City of Bourne v. Flores*, 521.U.S. 507 (1997).

⁴⁰ *Religious Land Use and Institutionalized Persons Act of 2000*, Pub.L. 106-274, §8 (2000).

Florida Religious Freedom Restoration Act of 1998

Additionally, Florida adopted the Religious Freedom Restoration Act (FRFRA), in 1998 following the *City v. Boerne* decision, to specifically protect an individual's right to the free exercise of religion and to create a cause of action for infringement by the state on an individual's free exercise of religion similar to the one created under the federal RFRA.⁴¹

The FRFRA provides that, as a general matter, the government may not substantially burden a person's free exercise of religion. However, the government may substantially burden a person's exercise of religion if the government demonstrates that the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. The "Whereas clauses" of the FRFRA legislation establish through several paragraphs the legislative intent to confirm that Florida uses the compelling interest test set forward in *Sherbert v. Verner* and *Wisconsin v. Yoder* in situations where the free exercise of religion is substantially burdened.⁴²

State Health Officer

In Florida, the State Health Officer⁴³ is exclusively responsible for declaring a "public health emergency," which includes natural or manmade occurrences that result or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters.⁴⁴ Before declaring a public health emergency, the State Health Officer must, to the extent possible, consult with the Governor and notify the Chief of Domestic Security.⁴⁵ A public health emergency may not continue longer than 60 days unless the Governor concurs in the renewal of the declaration.⁴⁶

Upon declaration of a public health emergency, the State Health Officer is required to establish by order, the method and procedure for the identification and report of cases and deaths involving the infectious disease or other basis for the declared public health emergency. The declaration empowers the State Health Officer to take actions necessary to protect the public health, including, but not limited to:

- Directing manufacturers of prescription drugs or over-the-counter drugs to give priority shipping of specified drugs to certain pharmacies and hospitals;
- Directing pharmacies to compound bulk prescription drugs;
- Temporarily reactivating inactive licenses of certain healthcare professionals; and
- Ordering an individual to be examined, tested, treated, isolated, or quarantined.⁴⁷

⁴¹ Section 761.03, Florida Statutes. *See also* Chapter Law 98-412. s. 3.

⁴² Chapter Law 98-412, Laws of Florida.

⁴³ The head of the Department of Health is the Surgeon General and the State Health Officer. Section 20.43(2), F.S.

⁴⁴ Section 381.00315, F.S.

⁴⁵ The Chief of Domestic Security is the executive director of the Department of Law Enforcement or his or her designee. Section 943.0311(1), F.S.

⁴⁶ Section 381.00315(2)(b), F.S.

⁴⁷ Section 381.00315(2)(d), F.S. This section was amended during the 2021 Special Session B to remove the power to vaccinate from the Surgeon General. *See* Chapter Law 2021-275.

State Emergency Management Act

The State Emergency Management Act, ch. 252, F.S., was enacted to be the legal framework for this state’s emergency management activities, recognizing the state’s vulnerability to a wide range of emergencies, including natural, technological, and manmade disasters.⁴⁸ The act creates the Division of Emergency Management (division) within the Executive Office of the Governor and grants the division with powers and duties necessary to mitigate the vulnerability of life, property, and economic prosperity due to natural and manmade disasters.⁴⁹ The responsibilities of the division include:

- Carrying out the State Emergency Management Act;
- Preparing for and efficiently responding to public health emergencies;
- Minimizing the negative effects of a pandemic or other extended state of emergencies. These negative effects include school and business closures, which can negatively impact families and the economy;
- Ensuring transparency of all aspects of emergency preparedness, response, and recovery;
- Incorporating a shelter component that includes specific regional and interregional planning provisions to ensure adequate public shelter space in every region of the state;
- Developing and maintaining a postdisaster response and recovery component for minor, major, and catastrophic levels of disaster; include a communications plan and rapid impact assessment teams and systems for acceptance of donations;
- Maintaining a comprehensive statewide program of emergency management;
- Addressing the need to coordinate state resources such as the National Guard, statewide urban search and rescue teams, mutual aid agreements, and a comprehensive communications plan; and
- Coordinating with efforts of the federal government with other departments and agencies of state government, with county and municipal governments and school boards, and with private entities that have a role in emergency management.⁵⁰

The act also delineates the Governor’s authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. This authority is subject in some aspects to the Legislature’s authority. For example, the Legislature may pass a concurrent resolution to end a state of emergency declared by the Governor. During the 2021 Legislative Session, the act was amended to specifically address Florida’s vulnerability to public health emergencies and to emergencies of an extended nature, including identifying the department’s role in public health emergencies, and adding specific definitions for “personal protective equipment” and “public health emergency.”⁵¹

III. Effect of Proposed Changes:

Section 1 creates Section 252.64, Florida Statutes, to prohibit emergency orders either directly or indirectly from restricting religious institutions from conducting religious services or activities during a state of emergency. However, an emergency order may prohibit religious institutions

⁴⁸ Section 252.311(1), F.S.

⁴⁹ Sections 252.32(1)(a) and 252.34(3), F.S.

⁵⁰ Section 252.35(1) and (2), F.S.

⁵¹ Section 252.34 (9) and (11), F.S.

from conducting activities if there is a general provision in the emergency order which applies uniformly to all entities in a jurisdiction and such action fulfills a compelling governmental interest and it is the least restrictive means to fulfill that governmental interest.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Local subdivisions and counties that may issue their own local emergency orders would be prohibited from issuing any orders which included criteria or conditions which were more restrictive or which are not consistent with the components contained in this bill.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill addresses federal and state constitutional rights to freedom of religion and speech and appears to be consistent with current provisions of federal law, state law, and court opinions interpreting the right to these freedoms under the federal and state constitutions. These laws and court opinions were addressed under the present situation section.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Religious institutions may incur an indeterminate fiscal impact if an emergency order, in its uniform application, prohibited religious services or activities. Rather than meeting in-person, such institutions may incur costs to establish alternative means of gathering to deliver religious services or activities to their members.

C. Government Sector Impact:

The fiscal impact of this bill indeterminate. The degree of possible fiscal impact will vary according to the extent of increased litigation. To the extent increased litigation against a governmental entity results from the modifications to this Act, then state and local governments will have to defend against such litigation. Litigation involves expenses, including attorneys' fees. Furthermore, any relief granted against the state may have a fiscal impact. This indeterminate amount of resulting litigation will have a fiscal impact on the courts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 252.64 of the Florida Statutes.

IX. Additional Information:

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

CS by Rules on January 13, 2022:

The CS modifies the prohibition on religious activities under an emergency order to clarify that such an order may not “directly or indirectly” prohibit religious activities rather than “expressly” prohibiting such activities under an emergency order.

- B. **Amendments:**

None.



294268

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2022	.	
	.	
	.	
	.	

The Committee on Rules (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete line 17
and insert:
directly or indirectly prohibit a religious institution from
conducting

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

And the title is amended as follows:

Delete line 5
and insert:



294268

12 | not directly or indirectly prohibit religious services
13 | or

By Senator Brodeur

9-00018-22

2022254__

A bill to be entitled

An act relating to religious institutions; creating s. 252.64, F.S.; defining the term "religious institution"; providing that an emergency order may not expressly prohibit religious services or activities; providing an exception under certain circumstances; providing an effective date.

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

Section 1. Section 252.64, Florida Statutes, is created to read:

252.64 Protection of religious institutions.-

(1) For purposes of this section, the term "religious institution" has the same meaning as in s. 496.404.

(2) An emergency order authorized by this part may not expressly prohibit a religious institution from conducting regular religious services or activities. However, a general provision in an emergency order which applies uniformly to all entities in the affected jurisdiction may be applied to a religious institution if the provision is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Health Policy, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Community Affairs

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR JASON BRODEUR

9th District

December 1, 2021

Honorable Kathleen Passidomo
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Passidomo,

I am writing to request that **SB 254, Religious Institutions**, be placed on the agenda to be heard in the Rules Committee.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur".

Jason Brodeur

Cc: John Phelps, Staff Director
Tom Yeatman, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

□ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

1/13/21 Meeting Date

Rules Committee

254 Bill Number or Topic

294268 Amendment Barcode (if applicable)

Name Aaron G. DiPietro Phone 904-608-4471

Address 4853 S. Orange Ave. Email aaron.d@flfamily.org

Orlando FL 32806 City State Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: Florida Family Policy Council & Florida Family Action

[] 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

1/13/21

Meeting Date

RULES

Committee

SB 254

Bill Number or Topic

294268

Amendment Barcode (if applicable)

Name

BILL BUNKLEY

Phone

813.264.2977

Address

PO BOX 341644

Email

BILL@FERIC.ORG

Street

TAMPA

State

FL

Zip

33694

City

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

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

1/13/21

Meeting Date

SB 254

Bill Number or Topic

RULES

Committee

Amendment Barcode (if applicable)

Name

BILL BUNKLEY

Phone

813-264-2977

Address

PO BOX 341644

Email

BILL@FERIC.ORG

Street

TAMPA

FL

33694

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 ETHICS AND RELIGIOUS LIBERTY COMMISSION

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/13/2022

Meeting Date

Rules

Committee

254

Bill Number or Topic

Amendment Barcode (if applicable)

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

Name Christie Arnold

Phone 850-205-6826

Address 201 West Park Avenue

Email earold@flacathconf.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 Conference of Catholic Bishops

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SM 302

INTRODUCER: Senator Burgess

SUBJECT: Recognizing Veteran Suicide

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Brown</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SM 302 is a memorial to the Congress of the United States, urging Congress to recognize the epidemic of suicide among veterans and to fully fund suicide prevention activities of the United States Department of Veterans Affairs.

Both state and national statistics show a greater than 40 percent higher rate of suicide among veterans compared to the general population.

The memorial requires copies to be dispatched to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and to each member of the Florida delegation of the U.S. Congress.

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

II. Present Situation:

Veteran Population and Demographics

As of 2017, 20 million veterans live in the United States, of which nearly 2 million are women.¹ Only about half of veterans nationally receive or access at least one benefit from the Veterans Administration.²

¹ U.S. Dep't of Veterans Affairs, *National Strategy for Preventing Veteran Suicide, 2018-2028*, available at https://www.mentalhealth.va.gov/suicide_prevention/docs/Office-of-Mental-Health-and-Suicide-Prevention-National-Strategy-for-Preventing-Veterans-Suicide.pdf (pg. 5).

² *Id.*

Third to only California and Texas, Florida has more than 1.5 million veterans.³ Of these:

- 1.17 million are wartime veterans;
- 350,000 are peacetime veterans;
- 31,000 are World War II veterans;
- 105,000 are Korean War veterans;
- 498,000 are Vietnam-era veterans;
- 188,000 are Gulf War veterans; and
- 177,494 are Post-9/11 veterans.⁴

Mental Health of Veterans

Veterans are known to have higher levels of mental distress than non-veterans. In a 2014 study, almost 1 in 4 veterans showed symptoms of mental illness.⁵ Predominant mental health diagnoses among veterans are:

- Posttraumatic Stress Disorder (PTSD) at a rate of 15 times that of the general population;
- Depression at a rate of 5 times that of the general population; and
- Traumatic Brain Injury (TBI).⁶

Veterans who have a diagnosable mental health illness are at a much higher risk of suicide than veterans without mental illness. A 2017 study of Veterans Health Administration patients (VHA) shows a more than double rate of suicide among veterans with a mental health or substance use disorder than persons without these diagnoses.⁷

Substance Use Disorder by Veterans

Substance use is considered to constitute a substance use disorder if the:

Recurrent use of alcohol and/or drugs causes clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home.⁸

Substance use disorder is marked among veterans, the most prevalent being alcohol binge drinking and at a higher rate of use than by non-veterans.⁹ The rate of illegal drug use, primarily marijuana (marijuana use for recreational purposes is still illegal in most states) is about the same

³ Florida Dep't of Veterans' Affairs, *Fast Facts*, available at <https://www.floridavets.org/our-veterans/profilefast-facts/> (last visited Oct. 21, 2021).

⁴ *Id.*

⁵ National Institute on Mental Illness (NAMI); *Veterans & Active Duty* (pg. 1), available at <https://www.nami.org/Your-Journey/Veterans-Active-Duty> (last visited Oct. 25, 2021).

⁶ *Id.*

⁷ The rate of suicide among VHA patients with mental health illness at the time of the study was 57 patients per 100,000. Rand Corporation, *Suicide Among Veterans/Veterans' Issues in Focus*, available at <https://www.rand.org/pubs/perspectives/PEA1363-1.html> (last visited Oct. 22, 2021) (pg. 4).

⁸ Substance Abuse and Mental Health Services Administration, U.S. Dep't of Health and Human Services, *Mental Health and Substance Use Disorders*, available at <https://www.samhsa.gov/find-help/disorders> (last visited Oct. 25, 2021).

⁹ National Center for Biotechnology Information (NCBI), U.S. National Library of Medicine, *Substance Use Disorders in Military Veterans: Prevalence and Treatment Challenges*, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5587184/> (pg. 3).

for veterans and the general population.¹⁰ Despite efforts by the VHA and other agencies in recent decades to reduce substance use disorder among veterans, rates continue to increase.¹¹ This is especially so for prescription opioid use.¹² Substance use disorder is correlated to medical ailments, other psychiatric disorders, relationship and employment impairment, and increased rates of suicidal ideation, attempts, and completion.¹³ In a study on military personnel, researchers found that 30 percent of suicides were preceded by alcohol or drug use, while 20 percent of high-risk behavior deaths were attributed to alcohol or drug overdose.¹⁴

Military Sexual Trauma

Military sexual trauma is an occurrence or occurrences of sexual harassment or sexual assault that has taken place during military service.¹⁵ Researchers have found a clear association between military sexual trauma and suicide.¹⁶ Early data finds that 1 of 4 survivors of military sexual trauma report non-suicidal self-injury.¹⁷ Relatedly, non-suicidal self-injury correlates to suicidal ideation, planning, and attempts.¹⁸

Suicide Rates Attributed to Service During Post 9/11 Conflict

An estimated cumulative 7,057 servicemembers have died in service throughout the Post 9/11 era. A much higher rate of 30,000 active duty personnel and veterans who previously served during the Post-9/11 era have died by suicide, or 4 times as many that died in service.¹⁹ Identified causes vary.

There are clear contributors to suicidal ideation like high exposure to trauma [(mental, physical, moral, and sexual),] stress and burnout, the influence of the military's hegemonic masculine culture, continued access to guns, and the difficulty of reintegrating into civilian life. ... [W]e must also examine unique elements of the U.S. post-9/11 wars. ... [W]e have seen a tremendous rise of improvised explosive devices (IEDs) in warfare, significantly increasing the number of traumatic brain injuries (TBIs), and polytrauma cases among service members.²⁰

¹⁰ *Id.* at 4.

¹¹ *Id.* at 2.

¹² *Id.* at 4.

¹³ *Id.* at 2.

¹⁴ *Id.*

¹⁵ U.S. Dep't of Veterans Affairs, *Military Sexual Trauma -- A Risk Factor for Suicide*, available at https://www.mentalhealth.va.gov/suicide_prevention/docs/Literature-Review-Military-Sexual-Trauma-CLEARED-3-5-19.pdf.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Thomas Howard Suitt, III, Watson Institute, International & Public Affairs, Brown University, *High Suicide Rates among United States Service Members and Veterans of the Post-9/11 Wars*, available at https://watson.brown.edu/costsofwar/files/cow/imce/papers/2021/Suitt_Suicides_Costs%20of%20War_June%2021%202021.pdf (June 21, 2021) (pgs. 1, 3).

²⁰ *Id.* at 3-4.

As many as 20 percent of post-9/11 servicemembers have experienced TBI's, with many exposed to repetitive damage.²¹

Suicide Rates Disparity between Veterans and Non-Veterans

From the latest data reported for 2019, 553 veterans died by suicide in Florida, 524 men and 29 women, while nationally, 6,261 veterans died by suicide.²² Suicide rates are highest among the youngest veterans, aged 18-29 years of age.²³ In comparing suicide rates between the veteran and non-veteran population, in 2019 the rate of suicide by the general population in Florida is 19.6 per 100,000 persons while that for Florida veterans, is 35.7.²⁴ A similar disparity applies at the national level, 18.0 per 100,000 for the general population and 31.6 for veterans.²⁵ More than 70 percent of the time, a firearm was used to die by suicide.²⁶

That the Covid pandemic contributed to a significant increase in feelings of loss, anxiety, and depression is well-documented.²⁷ Lesser known is the impact of the pandemic on suicide and if there is one, any changes that occur over a period of time. Also unknown at this time is whether the marked disparity in rates of suicide between veterans and non-veterans will trend differently in coming years.

Suicide Intervention Programs

Suicide prevention is a top clinical priority of the U.S. Department of Veterans Affairs. In 2018, the department implemented a 10-year strategy for preventing veteran suicide.²⁸ This approach to suicide prevention involves a veteran's family, peers, and community. The plan also includes specific outreach to veterans who do not access services of the VA.²⁹

Initiatives include:

- Enhancing mental health services for veterans who are women;
- Broadening telehealth;
- Developing free-of-charge mobile applications for veterans and their families;
- Improving access to mental health care; and
- Helping families of veterans by telephone.³⁰

²¹ *Id.* at 4.

²² U.S. Dep't of Veterans Affairs, *Florida Veteran Suicide Data Sheet, 2019*, available at <https://www.mentalhealth.va.gov/docs/data-sheets/2019/2019-State-Data-Sheet-Florida-508.pdf>.

²³ U.S. Dep't of Veterans Affairs, *National Strategy for Preventing Veteran Suicide, 2018-2028*, *supra* note 1 at 7.

²⁴ U.S. Dep't of Veterans Affairs, *Florida Veteran Suicide Data Sheet, 2019*, *supra* note 22.

²⁵ *Id.*

²⁶ *Id.*

²⁷ KFF, *The Implications of COVID-19 for Mental Health and Substance Use* (Feb. 10, 2021), available at <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/> (last visited Nov. 3, 2021).

²⁸ U.S. Dep't of Veterans Affairs, *National Strategy for Preventing Veteran Suicide, 2018-2028*, *supra* note 1.

²⁹ *Id.* at 1.

³⁰ *Id.* at 11.

In implementing its plans, the VA partners with other government agencies and organizations at both the national and local level to share information and training on suicide prevention.³¹ To reach suicide prevention at the state level, the VA, along with the Substance Abuse and Mental Health Service Administration (SAMHSA), initiated the “Governor’s Challenge to Prevent Suicide Among Service Members, Veterans, and their Families.”³² The goal of this program is to implement a uniform comprehensive suicide prevention plan, from the national to the state level. To date, 35 states have joined the challenge.³³ Florida is a member.³⁴

The Veterans COMPACT Act of 2020 enables the Veterans Administration to implement programs providing mental health assistance to transitioning servicemembers and improving services for veterans who are women. The law also authorizes a non-VA facility to get reimbursed for providing a veteran emergent suicide care.³⁵

Most recently, in November 2021, the White House unveiled a plan to advance a comprehensive, cross-sector, evidence-based strategy for reducing suicide rates among servicemembers and veterans.³⁶ This plan adds several priority goals to the existing and ongoing comprehensive plan, which are:

- Improving lethal means safety, by inserting time and distance between a person in crisis and access to lethal means, such as a firearm or medication;
- Enhancing crisis care and facilitating care transitions, including stabilization services;
- Increasing access to and delivery of evidence-based treatment;
- Addressing upstream risk (leading up to crisis) and protective factors in furthering prevention efforts; and
- Bridging interagency coordination.³⁷

Memorial

A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor’s approval nor is it subject to a veto.

³¹ *Id.*

³² U.S. Dep’t of Veterans Affairs, *2021 National Veteran Suicide Prevention Report* (Sept. 2021) (pg. 13), available at <https://www.mentalhealth.va.gov/docs/data-sheets/2021/2021-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-9-8-21.pdf>.

³³ *Id.* at 14.

³⁴ Substance Abuse and Mental Health Services Administration (SAMHSA), U.S.. Dep’t of Health & Human Services, *Governor’s and Mayor’s Challenges to Prevent Suicide Among Servicemembers, Veterans, and their Families*, available at <https://www.samhsa.gov/smvf-ta-center/mayors-governors-challenges> (last visited Nov. 5, 2021).

³⁵ Veterans COMPACT Act of 2020 (Pub. L. No. 116-214).

³⁶ The White House, *Reducing Military and Veteran Suicide: Advancing a Comprehensive, Cross-sector, Evidence-informed Public Health Strategy*, available at <https://www.whitehouse.gov/wp-content/uploads/2021/11/Military-and-Veteran-Suicide-Prevention-Strategy.pdf>

³⁷ *Id.* at 8-9.

III. Effect of Proposed Changes:

SM 302 is a memorial to the Congress of the United States, urging Congress to recognize the epidemic of suicide among veterans and to fully fund suicide prevention activities of the United States Department of Veterans Affairs.

Both state and national statistics show a greater than 40 percent higher rate of suicide among veterans in comparison to the general population.

The memorial requires copies to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation of the United States Congress.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Burgess

20-00472-22

2022302__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to recognize the epidemic of suicide among veterans and to fully fund suicide prevention efforts of the United States Department of Veterans Affairs.

WHEREAS, according to the 2020 National Veteran Suicide Prevention Annual Report published by the United States Department of Veterans Affairs, there was an average of 17.6 veteran suicides per day in 2018, totaling 6,435 veteran suicides that year, and

WHEREAS, the department has found that veterans who die by suicide are more likely than the civilian population to have experienced sleep disorders, chronic pain, or traumatic brain injuries or to have received diagnoses of mental health conditions such as posttraumatic stress disorder, bipolar disorder, personality disorder, substance use disorder, schizophrenia, depression, and anxiety, and

WHEREAS, some veterans have reported difficulty in transitioning to civilian employment, as their highly developed skills obtained during military service may not translate to higher level civilian jobs, and the resulting economic struggles, which may include unemployment, poverty, and homelessness, are shown to be risk factors for veteran suicide, and

WHEREAS, the United States Department of Veterans Affairs' Veteran Crisis Line is the world's largest provider of crisis call, text, and chat services for veterans, receiving

Page 1 of 3

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

20-00472-22

2022302__

approximately 650,000 calls per year, and

WHEREAS, the department has made significant progress in the area of suicide prevention through clinical research, the development and testing of evidence-based psychotherapy methods and medications, and behavioral, complementary, and alternative approaches to treating veterans with posttraumatic stress disorder and other mental health conditions, and

WHEREAS, the department is partnered with hundreds of national and local organizations and corporations, including veterans service organizations, professional sports teams, and major employers, in order to raise awareness of its suicide prevention resources and to educate the public about supporting veterans and servicemembers in their communities, and

WHEREAS, although RAND Corporation studies have found that the United States Department of Veterans Affairs outperforms other systems in the area of mental health care, the rising trend in veteran suicides continues to plague the men and women who selflessly served in the United States Armed Forces and devastate their families, friends, and loved ones, NOW, THEREFORE,

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

That the Congress of the United States is urged to recognize the current crisis of veteran suicide and to fully fund suicide prevention efforts undertaken by the United States Department of Veterans Affairs.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the

Page 2 of 3

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

20-00472-22

2022302__

59 President of the United States Senate, to the Speaker of the
60 United States House of Representatives, and to each member of
61 the Florida delegation to the United States Congress.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: January 5, 2022

I respectfully request that **Senate Memorial #302**, relating to Recognizing Veteran Suicide, be placed on the:

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

A handwritten signature in cursive script that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/13/22
Meeting Date

SB 302
Bill Number (if applicable)

Topic RECOGNIZING VETERANS SUICIDE

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title CEO, FLASSO OF MANAGING ENTITIES

Address 122 S CALHAN STREET

Phone (850) 570 5747

Street

TALLAHASSEE

FL

32301

Email NATALIE@FLMANAGINGENTITIES.COM

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 JAN 2022

SB302

Meeting Date

Bill Number (if applicable)

Topic Recognizing Veteran Suicide

Amendment Barcode (if applicable)

Name James "Hammer" Hartsell, Major General, USMC (Ret),

Job Title Executive Director

Address 400 S. Monroe Street Ste 2105

Phone 850-487-1533

Street

Tallahassee

FL

32399

Email HartsellJ@FDVA.State.FL.US

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Veterans' Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 312

INTRODUCER: Senator Diaz

SUBJECT: Telehealth

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
3.	<u>Smith</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 312 removes a provision in the definition of “telehealth” that excludes audio-only telephone calls. The bill also amends a provision that, in practice, will allow a telehealth provider to issue a renewal prescription for a controlled substance listed in Schedule III, IV, or V of s. 893.03, F.S., through telehealth, within the scope of his or her practice, and in accordance with other state and federal laws. Currently, telehealth providers are prohibited from prescribing controlled substances through telehealth unless the prescription is for the treatment of a psychiatric disorder, inpatient treatment at a hospital, the treatment of a patient receiving hospice services, or the treatment of a resident in a nursing home facility.¹ The bill narrows this prohibition to the prescribing of only Schedule II controlled substances through telehealth, except under those specific circumstances.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Telehealth

Relevant Terminology

Section 456.47, F.S., defines the term “telehealth” as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. Section 456.47(1)(a), F.S., provides that the term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

¹ Section 456.47(2)(c), F.S.

“Synchronous” telehealth refers to the live, real-time, or interactive transmission of information between a patient and a health care provider during the same time period. The use of live video to evaluate and diagnosis a patient would be considered synchronous telehealth.

“Asynchronous” telehealth refers to the transfer of data between a patient and a health care provider over a period of time and typically in separate time frames. This is commonly referred to as “store-and-forward.”

Florida Telehealth Providers

In 2019, the Legislature authorized Florida-licensed health care providers² to use telehealth to deliver health care services within their respective scopes of practice. The bill became effective on July 1, 2019.³

The bill also authorized out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the Department of Health (DOH) or the applicable board⁴ and meet certain eligibility requirements.⁵ A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida.

Telehealth providers who treat patients located in Florida must be one of the licensed health care practitioners listed below⁶ and be either Florida-licensed, licensed under a multi-state health care licensure compact of which Florida is a member state, or registered as an out-of-state telehealth provider:

- Behavioral Analyst
- Acupuncturist
- Allopathic physician
- Osteopathic physician
- Chiropractor
- Podiatrist
- Optometrist
- Nurse
- Pharmacist
- Dentist
- Dental Hygienist
- Midwife
- Speech Therapist

² Section 456.47(1)(b), F.S.

³ Chapter 2019-137, s. 6, Laws of Fla.

⁴ Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH’s Division of Medical Quality Assurance.

⁵ Section 456.47(4), F.S.

⁶ Section 456.47(1)(b), F.S. These are professionals licensed under s. 393.17; part III, ch. 401; ch. 457; ch. 458; ch. 459; ch. 460; ch. 461; ch. 463; ch. 464; ch. 465; ch. 466; ch. 467; part I, part III, part IV, part V, part X, part XIII, and part XIV, ch. 468; ch. 478; ch. 480; part II and part III, ch. 483; ch. 484; ch. 486; ch. 490; or ch. 491.

- Occupational Therapist
- Radiology Technician
- Electrologist
- Orthotist
- Pedorthist
- Prosthetist
- Medical Physicist
- Emergency Medical Technician
- Paramedic
- Massage Therapist
- Optician
- Hearing Aid Specialist
- Clinical Laboratory Personnel
- Respiratory Therapist
- Physical Therapist
- Psychologist
- Psychotherapist
- Dietician/Nutritionist
- Athletic Trainer
- Clinical Social Worker
- Marriage and Family Therapist
- Mental Health Counselor

The Legislature also passed HB 7067 in 2019 that would have required an out-of-state telehealth provider to pay an initial registration fee of \$150 and a biennial registration renewal fee of \$150. Subsequently, the bill was vetoed by the Governor and did not become law.⁷

On March 16, 2020, Florida Surgeon General Scott Rivkees executed DOH Emergency Order 20-002 authorizing certain out-of-state physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S.⁸ Five days later, the Surgeon General executed DOH Emergency Order 20-003⁹ to also authorize certain out-of-state clinical social workers, marriage and family therapists, mental health counselors, and psychologists to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. These state emergency orders were extended and expired on June 26, 2021.¹⁰ Out-of-state health

⁷ Transmittal Letter from Governor Ron DeSantis to Secretary of State Laurel Lee (June 27, 2019) available at <https://www.flgov.com/wp-content/uploads/2019/06/06.27.2019-Transmittal-Letter-3.pdf> (last visited Nov. 23, 2021).

⁸ Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020) available at <http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf> (last visited Nov. 23, 2021).

⁹ Department of Health, State of Florida, *Emergency Order DOH No. 20-003* (Mar. 21, 2020) available at <https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf> (last visited Nov. 23, 2021).

¹⁰ Florida Board of Medicine, *Important Updates for Health Care Providers Regarding Expiration of Emergency Orders* (July 1, 2021) available at https://r.bulkmail.flhealthsource.gov/mk/mr/JV-U0AMitwBXIP7zcFx3Djqu1KfE1B57JaGN-mnNySmOjEY5xGSsIyII28XjOGeZ4yKv9rWQUryqAibmdrixNZdgE9Q61dmUoHRF1Rnyijg-ewyAl_rZBT8c (last visited Nov. 23, 2021).

care practitioners are no longer authorized to perform telehealth services for patients in Florida unless they become licensed or registered in Florida.

Florida Medicaid Program

The Medicaid program is a joint federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults and persons with disabilities.¹¹ The Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS) is responsible for administering the federal Medicaid program. Florida Medicaid is the health care safety net for low-income Floridians. The Agency for Health Care Administration (AHCA) administers Florida's program and state and federal funds finance the program.¹²

Medicaid enrollees generally receive benefits through one of two service-delivery systems: fee-for-service (FFS) or managed care. Under FFS, health care providers are paid by the state Medicaid program for each service provided to a Medicaid enrollee. Under managed care, AHCA contracts with private managed care plans for the coordination and payment of services for Medicaid enrollees. The state pays the managed care plans a capitation payment, or fixed monthly payment, per recipient enrolled in the managed care plan. In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with AHCA under the Statewide Medicaid Managed Care (SMMC) program.¹³

Telemedicine Coverage under the Florida Medicaid Program

Florida Medicaid covers telemedicine in both the managed care and fee-for-service delivery systems. Medicaid health plans have broad flexibility in covering telemedicine services.¹⁴ On January 30, 2020, the U.S. Secretary of the Department of Health and Human Services issued the first declaration of a national public health emergency due to COVID-19; and the declaration remains in effect today.¹⁵ Effective April 3, 2020, and throughout the COVID-19 national public health emergency, AHCA will provide for the reimbursement of audio-only telehealth services¹⁶ in the managed care and fee-for-service delivery systems when rendered by licensed physicians

¹¹ Medicaid.gov, *Medicaid*, available at <https://www.medicaid.gov/medicaid/index.html> (last visited Nov. 23, 2021).

¹² Section 20.42, F.S.

¹³ *Id.*

¹⁴ Agency for Health Care Administration, Florida Medicaid Health Care Alert, *Medicaid Telemedicine Guidance for Medical and Behavioral Health Providers* (Mar. 18, 2020) available at https://ahca.myflorida.com/Medicaid/pdf/files/provider_alerts/2020_03/Medicaid_Telemedicine_Guidance_20200318.pdf (last visited Nov. 23, 2021).

¹⁵ U.S. Department of Health and Human Services, Public Health Emergency Declarations (Oct. 15, 2021) available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx> (last visited Nov. 23, 2021). The declaration lasts for the duration of the emergency or 90 days; however the Secretary may extend it.

¹⁶ Agency for Health Care Administration, COVID-19 Medicaid Information, available at [COVID-19 Alerts Medicaid Information \(myflorida.com\)](https://www.myflorida.com/COVID-19Alerts/MedicaidInformation) (last viewed Nov. 23, 2021).

(including psychiatrists), advanced practice registered nurses, and physician assistants.^{17,18} During the public health emergency, Medicaid health plans are required to cover telemedicine services in “parity” with face-to-face services, meaning the health plan must cover services via telemedicine in a manner no more restrictive than the health plan would cover the service face-to-face.¹⁹

Under the fee-for service delivery system and in times of non-emergency, Florida Medicaid generally reimburses only for synchronous telemedicine services provided using audio-visual equipment.²⁰ Effective April 16, 2020, and throughout the national public health emergency, AHCA will provide for the reimbursement of audio-only behavioral health services for Medicaid reimbursement under the fee-for service and managed care delivery systems when video capability is not available.²¹ As a condition for reimbursement, a behavioral health provider must have documented that the enrollee did not have access to audio and video technology necessary for the service to be fully provided via telemedicine.²²

The Federal Health Insurance Portability and Accountability Act (HIPAA)²³

HIPAA Privacy Rule²⁴

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information. The HIPAA Privacy Rule sets national standards for when protected health information (PHI) may be used and disclosed. Only certain entities and their business associates are subject to HIPAA’s provisions. These “covered entities” include health plans, health care providers; and health care clearinghouses.

The Privacy Rule gives individuals privacy and confidentiality rights with respect to their protected PHI, including rights to examine and obtain a copy of their health records in the form and manner they request, and to ask for corrections to their information. In addition, the Privacy Rule permits the use and disclosure of health information needed for patient care and other important purposes.

¹⁷ Agency for Health Care Administration, *Statewide Medicaid Managed Care (SMMC) Policy Transmittal: 2020-20* (Apr. 3, 2020) available at

https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/2018-23_plan_comm/PT_2020-20_COVID-19_State-of-Emergency_Telemedicine_Services.pdf (last visited Nov. 23, 2021).

¹⁸ 2021 Senate Bill 700 also amended the definition of telehealth in s. 456.47, F.S., to include audio-only telephone calls. Agency for Health Care Administration, *Senate Bill 700 Analysis* (Feb. 15, 2021) (on file with the Senate Committee on Health Policy).

¹⁹ *Id.*

²⁰ Agency for Health Care Administration, *Senate Bill 852 Analysis* (Feb. 1, 2021) (on file with the Senate Committee on Health Policy).

²¹ Agency for Health Care Administration, Florida Medicaid Health Care Alert, *Medicaid Telemedicine Flexibilities for Behavioral Health Providers During the COVID-19 State of Emergency* (Apr. 16, 2020) available at https://ahca.myflorida.com/Medicaid/pdf/files/provider_alerts/2020_03/Medicaid_Telemedicine_Guidance_20200318.pdf (last visited Nov. 23, 2021).

²² *Id.*

²³ Centers for Medicare & Medicaid Services, *Medicare Learning Network Booklet, HIPAA Basics for Providers: Privacy, Security, and Breach Notification Rules* (May. 2021) available at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HIPAAPrivacyandSecurity.pdf> (last visited Nov. 23, 2021).

²⁴ 45 C.F.R. Part 160 and Subparts A and E of Part 164.

The Privacy Rule protects PHI held or transmitted by a covered entity or its business associate, in any form, whether electronic, paper, or verbal. PHI includes information that relates to any of the following:

- The individual's past, present, or future physical or mental health or condition;
- The provision of health care to the individual; or
- The past, present, or future payment for the provision of health care to the individual.

HIPAA Security Rule²⁵

The HIPAA Security Rule specifies safeguards that covered entities and their business associates must implement to protect electronic PHI (ePHI) confidentiality, integrity, and availability. Covered entities and business associates must develop and implement reasonable and appropriate security measures through policies and procedures to protect the security of ePHI they create, receive, maintain, or transmit. Each entity must analyze the risks to ePHI in its environment and create solutions appropriate for its own situation. What is reasonable and appropriate depends on the nature of the entity's business as well as its size, complexity, and resources.

Under the Security Rule, covered entities must:

- Ensure the confidentiality, integrity, and availability of all ePHI they create, receive, maintain, or transmit;
- Identify and protect against reasonably anticipated threats to the security or integrity of the ePHI;
- Protect against reasonably anticipated, impermissible uses or disclosures; and
- Ensure compliance by their workforce.

When developing and implementing Security Rule compliant safeguards, covered entities and their business associates may consider all of the following:

- Size, complexity, and capabilities;
- Technical, hardware, and software infrastructure;
- The costs of security measures; and
- The likelihood and possible impact of risks to ePHI.

Covered entities must review and modify security measures to continue protecting ePHI in a changing environment.

HIPAA Breach Notification Rule²⁶

The HIPAA Breach Notification Rule requires covered entities to notify affected individuals; the federal HHS; and, in some cases, the media of a breach of unsecured PHI. Generally, a breach is an impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of PHI.

The impermissible use or disclosure of PHI is presumed to be a breach unless the covered entity demonstrates a low probability that the PHI has been compromised based on a risk assessment of, at a minimum, the following factors:

²⁵ 45 C.F.R. Part 160 and Subparts A and C of Part 164.

²⁶ 45 C.F.R. Subpart D.

- The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person who used the PHI or to whom the disclosure was made;
- Whether the PHI was actually acquired or viewed; and
- The extent to which the risk to the PHI has been mitigated.

Most notifications must be provided without unreasonable delay and no later than 60 days following the breach discovery. Notifications of smaller breaches affecting fewer than 500 individuals may be submitted to HHS annually. The Breach Notification Rule also requires business associates of covered entities to notify the covered entity of breaches at or by the business associate.

Notification of Enforcement Discretion during Public Health Emergency

Covered health care providers acting in good faith will not be subject to penalties for violations of the HIPAA Privacy Rule, the HIPAA Security Rule, or the HIPAA Breach Notification Rule that occur in the good faith provision of telehealth during the public health emergency.²⁷ On March 17, 2020, the federal Department of Health & Human Services (HHS) Office for Civil Rights (OCR) issued a Notification of Enforcement of Discretion, meaning that the OCR may exercise its enforcement discretion and not pursue penalties for HIPAA violations against health care providers that serve patients through everyday communication technologies during the public health emergency.²⁸ If a provider follows the terms of the Notification and any applicable OCR guidance, it will not face HIPAA penalties if it experiences a hack that exposes protected health information from a telehealth session.²⁹

Jurisdiction and Venue for Telehealth-related Actions³⁰

For purposes of s. 456.47, F.S., any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed or in the patient's county of residence. Venue for a civil or administrative action initiated by the DOH, the appropriate board, or a patient who receives telehealth services from an out-of-state telehealth provider, may be located in the patient's county of residence or in Leon County.

Controlled Substance Prescribing through Telehealth

Controlled Substances Generally

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. This chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. The scheduling of

²⁷ U.S. Department for Health and Human Services Office for Civil Rights, *FAQs on Telehealth and HIPAA during the COVID-10 nationwide public health emergency* (Mar. 2020) available at <https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf> (last visited Nov. 23, 2021).

²⁸ Press Release, U.S. Department of Health and Human Services, *OCR Announces Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency* (Mar. 17, 2021) available at <https://www.hhs.gov/about/news/2020/03/17/ocr-announces-notification-of-enforcement-discretion-for-telehealth-remote-communications-during-the-covid-19.html> (last visited Nov. 23, 2021).

²⁹ *Supra* note 25.

³⁰ Section 456.47(5), F.S.

substances in Florida law is generally consistent with the federal scheduling of substances under 21 U.S.C. s. 812:

- A Schedule I substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples include heroin and lysergic acid diethylamide (LSD).
- A Schedule II substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples include cocaine and morphine.
- A Schedule III substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples include lysergic acid; ketamine; and some anabolic steroids.
- A Schedule IV substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples include alprazolam, diazepam, and phenobarbital.
- A Schedule V substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Examples include low dosage levels of codeine, certain stimulants, and certain narcotic compounds.

Federal Law³¹

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008³² amended the federal Controlled Substances Act, to prohibit a practitioner from issuing a “valid prescription” for a controlled substance through the Internet without having first conducted at least one in-person medical evaluation, except in certain circumstances. Thereafter, the prescriber may prescribe controlled substances to that patient via Internet or a phone call. The Act offers seven exceptions to the in-person exam. One such exception occurs when the Secretary of the federal Department of Health and Human Services (HHS) has declared a public health emergency.

Federal Guidance during the COVID-19 Public Health Emergency

On January 31, 2020, the Secretary of HHS issued a public health emergency.³³ On March 16, 2020, the federal Drug Enforcement Agency (DEA) published a COVID-19 Information page on the Diversion Control Division website, authorizing DEA-registered practitioners, authorized designated DEA-registered practitioners to issue prescriptions for all Schedule II-V controlled substances to patients without first conducting an in-person medical evaluation during the public health emergency, provided all of the following conditions are met:

³¹ 21 U.S.C. s. 829.

³² Pub. L. No. 110-425 (2008).

³³ Determination that a Public Health Emergency Exists, Alex M. Azar II, Secretary of U.S. Department of Health and Human Services (January 31, 2020) available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx> (last visited Nov. 23, 2021).

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The evaluation is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable federal and state law.³⁴

Florida Law

Under Florida law, controlled substance providers are required to conduct an in-person physical examination prior to issuing a prescription for a controlled substance.³⁵ During the 2018 legislative session, s. 456.44, F.S., was amended³⁶ to authorize prescribers to prescribe a three-day supply of a Schedule II opioid³⁷ or up to a seven-day supply if medically necessary. The prescribing limits on Schedule II opioids do not apply to prescriptions for acute pains related to cancer, a terminal condition, pain treated with palliative care, or a traumatic injury with an Injury Severity Score of 9 or higher.³⁸

That section also requires a prescriber and dispenser to report to and review the Prescription Drug Monitoring Program database known as E-FORCSE (Electronic-Florida Online Reporting Controlled Substance Evaluation) to review a patient's controlled substance dispensing history prior to prescribing or dispensing a Schedule II-IV controlled substance for patients 16 years older.³⁹ These limitations and requirements apply to practitioners providing services in-person and through telehealth.

Section 456.47(2)(c), F.S.,⁴⁰ prohibits telehealth providers from prescribing any controlled substance unless the controlled substance is prescribed for:

- The treatment of a psychiatric disorder;
- Inpatient treatment at a licensed hospital;
- The treatment of a patient receiving hospice services; or
- The treatment of a resident of a nursing home facility.

³⁴ Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, *COVID-19 Information Page*, available at <https://www.dea.gov/diversion-control/coronavirus.html> (last visited Nov. 23, 2021). Letter from Thomas Prevoznik, Deputy Assistant Administrator, Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, to DEA Qualifying Practitioners and Other Practitioners, (Mar. 31, 2020) available at [https://www.dea.gov/diversion-control/GDP/DEA-DC-022/DEA068%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20\(Final\)%20+Esign.pdf](https://www.dea.gov/diversion-control/GDP/DEA-DC-022/DEA068%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20(Final)%20+Esign.pdf) last visited Nov. 23, 2021).

³⁵ Section 456.44, F.S.

³⁶ Ch. 2018-13, Laws of Fla.

³⁷ All opioids are controlled substances. Opioids range in classification between Schedule I and Schedule V.

³⁸ Section 456.44(1)(a), F.S.

³⁹ Section 893.055, F.S.

⁴⁰ Ch. 2019-137, Laws of Fla.

Florida DOH Emergency Order No. 20-002

The same day that the HHS Secretary authorized qualified prescribers to prescribe Schedule II-V controlled substances, Surgeon General Rivkees issued DOH Emergency Order No. 20-002,⁴¹ which suspended s. 456.47(2)(c), F.S., and authorized specified Florida-licensed prescribers⁴² to issue a renewal prescription for a Schedule II-IV controlled substance only for an existing patient for the purpose of treating chronic nonmalignant pain without conducting another physical examination of the patient. This emergency order was extended⁴³ and expired on June 26, 2021.⁴⁴

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 456.47(1)(a), F.S., to remove a provision in the definition of “telehealth” that excludes audio-only telephone calls. This change does not impose a direct impact on Florida Medicaid but would allow Medicaid to elect to reimburse for audio-only telephone calls and to continue to reimburse for audio-only telephone calls when the national public health emergency expires.

Section 1 of the bill also amends s. 456.47(2)(c), F.S. Currently, telehealth providers are prohibited from prescribing controlled substances through telehealth unless the prescription is for: the treatment of a psychiatric disorder, inpatient treatment at a hospital, the treatment of a patient receiving hospice services, or the treatment of a resident in a nursing home facility. The bill narrows this prohibition to the prescribing of only Schedule II controlled substances through telehealth except under those specific circumstances. In practice, this change will authorize a telehealth provider to issue a renewal prescription for a controlled substance listed in Schedule III, IV, or V of s. 893.03, F.S., through telehealth, within the scope of his or her practice, and in accordance with other state and federal laws.

Under current law, no provider may prescribe a Schedule I drug under any circumstances. Florida law requires a prescriber to perform an in-person physical examination prior to prescribing a controlled substance for the treatment of chronic nonmalignant pain. All prescribers and dispensers of controlled substances must comply with ch. 893, F.S., by consulting and reporting to the Prescription Drug Monitoring Program database.

The applicable board, or DOH if there is no board, may adopt rules to administer this section of statute.⁴⁵

⁴¹ Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020) available at <http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf> (last visited Nov. 23, 2021).

⁴² Physicians, osteopathic physicians, physician assistants, or advanced practice registered nurses that have designated themselves as a controlled substance prescribing practitioner on their practitioner profiles pursuant to s. 456.44, F.S.

⁴³ Department of Health, State of Florida, *Emergency Order DOH No. 20-011* (June 30, 2020) available at <https://floridahealthcovid19.gov/wp-content/uploads/2020/06/DOH-Emergency-Order-DOH-No.-20-011.pdf> (last visited Nov. 23, 2021).

⁴⁴ Florida Board of Medicine, *Important Updates for Health Care Providers Regarding Expiration of Emergency Orders* (July 1, 2021) available at https://r.bulkmail.flhealthsource.gov/mk/mr/JV-U0AMitwBXIP7zcFx3Djqu1KfE1B57JaGN-mnNySmOjEY5xGSsIyII28XjOGeZ4yKv9rWQUryqAibmdrixNZdgE9Q61dmUoHRF1Rnyijg-ewyAl_rZBT8c (last visited Nov. 23, 2021).

⁴⁵ Section 456.47(7), F.S.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to AHCA, the bill will have an operational impact on the agency that can be absorbed using current resources. Since the bill allows, but does not require, AHCA to reimburse for audio-only telephone calls, there is no fiscal impact to the Florida Medicaid program.⁴⁶

VI. Technical Deficiencies:

None.

⁴⁶ Agency for Health Care Administration, *Senate Bill 312 Bill Analysis*, (Oct. 15, 2021) (on file with the Senate Committee on Banking and Insurance).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 456.47 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.

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

By Senator Diaz

36-00376-22

2022312__

1 A bill to be entitled
 2 An act relating to telehealth; amending s. 456.47,
 3 F.S.; revising the definition of the term
 4 "telehealth"; narrowing the prohibition on prescribing
 5 controlled substances through telehealth to include
 6 only specified controlled substances; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Paragraph (a) of subsection (1) and paragraph
 12 (c) of subsection (2) of section 456.47, Florida Statutes, are
 13 amended to read:

14 456.47 Use of telehealth to provide services.—

15 (1) DEFINITIONS.—As used in this section, the term:

16 (a) "Telehealth" means the use of synchronous or
 17 asynchronous telecommunications technology by a telehealth
 18 provider to provide health care services, including, but not
 19 limited to, assessment, diagnosis, consultation, treatment, and
 20 monitoring of a patient; transfer of medical data; patient and
 21 professional health-related education; public health services;
 22 and health administration. The term does not include ~~audio-only~~
 23 ~~telephone calls~~, e-mail messages, or facsimile transmissions.

24 (2) PRACTICE STANDARDS.—

25 (c) A telehealth provider may not use telehealth to
 26 prescribe a controlled substance listed in Schedule II of s.
 27 893.03 unless the controlled substance is prescribed for the
 28 following:

29 1. The treatment of a psychiatric disorder;

Page 1 of 2

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

36-00376-22

2022312__

30 2. Inpatient treatment at a hospital licensed under chapter
 31 395;
 32 3. The treatment of a patient receiving hospice services as
 33 defined in s. 400.601; or
 34 4. The treatment of a resident of a nursing home facility
 35 as defined in s. 400.021.
 36 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:
Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

SENATOR MANNY DIAZ, JR.
36th District

December 2, 2021

Honorable Senator Kathleen Passidomo
Chair
Rules Committee

Honorable Chair Passidomo,

I respectfully request that SB 312 Telehealth be placed in the next committee agenda.

Telehealth; Revising the definition of the term "telehealth"; narrowing the prohibition on prescribing controlled substances through telehealth to include only specified controlled substances, etc.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Diaz".

Senator Manny Diaz, Jr.
Florida Senate, District 36

CC: John Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant
Paul Hayden, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

1/13/22

Meeting Date

SB 312

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Leslie Dughi

Phone

Address

Email

Street

Tall

FL

State

32301

Zip

City

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Academy of Family Physicians

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

SB 312 Telehealth

1/13/2022

Meeting Date

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name

Tiffany Henderson

Phone

850 933 5928

Address

2851 Remington Green Cir., Ste A

Email

tiffany.henderson@heart.org

Street

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:

American Heart Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/13/22 Meeting Date

SB 312

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name DAVID MICA, Jr Phone

Address 306 E College Ave Email

Street

Tallahassee

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

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

Florida Hospital Assn

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

1/13/22

Meeting Date

SB 312

Bill Number or Topic

RULES

Committee

Amendment Barcode (if applicable)

Name

JEFF SCOTT

Phone

850 224-6496

Address

1430 Piedmont Dr. E.

Email

jscott@flmedical.org

Street

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:

Florida Medical Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 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)

The Florida Senate

APPEARANCE RECORD

1/13/22

Meeting Date

312

Bill Number or Topic

Rules

Committee

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

Amendment Barcode (if applicable)

Name Phillip Swerman

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:

Americas 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)

January 13, 2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

312

Bill Number or Topic

Rules

Committee

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

Amendment Barcode (if applicable)

Name **Stephen R. Winn**

Phone **850-878-3056**

Address **1424 Ox Bottom Road**

Email **winnsr@earthlink.net**

Street

Tallahassee

FL

32312

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

**Florida Society of Hearing Health
Professionals**

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

SB

312
Bill Number (if applicable)

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

1/13/22
Meeting Date

Amendment Barcode (if applicable)

Topic TELEHEALTH

Name NATALIE KELLY

Job Title CEO, FL ASSC OF MANAGING ENTITIES

Address 122 S. CALHOUN STREET

Phone (850) 570-5747

TALLAHASSEE, FL 32301
City State Zip

Email NATALIE@FLMANAGEMENT.COM

Speaking: For Against Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

January 13, 2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

312

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Chris Lyon**

Phone **850-222-5702**

Address **315 S. Calhoun Street, Suite 830**

Email **clyon@llw-law.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Osteopathic Medical Association

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

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

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

S-001 (08/10/2021)

01/13/2022

Meeting Date

Rules

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 0312

Bill Number or Topic

Amendment Barcode (if applicable)

Name E. Ivonne Fernandez

Phone 954-850-7262

Address 3750 NW 87th Avenue

Email ifernandez@aarp.org

Street

Doral

FL

33065

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 846

INTRODUCER: Senator Passidomo

SUBJECT: Florida Statutes

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Pollitz (DLR)</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 846 is drafted by the Division of Law Revision of the Office of Legislative Services to adopt the Florida Statutes 2022 and designate the portions thereof that are to constitute the official statutory law of the state. This adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

II. Present Situation:

The 2022 adoption act will adopt all statutes material passed through the May 17-21, 2021, Special Session and printed in the 2021 edition. Material passed in a session occurring since publication of the 2021 edition (the November 15-19, 2021, Special Session and the 2022 Regular Session) must wait 1 more year before being adopted, and the session law form of that material will remain the best evidence of the law for that material.

III. Effect of Proposed Changes:

The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law. The 2022 adoption act adopts as the official statute law of the state those portions of the 2022 Florida Statutes edition that are carried forward unchanged from the edition published 1 year previously (2021). Portions carried forward from the 2021 edition are the official law of the state and, therefore, constitute the best evidence of the law. The portions resulting from sessions occurring subsequent to the publication of the 2021 edition (the November 15-19, 2021, Special Session and the 2022 Regular Session) are prima facie evidence of the law in all courts of the state; for this material, the enrolled acts stand as the best evidence of the law. Any “statute of a general and permanent nature” enacted before publication of the 2021 Florida Statutes that does not appear in the 2021 edition, or is not recognized and

continued in force by reference therein or in s. 11.2423 or s. 11.2424, Florida Statutes, stands repealed, both by the logic of the system and by operation of s. 11.2422, Florida Statutes. *See National Bank v. Williams*, 28 Fla. 305, 20 So. 931 (1896).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: None.

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

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

None.

B. Amendments:

None.

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

By Senator Passidomo

28-01063-22

2022846__

A bill to be entitled

An act relating to the Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.; adopting the Florida Statutes 2022 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 2022 shall be effective immediately upon publication; providing that general laws enacted during the May 17-21, 2021, special session and prior thereto and not included in the Florida Statutes 2022 are repealed; providing that general laws enacted during the November 15-19, 2021, special session and the 2022 regular session are not repealed by this adoption act; providing an effective date.

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

Section 1. Section 11.2421, Florida Statutes, is amended to read:

11.2421 Florida Statutes 2022 ~~2021~~ adopted.—The accompanying revision, consolidation, and compilation of the public statutes of 2021 ~~2020~~ of a general and permanent nature, excepting tables, rules, indexes, and other related matter contained therein, prepared by the Office of Legislative Services under the provisions of s. 11.242, together with corrections, changes, and amendments to and repeals of provisions of Florida Statutes 2021 ~~2020~~ enacted in additional reviser's bill or bills by the 2022 ~~2021~~ Legislature, is adopted and enacted as the official statute law of the state under the

Page 1 of 3

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

28-01063-22

2022846__

title of "Florida Statutes 2022 ~~2021~~" and shall take effect immediately upon publication. Said statutes may be cited as "Florida Statutes 2022 ~~2021~~," "Florida Statutes," or "F.S. 2022 ~~2021~~."

Section 2. Section 11.2422, Florida Statutes, is amended to read:

11.2422 Statutes repealed.—Every statute of a general and permanent nature enacted by the State or by the Territory of Florida at or prior to the May 17-21, 2021, special ~~2020 regular~~ legislative session, and every part of such statute, not included in Florida Statutes 2022 ~~2021~~, as adopted by s. 11.2421, as amended, or recognized and continued in force by reference therein or in ss. 11.2423 and 11.2424, as amended, is repealed.

Section 3. Section 11.2424, Florida Statutes, is amended to read:

11.2424 Laws not repealed.—Laws enacted at the November 15-19, 2021, special session and the 2022 ~~after the 2020~~ regular session are not repealed by the adoption and enactment of the Florida Statutes 2022 ~~2021~~ by s. 11.2421, as amended, but shall have full effect as if enacted after its said adoption and enactment.

Section 4. Section 11.2425, Florida Statutes, is amended to read:

11.2425 Rights reserved under repealed statutes.—The repeal of any statute by the adoption and enactment of Florida Statutes 2022 ~~2021~~, by s. 11.2421, as amended, shall not affect any right accrued before such repeal or any civil remedy where a suit is pending.

Page 2 of 3

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

28-01063-22

2022846__

59 Section 5. This act shall take effect on the 60th day after
60 adjournment sine die of the session of the Legislature in which
61 enacted.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 848

INTRODUCER: Senator Passidomo

SUBJECT: Florida Statutes

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Pollitz (DLR)</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

The Division of Law Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; delete obsolete, repealed, or superseded provisions; and revise statutory provisions to conform to directives of the Legislature. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

This is a general reviser's bill to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; improve the clarity of the statutes and facilitate their correct interpretation; confirm the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; and revise statutory provisions to conform to directives of the Legislature. A reviser's bill cannot be amended except to delete a bill section.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 28.2221, 39.00146, 50.0211, 95.361, 97.0575, 102.072, 110.117, 110.12303, 171.203, 189.0695, 193.4517, 265.2865, 282.318, 282.319, 288.106, 288.8014, 290.0475, 316.5501, 319.141, 319.1414, 319.25, 322.032, 322.18, 337.11, 337.401, 350.0605, 366.02, 366.032, 366.04, 366.96, 373.016, 373.0465, 373.701, 373.707, 379.2311, 380.0933, 390.011, 395.002, 395.701, 397.410, 402.62, 403.064, 403.086, 409.905, 413.271, 420.602, 445.007, 468.505, 480.033, 553.791, 604.73, 624.105, 624.51057, 626.9541, 633.202, 660.46, 736.1008, 736.1411, 738.602, 765.101, 768.1382, 768.381, 812.014, 812.015, 823.14, 849.086, 870.01, 948.16, 1001.03, 1001.10, 1001.42, 1002.33, 1002.37, 1002.421, 1002.82, 1003.4203, 1003.4282, 1003.5716, 1004.015, 1004.097, 1006.60, 1008.25, 1008.30, 1008.31, 1008.365, 1011.62, 1011.802, and 1012.976, F.S.

II. Present Situation:

The Division of Law Revision, under the authority and requirements of s. 11.242, Florida Statutes, submits reviser's bills to the rules committees of both houses as needed. General reviser's bills to clean up obsolete language, update cross-references, correct grammatical and typographical errors, and revise statutory provisions to conform to directives of the Legislature are submitted every year.

III. Effect of Proposed Changes:

The effect of this bill is of a technical nature only; reviser's bills do not contain substantive changes. The bill will clean up grammatical and similar errors in the Florida Statutes.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 28.2221, 39.00146, 50.0211, 95.361, 97.0575, 102.072, 110.117, 110.12303, 171.203, 189.0695, 193.4517, 265.2865, 282.318, 282.319, 288.106, 288.8014, 290.0475, 316.5501, 319.141, 319.1414, 319.25, 322.032, 322.18, 337.11, 337.401, 350.0605, 366.02, 366.032, 366.04, 366.96, 373.016, 373.0465, 373.701, 373.707, 379.2311, 380.0933, 390.011, 395.002, 395.701, 397.410, 402.62, 403.064, 403.086, 409.905, 413.271, 420.602, 445.007, 468.505, 480.033, 553.791, 604.73, 624.105, 624.51057, 626.9541, 633.202, 660.46, 736.1008, 736.1411, 738.602, 765.101, 768.1382, 768.381, 812.014, 812.015, 823.14, 849.086, 870.01, 948.16, 1001.03, 1001.10, 1001.42, 1002.33, 1002.37, 1002.421, 1002.82, 1003.4203, 1003.4282, 1003.5716, 1004.015, 1004.097, 1006.60, 1008.25, 1008.30, 1008.31, 1008.365, 1011.62, 1011.802, and 1012.976, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: None.

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

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

None.

B. Amendments:

None.

By Senator Passidomo

28-01064A-22

2022848__

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 28.2221, 39.00146, 50.0211, 95.361, 97.0575, 102.072,
 4 110.117, 110.12303, 171.203, 189.0695, 193.4517,
 5 265.2865, 282.318, 282.319, 288.106, 288.8014,
 6 290.0475, 316.5501, 319.141, 319.1414, 319.25,
 7 322.032, 322.18, 337.11, 337.401, 350.0605, 366.02,
 8 366.032, 366.04, 366.96, 373.016, 373.0465, 373.701,
 9 373.707, 379.2311, 380.0933, 390.011, 395.002,
 10 395.701, 397.410, 402.62, 403.064, 403.086, 409.905,
 11 413.271, 420.602, 445.007, 468.505, 480.033, 553.791,
 12 604.73, 624.105, 624.51057, 626.9541, 633.202, 660.46,
 13 736.1008, 736.1411, 738.602, 765.101, 768.1382,
 14 768.381, 812.014, 812.015, 823.14, 849.086, 870.01,
 15 948.16, 1001.03, 1001.10, 1001.42, 1002.33, 1002.37,
 16 1002.421, 1002.82, 1003.4203, 1003.4282, 1003.5716,
 17 1004.015, 1004.097, 1006.60, 1008.25, 1008.30,
 18 1008.31, 1008.365, 1011.62, 1011.802, and 1012.976,
 19 F.S.; deleting provisions that have expired, have
 20 become obsolete, have had their effect, have served
 21 their purpose, or have been impliedly repealed or
 22 superseded; replacing incorrect cross-references and
 23 citations; correcting grammatical, typographical, and
 24 like errors; removing inconsistencies, redundancies,
 25 and unnecessary repetition in the statutes; and
 26 improving the clarity of the statutes and facilitating
 27 their correct interpretation; providing an effective
 28 date.
 29

Page 1 of 94

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

28-01064A-22

2022848__

30 Be It Enacted by the Legislature of the State of Florida:
 31
 32 Section 1. Paragraph (c) of subsection (5) of section
 33 28.2221, Florida Statutes, is amended to read:
 34 28.2221 Electronic access to official records.—
 35 (5)
 36 (c) Notice of the right of any affected party to request
 37 removal of information or records pursuant to this subsection
 38 must be conspicuously and clearly displayed by the county
 39 recorder on the publicly available Internet website on which
 40 images or copies of the county's public records are placed and
 41 in the office of each county recorder. Such notice must contain
 42 appropriate instructions for making the removal request in
 43 person, by mail, or by electronic transmission. The notice must
 44 state, in substantially similar form, that any person has a
 45 right to request that a county recorder remove from a publicly
 46 available Internet website information made exempt from
 47 inspection or copying under s. 119.071 or an image or copy of a
 48 public record, including an official record, if that image or
 49 copy is of a military discharge; death certificate; or a court
 50 file, record, or paper relating to matters or cases governed by
 51 the Florida Rules of Family Law, the Florida Rules of Juvenile
 52 Procedure, or the Florida Probate Rules. The notice must state
 53 that information removed as exempt under s. 119.071 will not be
 54 removed from the Official Records as described in s. 28.222(2).
 55 Such request must be made in writing and delivered in person, by
 56 mail, or by electronic transmission to the county recorder. The
 57 request must identify the Official Records book and page number,
 58 instrument number, or clerk's file number for any information or

Page 2 of 94

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

28-01064A-22

2022848__

59 document to be removed. For requests for removal from a person
 60 claiming a public records exemption pursuant to s. 119.071, the
 61 request must be written; be notarized; state under oath the
 62 statutory basis for removal of the information, image, or copy
 63 that is restricted from general public display on the county
 64 recorder's publicly available Internet website; and confirm the
 65 individual's eligibility for exempt status. A party making a
 66 false attestation is subject to the penalty of perjury under s.
 67 837.012. A fee may not be charged for the removal of a document
 68 pursuant to such request.

69 Reviser's note.—Amended to confirm an editorial insertion to
 70 improve clarity.

71 Section 2. Paragraph (h) of subsection (2) of section
 72 39.00146, Florida Statutes, is amended to read:

73 39.00146 Case record face sheet.—

74 (2) The case record of every child under the supervision or
 75 in the custody of the department or the department's authorized
 76 agents, including community-based care lead agencies and their
 77 subcontracted providers, must include a face sheet containing
 78 relevant information about the child and his or her case,
 79 including at least all of the following:

80 (h) If the child has any siblings and they are not placed
 81 in the same out-of-home placement, the reasons the children are
 82 not in joint placement and the reasonable efforts that the
 83 department or appropriate lead agency will make to provide
 84 frequent visitation or other ongoing interaction between the
 85 siblings, unless the court determines that the interaction would
 86 be contrary to a sibling's safety or well-being in accordance
 87 with s. 39.4024.

Page 3 of 94

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

28-01064A-22

2022848__

88 Reviser's note.—Amended to confirm an editorial insertion to
 89 improve clarity.

90 Section 3. Paragraph (b) of subsection (1) and paragraph
 91 (d) of subsection (4) of section 50.0211, Florida Statutes, are
 92 amended to read:

93 50.0211 Internet website publication.—

94 (1) As used in this section, the term:

95 (b) "Governmental agency notice" includes any of the
 96 following notices required by law to be published in a
 97 newspaper:

98 1. Notices related to special or local ~~legal~~ legislation
 99 pursuant to s. 11.02.

100 2. Educational unit notices pursuant to s. 120.81.

101 3. Retirement system notices pursuant to s. 121.0511.

102 4. Notices related to inclusion of positions in the Senior
 103 Management Service Class of the Florida Retirement System
 104 pursuant to s. 121.055.

105 5. Notices proposing the enactment of county ordinances
 106 pursuant to s. 125.66.

107 6. Code enforcement notices published pursuant to s.
 108 162.12.

109 7. Notices proposing the enactment of municipal ordinances
 110 pursuant to s. 166.041.

111 8. Special district meeting notices pursuant to s. 189.015.

112 9. Establishment and termination notices for community
 113 development districts pursuant to ss. 190.005 and 190.046,
 114 respectively.

115 10. Disclosures of tax impact by value adjustment boards
 116 pursuant to s. 194.037.

Page 4 of 94

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

28-01064A-22 2022848__

117 11. Advertisements of real or personal property with
 118 delinquent taxes pursuant to s. 197.402.
 119 12. Advertisements of hearing notices, millage rates, and
 120 budgets pursuant to s. 200.065.
 121 13. Turnpike project notices pursuant to s. 338.223.
 122 14. Public-private partnership notices pursuant to ss.
 123 348.0308 and 348.7605.
 124 15. Notices of prime recharge area designations for the
 125 Floridan and Biscayne aquifers pursuant to s. 373.0397.
 126 16. Water management district notices pursuant to s.
 127 373.146.
 128 17. Hazardous waste disposal notices pursuant to s.
 129 403.722.
 130 18. Forfeiture notices pursuant to ss. 849.38 and 932.704.
 131 (4)
 132 (d) The Florida Press Association shall seek to ensure that
 133 minority populations throughout the state have equitable access
 134 to legal notices posted on the statewide legal notice website
 135 located at: www.floridapublicnotices.com. The Florida Press
 136 Association shall publish a report listing all newspapers that
 137 have placed notices on www.floridapublicnotices.com in the
 138 preceding calendar quarter. The report must specifically
 139 identify which criteria under s. 50.011(1)(c)1.-3. ~~that~~ each
 140 newspaper satisfied. Each quarterly report must also include the
 141 number of unique visitors to the statewide legal notice website
 142 during that quarter and the number of legal notices that were
 143 published during that quarter by Internet-only publication or by
 144 publication in a print newspaper and on the statewide website.
 145 At a minimum, the reports for the 4 preceding calendar quarters

28-01064A-22 2022848__

146 shall be available on the website.
 147 Reviser's note.—Paragraph (1)(b) is amended to conform to the
 148 fact that referenced s. 11.02 relates to notice of special
 149 or local legislation or certain relief acts. Paragraph
 150 (4)(d) is amended to confirm an editorial deletion to
 151 improve clarity.
 152 Section 4. Subsection (2) of section 95.361, Florida
 153 Statutes, is amended to read:
 154 95.361 Roads presumed to be dedicated.—
 155 (2) In those instances where a road has been constructed by
 156 a nongovernmental entity, or where the road was not constructed
 157 by the entity currently maintaining or repairing it, or where it
 158 cannot be determined who constructed the road, and when such
 159 road has been regularly maintained or repaired for the immediate
 160 past 7 years by a county, a municipality, or the Department of
 161 Transportation, whether jointly or severally, such road shall be
 162 deemed to be dedicated to the public to the extent of the width
 163 that actually has been maintained or repaired for the prescribed
 164 period, whether or not the road has been formally established as
 165 a public highway. This subsection shall not apply to an electric
 166 utility, as defined in s. 366.02(4) ~~366.02(2)~~. The dedication
 167 shall vest all rights, title, easement, and appurtenances in and
 168 to the road in:
 169 (a) The county, if it is a county road;
 170 (b) The municipality, if it is a municipal street or road;
 171 or
 172 (c) The state, if it is a road in the State Highway System
 173 or State Park Road System,
 174

28-01064A-22

2022848__

175 whether or not there is a record of conveyance, dedication, or
 176 appropriation to the public use.
 177 Reviser's note.—Amended to conform to the reordering of
 178 definitions in s. 366.02 by this act.
 179 Section 5. Paragraph (a) of subsection (3) of section
 180 97.0575, Florida Statutes, is amended to read:
 181 97.0575 Third-party voter registrations.—
 182 (3) (a) A third-party voter registration organization that
 183 collects voter registration applications serves as a fiduciary
 184 to the applicant, ensuring that any voter registration
 185 application entrusted to the organization, irrespective of party
 186 affiliation, race, ethnicity, or gender, must be promptly
 187 delivered to the division or the supervisor of elections in the
 188 county in which the applicant resides within 14 days after the
 189 application was completed by the applicant, but not after
 190 registration closes for the next ensuing election. A third-party
 191 voter registration organization must notify the applicant at the
 192 time the application is collected that the organization might
 193 not deliver the application to the division or the supervisor of
 194 elections in the county in which the applicant resides in less
 195 than 14 days or before registration closes for the next ensuing
 196 election and must advise the applicant that he or she may
 197 deliver the application in person or by mail. The third-party
 198 voter registration organization must also inform the applicant
 199 how to register online with the division and how to determine
 200 whether the application has been delivered. If a voter
 201 registration application collected by any third-party voter
 202 registration organization is not promptly delivered to the
 203 division or supervisor of elections in the county in which the

Page 7 of 94

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

28-01064A-22

2022848__

204 applicant resides, the third-party voter registration
 205 organization is liable for the following fines:
 206 1. A fine in the amount of \$50 for each application
 207 received by the division or the supervisor of elections in the
 208 county in which the applicant resides more than 14 days after
 209 the applicant delivered the completed voter registration
 210 application to the third-party voter registration organization
 211 or any person, entity, or agent acting on its behalf. A fine in
 212 the amount of \$250 for each application received if the third-
 213 party voter registration organization or person, entity, or
 214 agency acting on its behalf acted willfully.
 215 2. A fine in the amount of \$100 for each application
 216 collected by a third-party voter registration organization or
 217 any person, entity, or agent acting on its behalf, before book
 218 closing for any given election for federal or state office and
 219 received by the division or the supervisor of elections in the
 220 county in which the applicant resides after the book-closing
 221 deadline for such election. A fine in the amount of \$500 for
 222 each application received if the third-party registration
 223 organization or person, entity, or agency acting on its behalf
 224 acted willfully.
 225 3. A fine in the amount of \$500 for each application
 226 collected by a third-party voter registration organization or
 227 any person, entity, or agent acting on its behalf, which is not
 228 submitted to the division or supervisor of elections in the
 229 county in which the applicant resides. A fine in the amount of
 230 \$1,000 for any application not submitted if the third-party
 231 voter registration organization or person, entity, or agency
 232 acting on its behalf acted willfully.

Page 8 of 94

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

28-01064A-22

2022848__

233
 234 The aggregate fine pursuant to this paragraph which may be
 235 assessed against a third-party voter registration organization,
 236 including affiliate organizations, for violations committed in a
 237 calendar year is \$1,000.
 238 Reviser's note.—Amended to confirm an editorial insertion to
 239 improve clarity.
 240 Section 6. Section 102.072, Florida Statutes, is amended to
 241 read:
 242 102.072 Vote-by-mail count reporting.—Beginning at 7 p.m.
 243 on election day, the supervisor must, at least once every hour
 244 while actively counting, post on his or her website the number
 245 of vote-by-mail ballots that have been received and the number
 246 of vote-by-mail ballots that remain uncounted.
 247 Reviser's note.—Amended to improve sentence construction.
 248 Section 7. Subsection (1) of section 110.117, Florida
 249 Statutes, is amended to read:
 250 110.117 Paid holidays.—
 251 (1) The following holidays shall be paid holidays observed
 252 by all state branches and agencies:
 253 (a) New Year's Day.
 254 (b) Birthday of Martin Luther King, Jr., third Monday in
 255 January.
 256 (c) Memorial Day.
 257 (d) Independence Day.
 258 (e) Labor Day.
 259 (f) Veterans' Day, November 11.
 260 (g) Thanksgiving Day.
 261 (h) Friday after Thanksgiving.

Page 9 of 94

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

28-01064A-22

2022848__

262 (i) Christmas Day.
 263 ~~(j) If any of these holidays falls on Saturday, the~~
 264 ~~preceding Friday shall be observed as a holiday. If any of these~~
 265 ~~holidays falls on Sunday, the following Monday shall be observed~~
 266 ~~as a holiday.~~
 267
 268 If any of these holidays falls on Saturday, the preceding
 269 Friday shall be observed as a holiday. If any of these
 270 holidays falls on Sunday, the following Monday shall be
 271 observed as a holiday.
 272 Reviser's note.—Amended to conform to context. Paragraph (j) is
 273 not a listed holiday and is applicable to the list of
 274 holidays in paragraphs (a)-(i).
 275 Section 8. Paragraph (e) of subsection (3) of section
 276 110.12303, Florida Statutes, is amended to read:
 277 110.12303 State group insurance program; additional
 278 benefits; price transparency program; reporting.—
 279 (3) The department shall contract with an entity that
 280 provides enrollees with online information on the cost and
 281 quality of health care services and providers, allows an
 282 enrollee to shop for health care services and providers, and
 283 rewards the enrollee by sharing savings generated by the
 284 enrollee's choice of services or providers. The contract shall
 285 require the entity to:
 286 ~~(e) On or before January 1 of 2019, 2020, and 2021, the~~
 287 ~~department shall report to the Governor, the President of the~~
 288 ~~Senate, and the Speaker of the House of Representatives on the~~
 289 ~~participation level, amount paid to enrollees, and cost savings~~
 290 ~~to both the enrollees and the state resulting from the~~

Page 10 of 94

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

28-01064A-22

2022848__

291 ~~implementation of this subsection.~~

292 Reviser's note.—Amended to delete an obsolete provision.

293 Section 9. Paragraph (d) of subsection (6) of section
294 171.203, Florida Statutes, is amended to read:

295 171.203 Interlocal service boundary agreement.—The
296 governing body of a county and one or more municipalities or
297 independent special districts within the county may enter into
298 an interlocal service boundary agreement under this part. The
299 governing bodies of a county, a municipality, or an independent
300 special district may develop a process for reaching an
301 interlocal service boundary agreement which provides for public
302 participation in a manner that meets or exceeds the requirements
303 of subsection (13), or the governing bodies may use the process
304 established in this section.

305 (6) An interlocal service boundary agreement may address
306 any issue concerning service delivery, fiscal responsibilities,
307 or boundary adjustment. The agreement may include, but need not
308 be limited to, provisions that:

309 (d) Address other services and infrastructure not currently
310 provided by an electric utility as defined by s. 366.02(4)
311 ~~366.02(2)~~ or a natural gas transmission company as defined by s.
312 368.103(4). However, this paragraph does not affect any
313 territorial agreement between electrical utilities or public
314 utilities under chapter 366 or affect the determination of a
315 territorial dispute by the Public Service Commission under s.
316 366.04.

317 Reviser's note.—Amended to conform to the reordering of
318 definitions in s. 366.02 by this act.

319 Section 10. Paragraph (f) of subsection (1) of section

Page 11 of 94

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

28-01064A-22

2022848__

320 189.0695, Florida Statutes, is amended to read:

321 189.0695 Independent special districts; performance
322 reviews.—

323 (1) For purposes of this section, the term "performance
324 review" means an evaluation of an independent special district
325 and its programs, activities, and functions. The term includes
326 research and analysis of the following:

327 (f) The extent to which the special district's goals and
328 objectives have been achieved, including whether the goals and
329 objectives are clearly stated, are measurable, adequately
330 address the statutory purpose of the special district, provide
331 sufficient direction for the district's programs and activities,
332 and may be achieved within the district's adopted budget.

333 Reviser's note.—Amended to confirm an editorial insertion to
334 improve clarity.

335 Section 11. Paragraphs (a) and (b) of subsection (1) of
336 section 193.4517, Florida Statutes, are amended to read:

337 193.4517 Assessment of agricultural equipment rendered
338 unable to be used due to Hurricane Michael.—

339 (1) As used in this section, the term:

340 (a) "Farm" has the same meaning as provided in s.

341 823.14(3)(c) ~~823.14(3)(b)~~.

342 (b) "Farm operation" has the same meaning as provided in s.

343 823.14(3)(d) ~~823.14(3)(e)~~.

344 Reviser's note.—Amended to conform to the reordering of
345 definitions in s. 823.14(3) by this act.

346 Section 12. Subsection (6) of section 265.2865, Florida
347 Statutes, is amended to read:

348 265.2865 Florida Artists Hall of Fame.—

Page 12 of 94

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

28-01064A-22

2022848__

349 (6) The Division of Arts and Culture of the Department of
 350 State shall adopt rules necessary to carry out the purposes of
 351 this section, including, but not limited to, procedures for
 352 accepting nominations to, making recommendations for, and
 353 selecting members of the Florida Artists Hall of Fame and
 354 providing travel expenses for such recipients. Notwithstanding
 355 s. 112.061, the Secretary of State may approve first-class
 356 travel accommodations for recipients of the Florida Artists Hall
 357 of Fame award and their representatives for health or security
 358 purposes.

359 Reviser's note.—Amended to confirm an editorial insertion to
 360 improve clarity.

361 Section 13. Paragraph (h) of subsection (4) of section
 362 282.318, Florida Statutes, is amended to read:

363 282.318 Cybersecurity.—

364 (4) Each state agency head shall, at a minimum:

365 (h) Ensure that the cybersecurity requirements in ~~both~~ the
 366 written specifications for the solicitation, contracts, and
 367 service-level agreement of information technology and
 368 information technology resources and services meet or exceed the
 369 applicable state and federal laws, regulations, and standards
 370 for cybersecurity, including the National Institute of Standards
 371 and Technology Cybersecurity Framework. Service-level agreements
 372 must identify service provider and state agency responsibilities
 373 for privacy and security, protection of government data,
 374 personnel background screening, and security deliverables with
 375 associated frequencies.

376 Reviser's note.—Amended to confirm an editorial deletion to
 377 facilitate correct interpretation.

Page 13 of 94

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

28-01064A-22

2022848__

378 Section 14. Paragraph (j) of subsection (4) of section
 379 282.319, Florida Statutes, is amended to read:

380 282.319 Florida Cybersecurity Advisory Council.—

381 (4) The council shall be comprised of the following
 382 members:

383 (j) Three representatives from critical infrastructure
 384 sectors, one of whom ~~which~~ must be from a water treatment
 385 facility, appointed by the Governor.

386 Reviser's note.—Amended to confirm an editorial substitution to
 387 conform to context.

388 Section 15. Paragraph (q) of subsection (2) of section
 389 288.106, Florida Statutes, is amended to read:

390 288.106 Tax refund program for qualified target industry
 391 businesses.—

392 (2) DEFINITIONS.—As used in this section:

393 (q) "Target industry business" means a corporate
 394 headquarters business or any business that is engaged in one of
 395 the target industries identified pursuant to the following
 396 criteria developed by the department in consultation with
 397 Enterprise Florida, Inc.:

398 1. Future growth.—Industry forecasts should indicate strong
 399 expectation for future growth in both employment and output,
 400 according to the most recent available data. Special
 401 consideration should be given to businesses that export goods
 402 to, or provide services in, international markets and businesses
 403 that replace domestic and international imports of goods or
 404 services.

405 2. Stability.—The industry should not be subject to
 406 periodic layoffs, whether due to seasonality or sensitivity to

Page 14 of 94

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

28-01064A-22 2022848__

407 volatile economic variables such as weather. The industry should
 408 also be relatively resistant to recession, so that the demand
 409 for products of this industry is not typically subject to
 410 decline during an economic downturn.

411 3. High wage.—The industry should pay relatively high wages
 412 compared to statewide or area averages.

413 4. Market and resource independent.—The location of
 414 industry businesses should not be dependent on Florida markets
 415 or resources as indicated by industry analysis, except for
 416 businesses in the renewable energy industry.

417 5. Industrial base diversification and strengthening.—The
 418 industry should contribute toward expanding or diversifying the
 419 state's or area's economic base, as indicated by analysis of
 420 employment and output shares compared to national and regional
 421 trends. Special consideration should be given to industries that
 422 strengthen regional economies by adding value to basic products
 423 or building regional industrial clusters as indicated by
 424 industry analysis. Special consideration should also be given to
 425 the development of strong industrial clusters that include
 426 defense and homeland security businesses.

427 6. Positive economic impact.—The industry is expected to
 428 have strong positive economic impacts on or benefits to the
 429 state or regional economies. Special consideration should be
 430 given to industries that facilitate the development of the state
 431 as a hub for domestic and global trade and logistics.

432

433 The term does not include any business engaged in retail
 434 industry activities; any electrical utility company as defined
 435 in s. 366.02(4) ~~366.02(2)~~; any phosphate or other solid minerals

28-01064A-22 2022848__

436 severance, mining, or processing operation; any oil or gas
 437 exploration or production operation; or any business subject to
 438 regulation by the Division of Hotels and Restaurants of the
 439 Department of Business and Professional Regulation. Any business
 440 within NAICS code 5611 or 5614, office administrative services
 441 and business support services, respectively, may be considered a
 442 target industry business only after the local governing body and
 443 Enterprise Florida, Inc., make a determination that the
 444 community where the business may locate has conditions affecting
 445 the fiscal and economic viability of the local community or
 446 area, including but not limited to, factors such as low per
 447 capita income, high unemployment, high underemployment, and a
 448 lack of year-round stable employment opportunities, and such
 449 conditions may be improved by the location of such a business to
 450 the community. By January 1 of every 3rd year, beginning January
 451 1, 2011, the department, in consultation with Enterprise
 452 Florida, Inc., economic development organizations, the State
 453 University System, local governments, employee and employer
 454 organizations, market analysts, and economists, shall review
 455 and, as appropriate, revise the list of such target industries
 456 and submit the list to the Governor, the President of the
 457 Senate, and the Speaker of the House of Representatives.

458 Reviser's note.—Amended to conform to the reordering of
 459 definitions in s. 366.02 by this act.

460 Section 16. Subsection (8) of section 288.8014, Florida
 461 Statutes, is amended to read:
 462 288.8014 Triumph Gulf Coast, Inc.; organization; board of
 463 directors.—
 464 (8) The Secretary of Economic Opportunity, or his or her

28-01064A-22 2022848__

465 designee, the Secretary of ~~the Department of~~ Environmental
 466 Protection, or his or her designee, and the chair of the
 467 Committee of 8 Disproportionally Affected Counties, or his or
 468 her designee, shall be available to consult with the board of
 469 directors and may be requested to attend meetings of the board
 470 of directors. These individuals shall not be permitted to vote
 471 on any matter before the board.

472 Reviser's note.—Amended to provide consistent terminology.
 473 "Secretary of Environmental Protection" is Florida Statutes
 474 preferred style.

475 Section 17. Subsection (5) of section 290.0475, Florida
 476 Statutes, is amended to read:

477 290.0475 Rejection of grant applications; penalties for
 478 failure to meet application conditions.—Applications are
 479 ineligible for funding if any of the following circumstances
 480 arise:

481 (5) The applicant has an open community development block
 482 grant, except as provided in s. 290.046(2)(a)-(c) ~~290.046(2)(b)~~
 483 ~~and (c)~~ and department rules;

484 Reviser's note.—Amended to conform to the redesignation of s.
 485 290.046(2)(b) and (c) as s. 290.046(2)(a)-(c) by s. 5, ch.
 486 2021-25, Laws of Florida.

487 Section 18. Paragraph (a) of subsection (1) of section
 488 316.5501, Florida Statutes, is amended to read:

489 316.5501 Permitting program for combination truck tractor,
 490 semitrailer, and trailer combination coupled as a single unit
 491 subject to certain requirements.—

492 (1) By no later than January 1, 2020, the Department of
 493 Transportation in conjunction with the Department of Highway

28-01064A-22 2022848__

494 Safety and Motor Vehicles shall develop a permitting program
 495 that, notwithstanding any other provision of law except
 496 conflicting federal law and applicable provisions of s. 316.550,
 497 prescribes the operation of any combination of truck tractor,
 498 semitrailer, and trailer combination coupled together so as to
 499 operate as a single unit in which the semitrailer and the
 500 trailer unit may each be up to 48 feet in length, but not less
 501 than 28 feet in length, if such truck tractor, semitrailer, and
 502 trailer combination is:

503 (a) Being used for the primary purpose of transporting farm
 504 products as defined in s. 823.14(3)(e) ~~823.14(3)(d)~~ on a
 505 prescribed route within the boundary of the Everglades
 506 Agricultural Area as described in s. 373.4592(15);

507 Reviser's note.—Amended to conform to the reordering of
 508 definitions in s. 823.14(3) by this act.

509 Section 19. Subsection (10) of section 319.141, Florida
 510 Statutes, is amended to read:

511 319.141 Rebuilt motor vehicle inspection program.—
 512 ~~(10) On or before July 1, 2021, the department shall submit~~
 513 ~~a written report to the President of the Senate and the Speaker~~
 514 ~~of the House of Representatives evaluating the effectiveness of~~
 515 ~~the program and whether to expand the program to other counties.~~

516 Reviser's note.—Amended to delete an obsolete provision; the
 517 referenced report was submitted July 1, 2021.

518 Section 20. Subsection (3) of section 319.1414, Florida
 519 Statutes, is amended to read:

520 319.1414 Department-authorized private rebuilt inspection
 521 providers; investigations; examinations; proceedings; subpoenas
 522 and other process; witnesses; oaths; rules.—

28-01064A-22

2022848__

523 (3) If a person refuses to testify; to produce books,
 524 papers, documents, or records; or to otherwise obey a subpoena
 525 or subpoena duces tecum issued under subsection (2), the
 526 department may petition a court of competent jurisdiction in the
 527 county where the person's residence or principal place of
 528 business is located, upon which the court must issue an order
 529 requiring such person to obey the subpoena or show cause for
 530 failing to obey the subpoena. Unless the person shows sufficient
 531 cause for failing to obey the subpoena, the court shall direct
 532 the person to obey the subpoena. Failure to comply with such
 533 order is contempt of court.

534 Reviser's note.—Amended to confirm an editorial insertion to
 535 improve clarity.

536 Section 21. Subsection (5) of section 319.25, Florida
 537 Statutes, is amended to read:

538 319.25 Cancellation of certificates; investigations;
 539 examinations; proceedings; subpoenas and other process;
 540 witnesses; oaths; rules.—

541 (5) If a person refuses to testify; to produce books,
 542 papers, documents, or records; or to otherwise obey the subpoena
 543 or subpoena duces tecum issued under subsection (4), the
 544 department may petition a court of competent jurisdiction in the
 545 county where the person's residence or principal place of
 546 business is located, upon which the court must issue an order
 547 requiring such person to obey the subpoena or show cause for
 548 failing to obey the subpoena. Unless the person shows sufficient
 549 cause for failing to obey the subpoena, the court must direct
 550 the person to obey the subpoena. Failure to comply with such
 551 order is contempt of court.

Page 19 of 94

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

28-01064A-22

2022848__

552 Reviser's note.—Amended to confirm an editorial insertion to
 553 improve clarity.

554 Section 22. Paragraph (b) of subsection (3) of section
 555 322.032, Florida Statutes, is amended to read:

556 322.032 Digital proof of driver license or identification
 557 card.—

558 (3)

559 (b)1. Notwithstanding ss. 322.14, 322.141, and 322.142, and
 560 any other law prescribing the design for, or information
 561 required to be displayed on, a driver license, a digital proof
 562 of driver license may comprise a limited profile that includes
 563 only information necessary to conduct a specific transaction on
 564 the electronic credentialing system.

565 2. Notwithstanding ss. 322.051 and 322.141, and any other
 566 law prescribing the design for, or information required to be
 567 displayed on, an identification card, a digital proof of
 568 identification card may comprise a limited profile that includes
 569 only information necessary to conduct a specific transaction on
 570 the electronic credentialing system.

571 Reviser's note.—Amended to confirm an editorial insertion to
 572 improve sentence structure.

573 Section 23. Paragraph (f) of subsection (2) of section
 574 322.18, Florida Statutes, is amended to read:

575 322.18 Original applications, licenses, and renewals;
 576 expiration of licenses; delinquent licenses.—

577 (2) Each applicant who is entitled to the issuance of a
 578 driver license, as provided in this section, shall be issued a
 579 driver license, as follows:

580 (f) Notwithstanding any other provision of this chapter, an

Page 20 of 94

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

28-01064A-22 2022848__

581 applicant applying for an original issuance of a commercial
582 driver license as defined in s. 322.01(7) shall be issued a
583 driver license that expires at midnight 8 years after the
584 licensee's last birthday prior to issuance of the license.

585 Reviser's note.—Amended to improve clarity.

586 Section 24. Subsection (15) of section 337.11, Florida
587 Statutes, is amended to read:

588 337.11 Contracting authority of department; bids; emergency
589 repairs, supplemental agreements, and change orders; combined
590 design and construction contracts; progress payments; records;
591 requirements of vehicle registration.—

592 (15) When the department determines that it is in the best
593 interest of the public, the department may enter into a contract
594 with an electric utility as defined in s. 366.02(4) ~~366.02(2)~~
595 for the construction or maintenance of lighting on poles owned
596 by the electric utility and located within a road right-of-way
597 without competitive bidding. In any contract entered into
598 without competition, the individuals taking part in the
599 evaluation or award process shall attest in writing that they
600 are independent of, and have no conflict of interest in, the
601 entities evaluated and selected.

602 Reviser's note.—Amended to conform to the reordering of
603 definitions in s. 366.02 by this act.

604 Section 25. Paragraph (a) of subsection (1) of section
605 337.401, Florida Statutes, is amended to read:

606 337.401 Use of right-of-way for utilities subject to
607 regulation; permit; fees.—

608 (1) (a) The department and local governmental entities,
609 referred to in this section and in ss. 337.402, 337.403, and

28-01064A-22 2022848__

610 337.404 as the "authority," that have jurisdiction and control
611 of public roads or publicly owned rail corridors are authorized
612 to prescribe and enforce reasonable rules or regulations with
613 reference to the placing and maintaining across, on, or within
614 the right-of-way limits of any road or publicly owned rail
615 corridors under their respective jurisdictions any electric
616 transmission, voice, telegraph, data, or other communications
617 services lines or wireless facilities; pole lines; poles;
618 railways; ditches; sewers; water, heat, or gas mains; pipelines;
619 fences; gasoline tanks and pumps; or other structures referred
620 to in this section and in ss. 337.402, 337.403, and 337.404 as
621 the "utility." The department may enter into a permit-delegation
622 agreement with a governmental entity if issuance of a permit is
623 based on requirements that the department finds will ensure the
624 safety and integrity of facilities of the Department of
625 Transportation; however, the permit-delegation agreement does
626 not apply to facilities of electric utilities as defined in s.
627 366.02(4) ~~366.02(2)~~.

628 Reviser's note.—Amended to conform to the reordering of
629 definitions in s. 366.02 by this act.

630 Section 26. Subsection (3) of section 350.0605, Florida
631 Statutes, is amended to read:

632 350.0605 Former commissioners and employees; representation
633 of clients before commission.—

634 (3) For a period of 2 years following termination of
635 service on the commission, a former member may not accept
636 employment by or compensation from a business entity which,
637 directly or indirectly, owns or controls a public utility
638 regulated by the commission, from a public utility regulated by

28-01064A-22

2022848__

639 the commission, from a business entity which, directly or
 640 indirectly, is an affiliate or subsidiary of a public utility
 641 regulated by the commission or is an actual business competitor
 642 of a local exchange company or public utility regulated by the
 643 commission and is otherwise exempt from regulation by the
 644 commission under ss. 364.02(13) and 366.02(8) ~~366.02(1)~~, or from
 645 a business entity or trade association that has been a party to
 646 a commission proceeding within the 2 years preceding the
 647 member's termination of service on the commission. This
 648 subsection applies only to members of the Florida Public Service
 649 Commission who are appointed or reappointed after May 10, 1993.

650 Reviser's note.—Amended to conform to the reordering of
 651 definitions in s. 366.02 by this act.

652 Section 27. Section 366.02, Florida Statutes, is reordered
 653 and amended to read:

654 366.02 Definitions.—As used in this chapter:

655 (1) ~~(4)~~ "Attaching entity" means a person that is a local
 656 exchange carrier, a public utility, a communications services
 657 provider, a broadband service provider, or a cable television
 658 operator that owns or controls pole attachments.

659 (2) ~~(3)~~ "Commission" means the Florida Public Service
 660 Commission.

661 (3) ~~(5)~~ "Communications services provider" means an entity
 662 providing communications services as defined in s. 202.11(1).

663 (4) ~~(2)~~ "Electric utility" means any municipal electric
 664 utility, investor-owned electric utility, or rural electric
 665 cooperative which owns, maintains, or operates an electric
 666 generation, transmission, or distribution system within the
 667 state.

28-01064A-22

2022848__

668 (5) ~~(6)~~ "Pole" means a pole used for electric distribution
 669 service, streetlights, communications services, local exchange
 670 services, or cable television services which is owned in whole
 671 or in part by a pole owner. The term does not include a pole
 672 used solely to support wireless communications service
 673 facilities or a pole with no electrical facilities attached.

674 (6) ~~(7)~~ "Pole attachment" means any attachment by a public
 675 utility, local exchange carrier communications services
 676 provider, broadband provider, or cable television operator to a
 677 pole, duct, conduit, or right-of-way owned or controlled by a
 678 pole owner.

679 (7) ~~(8)~~ "Pole owner" means a local exchange carrier, a
 680 public utility, a communications services provider, or a cable
 681 television operator that owns a pole.

682 (8) ~~(1)~~ "Public utility" means every person, corporation,
 683 partnership, association, or other legal entity and their
 684 lessees, trustees, or receivers supplying electricity or gas
 685 (natural, manufactured, or similar gaseous substance) to or for
 686 the public within this state; but the term "public utility" does
 687 not include either a cooperative now or hereafter organized and
 688 existing under the Rural Electric Cooperative Law of the state;
 689 a municipality or any agency thereof; any dependent or
 690 independent special natural gas district; any natural gas
 691 transmission pipeline company making only sales or
 692 transportation delivery of natural gas at wholesale and to
 693 direct industrial consumers; any entity selling or arranging for
 694 sales of natural gas which neither owns nor operates natural gas
 695 transmission or distribution facilities within the state; or a
 696 person supplying liquefied petroleum gas, in either liquid or

28-01064A-22 2022848__

697 gaseous form, irrespective of the method of distribution or
 698 delivery, or owning or operating facilities beyond the outlet of
 699 a meter through which natural gas is supplied for compression
 700 and delivery into motor vehicle fuel tanks or other
 701 transportation containers, unless such person also supplies
 702 electricity or manufactured or natural gas.

703 (9) "Redundant pole" means a pole owned or controlled by a
 704 pole owner which is:

705 (a) Near or adjacent to a new pole that is intended to
 706 replace the old pole from which some or all of the pole
 707 attachments have not been removed and transferred to the new
 708 pole;

709 (b) Left standing after the pole owner has relocated its
 710 facilities to underground but on which pole attachments of other
 711 attaching entities remain; or

712 (c) Left standing after a pole owner's attachments have
 713 been removed from that route or location to accommodate a new
 714 route or design for the delivery of service.

715 Reviser's note.—Amended to place the definitions of the section
 716 in alphabetical order.

717 Section 28. Subsection (1) of section 366.032, Florida
 718 Statutes, is amended to read:

719 366.032 Preemption over utility service restrictions.—

720 (1) A municipality, county, special district, or other
 721 political subdivision of the state may not enact or enforce a
 722 resolution, ordinance, rule, code, or policy or take any action
 723 that restricts or prohibits or has the effect of restricting or
 724 prohibiting the types or fuel sources of energy production which
 725 may be used, delivered, converted, or supplied by the following

28-01064A-22 2022848__

726 entities to serve customers that such entities are authorized to
 727 serve:

728 (a) A public utility or an electric utility as defined in
 729 this chapter;

730 (b) An entity formed under s. 163.01 that generates, sells,
 731 or transmits electrical energy;

732 (c) A natural gas utility as defined in s. 366.04(3)(c);

733 (d) A natural gas transmission company as defined in s.
 734 368.103; or

735 (e) A Category I liquefied petroleum gas dealer or Category
 736 II liquefied petroleum gas dispenser or Category III liquefied
 737 petroleum gas cylinder exchange operator as defined in s.
 738 527.01.

739 Reviser's note.—Amended to confirm an editorial insertion to
 740 improve clarity.

741 Section 29. Paragraph (b) of subsection (9) of section
 742 366.04, Florida Statutes, is amended to read:

743 366.04 Jurisdiction of commission.—

744 (9)

745 (b) The commission shall adopt rules to administer and
 746 implement this subsection. The rules must be proposed for
 747 adoption no later than April 1, 2022, and must address at least
 748 the following:

749 1. Mandatory pole inspections, including repair or
 750 replacement;

751 2. Vegetation management requirements for poles owned by
 752 providers of communications services; and

753 ~~3.2.~~ Monetary penalties to be imposed upon any
 754 communications services provider that fails to comply with any

28-01064A-22 2022848__

755 such rule of the commission. Monetary penalties imposed by the
 756 commission must be consistent with s. 366.095.

757 Reviser's note.—Amended to confirm editorial changes to move a
 758 portion of subparagraph 1. to a new subparagraph 2. and
 759 redesignate present subparagraph 2. as subparagraph 3.,
 760 since the material appears to be a list, and to provide
 761 clarity.

762 Section 30. Paragraph (a) of subsection (2) of section
 763 366.96, Florida Statutes, is amended to read:
 764 366.96 Storm protection plan cost recovery.—
 765 (2) As used in this section, the term:
 766 (a) "Public utility" or "utility" has the same meaning as
 767 set forth in s. 366.02(8) ~~366.02(1)~~, except that it does not
 768 include a gas utility.

769 Reviser's note.—Amended to conform to the reordering of
 770 definitions in s. 366.02 by this act.

771 Section 31. Paragraph (a) of subsection (4) of section
 772 373.016, Florida Statutes, is amended to read:
 773 373.016 Declaration of policy.—
 774 (4) (a) Because water constitutes a public resource
 775 benefiting the entire state, it is the policy of the Legislature
 776 that the waters in the state be managed on a state and regional
 777 basis. Consistent with this directive, the Legislature
 778 recognizes the need to allocate water throughout the state so as
 779 to meet all reasonable-beneficial uses. However, the Legislature
 780 acknowledges that such allocations have in the past adversely
 781 affected the water resources of certain areas in this state. To
 782 protect such water resources and to meet the current and future
 783 needs of those areas with abundant water, the Legislature

28-01064A-22 2022848__

784 directs the department and the water management districts to
 785 encourage the use of water from sources nearest the area of use
 786 or application whenever practicable. Such sources shall include
 787 all naturally occurring water sources and all alternative water
 788 sources, including, but not limited to, desalination,
 789 conservation, reuse of nonpotable reclaimed water and
 790 stormwater, and aquifer storage and recovery. Reuse of potable
 791 reclaimed water and stormwater shall not be subject to the
 792 evaluation described in s. 373.223(3)(a)-(g). However, this
 793 directive to encourage the use of water, whenever practicable,
 794 from sources nearest the area of use or application shall not
 795 apply to the transport and direct and indirect use of water
 796 within the area encompassed by the Central and Southern Florida
 797 Flood Control Project, nor shall it apply anywhere in the state
 798 to the transport and use of water supplied exclusively for
 799 bottled water as defined in s. 500.03(1)(d), nor shall it apply
 800 to the transport and use of reclaimed water for electrical power
 801 production by an electric utility as defined in s. 366.02(4)
 802 ~~366.02(2)~~.

803 Reviser's note.—Amended to conform to the reordering of
 804 definitions in s. 366.02 by this act.

805 Section 32. Paragraph (d) of subsection (2) of section
 806 373.0465, Florida Statutes, is amended to read:
 807 373.0465 Central Florida Water Initiative.—
 808 (2)
 809 (d) The department, in consultation with the St. Johns
 810 River Water Management District, the South Florida Water
 811 Management District, the Southwest Florida Water Management
 812 District, and the Department of Agriculture and Consumer

28-01064A-22 2022848__

813 Services, shall adopt uniform rules for application within the
 814 Central Florida Water Initiative Area that include:

815 1. A single, uniform definition of the term "harmful to the
 816 water resources" consistent with the term's usage in s. 373.219;
 817 2. A single method for calculating residential per capita
 818 water use;
 819 3. A single process for permit reviews;
 820 4. A single, consistent process, as appropriate, to set
 821 minimum flows and minimum water levels and water reservations;
 822 5. A goal for residential per capita water use for each
 823 consumptive use permit;
 824 6. An annual conservation goal for each consumptive use
 825 permit consistent with the regional water supply plan;
 826 7. A drought allocation for supplemental irrigation for
 827 agricultural uses which is based on a 2-in-10-year rainfall
 828 condition or, if the applicant so requests, is based on a 5-in-
 829 10-year rainfall condition alone or combined with the 2-in-10-
 830 year rainfall condition. The applicable water management
 831 district may also condition, for information only purposes,
 832 consumptive use permits to advise permittees that their annual
 833 use of water should be less than the drought allocation in all
 834 years except for the drought condition that is the basis for the
 835 allocation or a more severe drought; and
 836 8. A process for the applicable water management district
 837 to annually examine an agricultural user's 5-year moving average
 838 supplemental irrigation water use against the annual
 839 supplemental irrigation needs in the 5-in-10-year rainfall
 840 condition beginning no earlier than 5 years following the
 841 effective date of the rules adopted under this section. If this

28-01064A-22 2022848__

842 annual examination indicates that the agricultural user's 5-year
 843 moving average use exceeds that needed in such rainfall
 844 condition for reasons other than prolonged periods of below
 845 average rainfall, the water management district may modify the
 846 agricultural user's permit to include an annual supplemental
 847 irrigation allocation based on both the amount of supplemental
 848 irrigation required during a 2-in-10-year rainfall condition and
 849 the amount of supplemental irrigation required during a 5-in-10-
 850 year rainfall condition as provided in rules adopted pursuant to
 851 this section. In such case, the supplemental irrigation
 852 allocation based on the 5-in-10-year rainfall condition shall be
 853 valid for only 5 years unless the agricultural user's 5-year
 854 moving average use continues to exceed the amount of
 855 supplemental irrigation needed during a 5-in-10-year rainfall
 856 condition for reasons other than prolonged periods of drought.
 857
 858 Subparagraphs 7. and 8. may not be construed to limit the
 859 ability of the department or a water management district to
 860 establish different supplemental irrigation requirements as part
 861 of an existing or future recovery or prevention strategy adopted
 862 pursuant to s. 373.0363, s. 373.042, or s. 373.0421. The uniform
 863 rules must include existing recovery strategies within the
 864 Central Florida Water Initiative Area adopted before July 1,
 865 2016. The department may grant variances to the uniform rules if
 866 there are unique circumstances or hydrogeological factors that
 867 make application of the uniform rules unrealistic or
 868 impractical.
 869 Reviser's note.--Amended to confirm an editorial insertion to
 870 improve clarity.

28-01064A-22 2022848__

871 Section 33. Paragraph (a) of subsection (2) of section
 872 373.701, Florida Statutes, is amended to read:
 873 373.701 Declaration of policy.—It is declared to be the
 874 policy of the Legislature:
 875 (2) (a) Because water constitutes a public resource
 876 benefiting the entire state, it is the policy of the Legislature
 877 that the waters in the state be managed on a state and regional
 878 basis. Consistent with this directive, the Legislature
 879 recognizes the need to allocate water throughout the state so as
 880 to meet all reasonable-beneficial uses. However, the Legislature
 881 acknowledges that such allocations have in the past adversely
 882 affected the water resources of certain areas in this state. To
 883 protect such water resources and to meet the current and future
 884 needs of those areas with abundant water, the Legislature
 885 directs the department and the water management districts to
 886 encourage the use of water from sources nearest the area of use
 887 or application whenever practicable. Such sources shall include
 888 all naturally occurring water sources and all alternative water
 889 sources, including, but not limited to, desalination,
 890 conservation, reuse of nonpotable reclaimed water and
 891 stormwater, and aquifer storage and recovery. Reuse of potable
 892 reclaimed water and stormwater shall not be subject to the
 893 evaluation described in s. 373.223(3) (a)-(g). However, this
 894 directive to encourage the use of water, whenever practicable,
 895 from sources nearest the area of use or application shall not
 896 apply to the transport and direct and indirect use of water
 897 within the area encompassed by the Central and Southern Florida
 898 Flood Control Project, nor shall it apply anywhere in the state
 899 to the transport and use of water supplied exclusively for

Page 31 of 94

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

28-01064A-22 2022848__

900 bottled water as defined in s. 500.03(1)(d), nor shall it apply
 901 to the transport and use of reclaimed water for electrical power
 902 production by an electric utility as defined in s. 366.02(4)
 903 ~~366.02(2)~~.
 904 Reviser's note.—Amended to conform to the reordering of
 905 definitions in s. 366.02 by this act.
 906 Section 34. Paragraph (a) of subsection (9) of section
 907 373.707, Florida Statutes, is amended to read:
 908 373.707 Alternative water supply development.—
 909 (9) Funding assistance provided by the water management
 910 districts for a water reuse system may include the following
 911 conditions for that project if a water management district
 912 determines that such conditions will encourage water use
 913 efficiency:
 914 (a) Metering of reclaimed water use for residential
 915 irrigation, agricultural irrigation, industrial uses, except for
 916 electric utilities as defined in s. 366.02(4) ~~366.02(2)~~,
 917 landscape irrigation, golf course irrigation, irrigation of
 918 other public access areas, commercial and institutional uses
 919 such as toilet flushing, and transfers to other reclaimed water
 920 utilities;
 921 Reviser's note.—Amended to conform to the reordering of
 922 definitions in s. 366.02 by this act.
 923 Section 35. Paragraph (d) of subsection (2) of section
 924 379.2311, Florida Statutes, is amended to read:
 925 379.2311 Nonnative animal management.—
 926 (2) The Legislature finds that priority invasive species
 927 continue to expand their range and to decimate the fauna and
 928 flora of the Everglades and other natural areas and ecosystems

Page 32 of 94

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

28-01064A-22

2022848__

929 in the southern and central parts of the state at an
 930 accelerating rate. Therefore, the commission shall establish a
 931 pilot program to mitigate the impact of priority invasive
 932 species on the public lands or waters of this state.

933 ~~(d) The commission shall submit a report of findings and~~
 934 ~~recommendations regarding its implementation of the pilot~~
 935 ~~program to the Governor, the President of the Senate, and the~~
 936 ~~Speaker of the House of Representatives by January 1, 2021.~~

937 Reviser's note.—Amended to delete an obsolete provision.

938 Section 36. Paragraph (g) of subsection (2) of section
 939 380.0933, Florida Statutes, is amended to read:

940 380.0933 Florida Flood Hub for Applied Research and
 941 Innovation.—

942 (2) The hub shall, at a minimum:

943 (g) Assist in the development of training and in the
 944 development of a workforce in the state that is knowledgeable
 945 about flood and sea level rise research, prediction, and
 946 adaptation and mitigation strategies.

947 Reviser's note.—Amended to confirm an editorial insertion to
 948 improve clarity.

949 Section 37. Subsection (7) of section 390.011, Florida
 950 Statutes, is amended to read:

951 390.011 Definitions.—As used in this chapter, the term:

952 (7) "Hospital" means a facility as defined in s.
 953 395.002(12) ~~395.002(13)~~ and licensed under chapter 395 and part
 954 II of chapter 408.

955 Reviser's note.—Amended to conform to the reordering of
 956 definitions in s. 395.002 by this act.

957 Section 38. Subsections (10) through (13) of section

28-01064A-22

2022848__

958 395.002, Florida Statutes, are reordered and amended, and
 959 subsection (28) of that section is amended, to read:

960 395.002 Definitions.—As used in this chapter:

961 (10) ~~(11)~~ "General hospital" means any facility which meets
 962 the provisions of subsection (12) ~~subsection (13)~~ and which
 963 regularly makes its facilities and services available to the
 964 general population.

965 (11) ~~(12)~~ "Governmental unit" means the state or any county,
 966 municipality, or other political subdivision, or any department,
 967 division, board, or other agency of any of the foregoing.

968 (12) ~~(13)~~ "Hospital" means any establishment that:

969 (a) Offers services more intensive than those required for
 970 room, board, personal services, and general nursing care, and
 971 offers facilities and beds for use beyond 24 hours by
 972 individuals requiring diagnosis, treatment, or care for illness,
 973 injury, deformity, infirmity, abnormality, disease, or
 974 pregnancy; and

975 (b) Regularly makes available at least clinical laboratory
 976 services, diagnostic X-ray services, and treatment facilities
 977 for surgery or obstetrical care, or other definitive medical
 978 treatment of similar extent, except that a critical access
 979 hospital, as defined in s. 408.07, shall not be required to make
 980 available treatment facilities for surgery, obstetrical care, or
 981 similar services as long as it maintains its critical access
 982 hospital designation and shall be required to make such
 983 facilities available only if it ceases to be designated as a
 984 critical access hospital.

985
 986 However, the provisions of this chapter do not apply to any

28-01064A-22 2022848__

987 institution conducted by or for the adherents of any well-
 988 recognized church or religious denomination that depends
 989 exclusively upon prayer or spiritual means to heal, care for, or
 990 treat any person. For purposes of local zoning matters, the term
 991 "hospital" includes a medical office building located on the
 992 same premises as a hospital facility, provided the land on which
 993 the medical office building is constructed is zoned for use as a
 994 hospital; provided the premises were zoned for hospital purposes
 995 on January 1, 1992.

996 ~~(13)~~ (10) "Hospital-based off-campus emergency department"
 997 means a facility that:

998 (a) Provides emergency services and care;
 999 (b) Is owned and operated by a licensed hospital and
 1000 operates under the license of the hospital; and
 1001 (c) Is located on separate premises from the hospital.
 1002 (28) "Specialty hospital" means any facility which meets
 1003 the provisions of subsection (12) ~~subsection (13)~~, and which
 1004 regularly makes available either:

1005 (a) The range of medical services offered by general
 1006 hospitals but restricted to a defined age or gender group of the
 1007 population;

1008 (b) A restricted range of services appropriate to the
 1009 diagnosis, care, and treatment of patients with specific
 1010 categories of medical or psychiatric illnesses or disorders; or

1011 (c) Intensive residential treatment programs for children
 1012 and adolescents as defined in subsection (16).

1013 Reviser's note.—Amended to place the definitions in subsections

1014 (10) through (13) in alphabetical order and to conform
 1015 cross-references.

28-01064A-22 2022848__

1016 Section 39. Paragraph (c) of subsection (1) of section
 1017 395.701, Florida Statutes, is amended to read:

1018 395.701 Annual assessments on net operating revenues for
 1019 inpatient and outpatient services to fund public medical
 1020 assistance; administrative fines for failure to pay assessments
 1021 when due; exemption.—

1022 (1) For the purposes of this section, the term:

1023 (c) "Hospital" means a health care institution as defined
 1024 in s. 395.002(12) ~~395.002(13)~~, but does not include any hospital
 1025 operated by a state agency.

1026 Reviser's note.—Amended to conform to the reordering of
 1027 definitions in s. 395.002 by this act.

1028 Section 40. Subsections (3) and (4) of section 397.410,
 1029 Florida Statutes, are amended to read:

1030 397.410 Licensure requirements; minimum standards; rules.—

1031 ~~(3) By October 1, 2017, the department shall publish a~~
 1032 ~~notice of development of rulemaking, and by January 1, 2018, the~~
 1033 ~~department shall publish a notice of proposed rule pursuant to~~
 1034 ~~s. 120.54(3)(a) to implement the provisions of this section.~~

1035 ~~(4) The department shall provide a report to the Governor,~~
 1036 ~~the President of the Senate, and the Speaker of the House of~~
 1037 ~~Representatives by December 1, 2020, concerning the~~
 1038 ~~appropriateness of service component licensure requirements as~~
 1039 ~~those requirements apply to the qualifications of personnel~~
 1040 ~~providing direct clinical treatment. The report shall include,~~
 1041 ~~but not be limited to, the requirements established in rule, the~~
 1042 ~~number and nature of complaints received regarding personnel~~
 1043 ~~providing direct clinical treatment and about the qualifications~~
 1044 ~~of the individuals subject to the complaints, and the~~

28-01064A-22

2022848__

1045 ~~precipitating cause, number, and types of licensure actions~~
 1046 ~~taken by the department regarding such personnel.~~

1047 Reviser's note.—Amended to delete obsolete provisions.

1048 Section 41. Paragraph (d) of subsection (4) of section
 1049 402.62, Florida Statutes, is amended to read:

1050 402.62 Strong Families Tax Credit.—

1051 (4) RESPONSIBILITIES OF THE DEPARTMENT.—The Department of
 1052 Children and Families shall do all of the following:

1053 (d) Compel the return of funds that are provided to an
 1054 eligible charitable organization that fails to comply with the
 1055 requirements of this section. Eligible charitable organizations
 1056 that are subject to return of funds are ineligible to receive
 1057 funding under this section for a period of 10 years after final
 1058 agency action to compel the return of funding.

1059 Reviser's note.—Amended to confirm an editorial insertion to
 1060 improve clarity.

1061 Section 42. Subsection (16) of section 403.064, Florida
 1062 Statutes, is amended to read:

1063 403.064 Reuse of reclaimed water.—

1064 (16) Utilities implementing reuse projects are encouraged,
 1065 except in the case of use by electric utilities as defined in s.
 1066 366.02(4) ~~366.02(2)~~, to meter use of reclaimed water by all end
 1067 users and to charge for the use of reclaimed water based on the
 1068 actual volume used when such metering and charges can be shown
 1069 to encourage water conservation. Metering and the use of volume-
 1070 based rates are effective water management tools for the
 1071 following reuse activities: residential irrigation, agricultural
 1072 irrigation, industrial uses, landscape irrigation, irrigation of
 1073 other public access areas, commercial and institutional uses

Page 37 of 94

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

28-01064A-22

2022848__

1074 such as toilet flushing, and transfers to other reclaimed water
 1075 utilities. Each domestic wastewater utility that provides
 1076 reclaimed water for the reuse activities listed in this section
 1077 shall include a summary of its metering and rate structure as
 1078 part of its annual reuse report to the department.

1079 Reviser's note.—Amended to conform to the reordering of
 1080 definitions in s. 366.02 by this act.

1081 Section 43. Paragraph (d) of subsection (1) and subsection
 1082 (10) of section 403.086, Florida Statutes, are amended to read:

1083 403.086 Sewage disposal facilities; advanced and secondary
 1084 waste treatment.—

1085 (1)

1086 ~~(d) By December 31, 2020, the department, in consultation~~
 1087 ~~with the water management districts and sewage disposal~~
 1088 ~~facilities, shall submit to the Governor, the President of the~~
 1089 ~~Senate, and the Speaker of the House of Representatives a~~
 1090 ~~progress report on the status of upgrades made by each facility~~
 1091 ~~to meet the advanced waste treatment requirements under~~
 1092 ~~paragraph (c). The report must include a list of sewage disposal~~
 1093 ~~facilities required to upgrade to advanced waste treatment, the~~
 1094 ~~preliminary cost estimates for the upgrades, and a projected~~
 1095 ~~timeline of the dates by which the upgrades will begin and be~~
 1096 ~~completed and the date by which operations of the upgraded~~
 1097 ~~facility will begin.~~

1098 (10) The Legislature finds that the discharge of domestic
 1099 wastewater through ocean outfalls wastes valuable water supplies
 1100 that should be reclaimed for beneficial purposes to meet public
 1101 and natural systems demands. The Legislature also finds that
 1102 discharge of domestic wastewater through ocean outfalls

Page 38 of 94

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

28-01064A-22 2022848__

1103 compromises the coastal environment, quality of life, and local
 1104 economies that depend on those resources. The Legislature
 1105 declares that more stringent treatment and management
 1106 requirements for such domestic wastewater and the subsequent,
 1107 timely elimination of ocean outfalls as a primary means of
 1108 domestic wastewater discharge are in the public interest.

1109 (a) The construction of new ocean outfalls for domestic
 1110 wastewater discharge and the expansion of existing ocean
 1111 outfalls for this purpose, along with associated pumping and
 1112 piping systems, are prohibited. Each domestic wastewater ocean
 1113 outfall shall be limited to the discharge capacity specified in
 1114 the department permit authorizing the outfall in effect on July
 1115 1, 2008, which discharge capacity shall not be increased.
 1116 Maintenance of existing, department-authorized domestic
 1117 wastewater ocean outfalls and associated pumping and piping
 1118 systems is allowed, subject to the requirements of this section.
 1119 The department is directed to work with the United States
 1120 Environmental Protection Agency to ensure that the requirements
 1121 of this subsection are implemented consistently for all domestic
 1122 wastewater facilities in the state which discharge through ocean
 1123 outfalls.

1124 (b) The discharge of domestic wastewater through ocean
 1125 outfalls must meet advanced wastewater treatment and management
 1126 requirements by December 31, 2018. For purposes of this
 1127 subsection, the term "advanced wastewater treatment and
 1128 management requirements" means the advanced waste treatment
 1129 requirements set forth in subsection (4), a reduction in outfall
 1130 baseline loadings of total nitrogen and total phosphorus which
 1131 is equivalent to that which would be achieved by the advanced

28-01064A-22 2022848__

1132 waste treatment requirements in subsection (4), or a reduction
 1133 in cumulative outfall loadings of total nitrogen and total
 1134 phosphorus occurring between December 31, 2008, and December 31,
 1135 2025, which is equivalent to that which would be achieved if the
 1136 advanced waste treatment requirements in subsection (4) were
 1137 fully implemented beginning December 31, 2018, and continued
 1138 through December 31, 2025. The department shall establish the
 1139 average baseline loadings of total nitrogen and total phosphorus
 1140 for each outfall using monitoring data available for calendar
 1141 years 2003 through 2007 and establish required loading
 1142 reductions based on this baseline. The baseline loadings and
 1143 required loading reductions of total nitrogen and total
 1144 phosphorus shall be expressed as an average annual daily loading
 1145 value. The advanced wastewater treatment and management
 1146 requirements of this paragraph are deemed met for any domestic
 1147 wastewater facility discharging through an ocean outfall on July
 1148 1, 2008, which has installed by December 31, 2018, a fully
 1149 operational reuse system comprising 100 percent of the
 1150 facility's baseline flow on an annual basis for reuse activities
 1151 authorized by the department.

1152 (c)1. Each utility that had a permit for a domestic
 1153 wastewater facility that discharged through an ocean outfall on
 1154 July 1, 2008, must install, or cause to be installed, a
 1155 functioning reuse system within the utility's service area or,
 1156 by contract with another utility, within Miami-Dade County,
 1157 Broward County, or Palm Beach County by December 31, 2025. For
 1158 purposes of this subsection, a "functioning reuse system" means
 1159 an environmentally, economically, and technically feasible
 1160 system that provides a minimum of 60 percent of a facility's

28-01064A-22

2022848__

1161 baseline flow on an annual basis for irrigation of public access
 1162 areas, residential properties, or agricultural crops; aquifer
 1163 recharge; groundwater recharge; industrial cooling; or other
 1164 acceptable reuse purposes authorized by the department. For
 1165 purposes of this subsection, the term "baseline flow" means the
 1166 annual average flow of domestic wastewater discharging through
 1167 the facility's ocean outfall, as determined by the department,
 1168 using monitoring data available for calendar years 2003 through
 1169 2007.

1170 2. Flows diverted from facilities to other facilities that
 1171 provide 100-percent reuse of the diverted flows before December
 1172 31, 2025, are considered to contribute to meeting the reuse
 1173 requirement. For utilities operating more than one outfall, the
 1174 reuse requirement may be apportioned between the facilities
 1175 served by the outfalls, including flows diverted to other
 1176 facilities for 100-percent reuse before December 31, 2025.
 1177 Utilities that shared a common ocean outfall for the discharge
 1178 of domestic wastewater on July 1, 2008, regardless of which
 1179 utility operates the ocean outfall, are individually responsible
 1180 for meeting the reuse requirement and may enter into binding
 1181 agreements to share or transfer such responsibility among the
 1182 utilities. If treatment in addition to the advanced wastewater
 1183 treatment and management requirements described in paragraph (b)
 1184 is needed to support a functioning reuse system, the treatment
 1185 must be fully operational by December 31, 2025.

1186 3. If a facility that discharges through an ocean outfall
 1187 contracts with another utility to install a functioning reuse
 1188 system, the department must approve any apportionment of the
 1189 reuse generated from the new or expanded reuse system that is

Page 41 of 94

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

28-01064A-22

2022848__

1190 intended to satisfy all or a portion of the reuse requirements
 1191 pursuant to subparagraph 1. If a contract is between two
 1192 utilities that have reuse requirements pursuant to subparagraph
 1193 1., the reuse apportioned to each utility's requirement may not
 1194 exceed the total reuse generated by the new or expanded reuse
 1195 system. A utility shall provide the department a copy of any
 1196 contract with another utility that reflects an agreement between
 1197 the utilities which is subject to the requirements of this
 1198 subparagraph.

1199 (d) The discharge of domestic wastewater through ocean
 1200 outfalls is prohibited after December 31, 2025, except as a
 1201 backup discharge that is part of a functioning reuse system or
 1202 other wastewater management system authorized by the department.
 1203 Except as otherwise provided in this subsection, a backup
 1204 discharge may occur only during periods of reduced demand for
 1205 reclaimed water in the reuse system, such as periods of wet
 1206 weather, or as the result of peak flows from other wastewater
 1207 management systems, and must comply with the advanced wastewater
 1208 treatment and management requirements of paragraph (b). Peak
 1209 flow backup discharges from other wastewater management systems
 1210 may not cumulatively exceed 5 percent of a facility's baseline
 1211 flow, measured as a 5-year rolling average, and are subject to
 1212 applicable secondary waste treatment and water-quality-based
 1213 effluent limitations specified in department rules. If peak flow
 1214 backup discharges are in compliance with the effluent
 1215 limitations, the discharges are deemed to meet the advanced
 1216 wastewater treatment and management requirements of this
 1217 subsection.

1218 ~~(e) The holder of a department permit authorizing the~~

Page 42 of 94

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

28-01064A-22 2022848__

1219 discharge of domestic wastewater through an ocean outfall as of
 1220 July 1, 2008, shall submit the following to the secretary of the
 1221 department:

1222 1. ~~A detailed plan to meet the requirements of this~~
 1223 ~~subsection, including the identification of the technical,~~
 1224 ~~environmental, and economic feasibility of various reuse~~
 1225 ~~options; the identification of each land acquisition and~~
 1226 ~~facility necessary to provide for reuse of the domestic~~
 1227 ~~wastewater; an analysis of the costs to meet the requirements,~~
 1228 ~~including the level of treatment necessary to satisfy state~~
 1229 ~~water quality requirements and local water quality~~
 1230 ~~considerations and a cost comparison of reuse using flows from~~
 1231 ~~ocean outfalls and flows from other domestic wastewater sources,~~
 1232 ~~and a financing plan for meeting the requirements, including~~
 1233 ~~identifying any actions necessary to implement the financing~~
 1234 ~~plan, such as bond issuance or other borrowing, assessments,~~
 1235 ~~rate increases, fees, other charges, or other financing~~
 1236 ~~mechanisms. The plan must evaluate reuse demand in the context~~
 1237 ~~of future regional water supply demands, the availability of~~
 1238 ~~traditional water supplies, the need for development of~~
 1239 ~~alternative water supplies, the degree to which various reuse~~
 1240 ~~options offset potable water supplies, and other factors~~
 1241 ~~considered in the Lower East Coast Regional Water Supply Plan of~~
 1242 ~~the South Florida Water Management District. The plan must~~
 1243 ~~include a detailed schedule for the completion of all necessary~~
 1244 ~~actions and be accompanied by supporting data and other~~
 1245 ~~documentation. The plan must be submitted by July 1, 2013.~~

1246 2. ~~By July 1, 2016, an update of the plan required in~~
 1247 ~~subparagraph 1. documenting any refinements or changes in the~~

28-01064A-22 2022848__

1248 ~~costs, actions, or financing necessary to eliminate the ocean~~
 1249 ~~outfall discharge in accordance with this subsection or a~~
 1250 ~~written statement that the plan is current and accurate.~~

1251 (e) ~~(f)~~ By December 31, 2009, and by December 31 every 5
 1252 years thereafter, the holder of a department permit authorizing
 1253 the discharge of domestic wastewater through an ocean outfall
 1254 shall submit to the secretary of the department a report
 1255 summarizing the actions accomplished to date and the actions
 1256 remaining and proposed to meet the requirements of this
 1257 subsection, including progress toward meeting the specific
 1258 deadlines set forth in paragraphs (b) through (d) ~~paragraphs (b)~~
 1259 ~~through (e)~~. The report shall include the detailed schedule for
 1260 and status of the evaluation of reuse and disposal options,
 1261 preparation of preliminary design reports, preparation and
 1262 submittal of permit applications, construction initiation,
 1263 construction progress milestones, construction completion,
 1264 initiation of operation, and continuing operation and
 1265 maintenance.

1266 (f) ~~(g)~~ By July 1, 2010, and by July 1 every 5 years
 1267 thereafter, the department shall submit a report to the
 1268 Governor, the President of the Senate, and the Speaker of the
 1269 House of Representatives on the implementation of this
 1270 subsection. In the report, the department shall summarize
 1271 progress to date, including the increased amount of reclaimed
 1272 water provided and potable water offsets achieved, and identify
 1273 any obstacles to continued progress, including all instances of
 1274 substantial noncompliance.

1275 (g) ~~(h)~~ The renewal of each permit that authorizes the
 1276 discharge of domestic wastewater through an ocean outfall as of

28-01064A-22 2022848__
 1277 July 1, 2008, must be accompanied by an order in accordance with
 1278 s. 403.088(2) (e) and (f) which establishes an enforceable
 1279 compliance schedule consistent with the requirements of this
 1280 subsection.

1281 (h) ~~(i)~~ An entity that diverts wastewater flow from a
 1282 receiving facility that discharges domestic wastewater through
 1283 an ocean outfall must meet the reuse requirement of paragraph
 1284 (c). Reuse by the diverting entity of the diverted flows shall
 1285 be credited to the diverting entity. The diverted flow shall
 1286 also be correspondingly deducted from the receiving facility's
 1287 baseline flow from which the required reuse is calculated
 1288 pursuant to paragraph (c), and the receiving facility's reuse
 1289 requirement shall be recalculated accordingly.

1290
 1291 ~~The department, the South Florida Water Management District, and~~
 1292 ~~the affected utilities must consider the information in the~~
 1293 ~~detailed plan in paragraph (c) for the purpose of adjusting, as~~
 1294 ~~necessary, the reuse requirements of this subsection. The~~
 1295 ~~department shall submit a report to the Legislature by February~~
 1296 ~~15, 2015, containing recommendations for any changes necessary~~
 1297 ~~to the requirements of this subsection.~~

1298 Reviser's note.—Amended to delete obsolete provisions and to
 1299 correct a cross-reference to conform.

1300 Section 44. Subsection (8) of section 409.905, Florida
 1301 Statutes, is amended to read:

1302 409.905 Mandatory Medicaid services.—The agency may make
 1303 payments for the following services, which are required of the
 1304 state by Title XIX of the Social Security Act, furnished by
 1305 Medicaid providers to recipients who are determined to be

28-01064A-22 2022848__
 1306 eligible on the dates on which the services were provided. Any
 1307 service under this section shall be provided only when medically
 1308 necessary and in accordance with state and federal law.
 1309 Mandatory services rendered by providers in mobile units to
 1310 Medicaid recipients may be restricted by the agency. Nothing in
 1311 this section shall be construed to prevent or limit the agency
 1312 from adjusting fees, reimbursement rates, lengths of stay,
 1313 number of visits, number of services, or any other adjustments
 1314 necessary to comply with the availability of moneys and any
 1315 limitations or directions provided for in the General
 1316 Appropriations Act or chapter 216.

1317 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-
 1318 hour-a-day nursing and rehabilitative services for a recipient
 1319 in a nursing facility licensed under part II of chapter 400 or
 1320 in a rural hospital, as defined in s. 395.602, or in a Medicare
 1321 certified skilled nursing facility operated by a hospital, as
 1322 defined by s. 395.002(10) ~~395.002(11)~~, that is licensed under
 1323 part I of chapter 395, and in accordance with provisions set
 1324 forth in s. 409.908(2) (a), which services are ordered by and
 1325 provided under the direction of a licensed physician. However,
 1326 if a nursing facility has been destroyed or otherwise made
 1327 uninhabitable by natural disaster or other emergency and another
 1328 nursing facility is not available, the agency must pay for
 1329 similar services temporarily in a hospital licensed under part I
 1330 of chapter 395 provided federal funding is approved and
 1331 available. The agency shall pay only for bed-hold days if the
 1332 facility has an occupancy rate of 95 percent or greater. The
 1333 agency is authorized to seek any federal waivers to implement
 1334 this policy.

28-01064A-22 2022848__

1335 Reviser's note.—Amended to conform to the reordering of
 1336 definitions in s. 395.002 by this act.
 1337 Section 45. Paragraph (a) of subsection (1) and paragraph
 1338 (b) of subsection (2) of section 413.271, Florida Statutes, are
 1339 amended to read:
 1340 413.271 Florida Coordinating Council for the Deaf and Hard
 1341 of Hearing.—
 1342 (1) For purposes of this section, the term:
 1343 (a) "Communication access real-time ~~realtime~~ translation"
 1344 means the instant translation of the spoken word into English
 1345 text using information technology in which the text appears on a
 1346 computer monitor or other display.
 1347
 1348 For purposes of this section, individuals with any level of loss
 1349 of hearing provided in the definitions in this subsection are
 1350 included in references to deaf or hard of hearing individuals.
 1351 (2)
 1352 (b) The coordinating council shall be composed of 17
 1353 members. The appointment of members not representing agencies
 1354 shall be made by the Governor. The appointment of members
 1355 representing organizations shall be made by the Governor in
 1356 consultation with those organizations. The membership shall be
 1357 as follows:
 1358 1. Two members representing the Florida Association of the
 1359 Deaf.
 1360 2. Two members representing the Florida Association of Self
 1361 Help for Hard of Hearing People.
 1362 3. A member representing the Association of Late-Deafened
 1363 Adults.

Page 47 of 94

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

28-01064A-22 2022848__

1364 4. An individual who is deaf and blind.
 1365 5. A parent of an individual who is deaf.
 1366 6. A member representing the Deaf Service Center
 1367 Association.
 1368 7. A member representing the Florida Registry of
 1369 Interpreters for the Deaf.
 1370 8. A member representing the Florida Alexander Graham Bell
 1371 Association for the Deaf and Hard of Hearing.
 1372 9. A communication access real-time ~~realtime~~ translator.
 1373 10. An audiologist licensed under part I of chapter 468.
 1374 11. A hearing aid specialist licensed under part II of
 1375 chapter 484.
 1376 12. The Secretary of Children and Families or his or her
 1377 designee.
 1378 13. The State Surgeon General or his or her designee.
 1379 14. The Commissioner of Education or his or her designee.
 1380 15. The Secretary of Elderly Affairs or his or her
 1381 designee.
 1382
 1383 If any organization from which a representative is to be drawn
 1384 ceases to exist, a representative of a similar organization
 1385 shall be named to the coordinating council. The Governor shall
 1386 make appointments to the coordinating council and may remove any
 1387 member for cause. Each member shall be appointed to a term of 4
 1388 years. Any vacancy on the coordinating council shall be filled
 1389 in the same manner as the original appointment, and any member
 1390 appointed to fill a vacancy occurring because of death,
 1391 resignation, or ineligibility for membership shall serve only
 1392 for the unexpired term of the member's predecessor. Prior to

Page 48 of 94

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

28-01064A-22 2022848__

1393 serving on the coordinating council, all appointees must attend
 1394 orientation training that shall address, at a minimum, the
 1395 provisions of this section; the programs operated by the
 1396 coordinating council; the role and functions of the coordinating
 1397 council; the current budget for the coordinating council; the
 1398 results of the most recent formal audit of the coordinating
 1399 council; and the requirements of the state's public records law,
 1400 the code of ethics, the Administrative Procedure Act, and other
 1401 laws relating to public officials, including conflict-of-
 1402 interest laws.

1403 Reviser's note.—Amended to conform to usage in the Florida
 1404 Statutes.

1405 Section 46. Subsection (1) of section 420.602, Florida
 1406 Statutes, is amended to read:

1407 420.602 Definitions.—As used in this part, the following
 1408 terms shall have the following meanings, unless the context
 1409 otherwise requires:

1410 (1) "Adjusted for family size" means adjusted in a manner
 1411 which results in an income eligibility level which is lower for
 1412 households with fewer than four people, or higher for households
 1413 with more than four people, than the base income eligibility
 1414 level determined as provided in subsection (8) ~~subsection (9)~~,
 1415 subsection (9) ~~subsection (10)~~, or subsection (11) ~~subsection~~
 1416 ~~(12)~~, based upon a formula as established by rule of the
 1417 corporation.

1418 Reviser's note.—Amended to confirm the editorial substitution of
 1419 cross-references to conform to the repeal of former
 1420 subsection (7) by s. 46, ch. 2021-25, Laws of Florida.

1421 Section 47. Paragraph (a) of subsection (2) and paragraphs

28-01064A-22 2022848__

1422 (a) and (b) of subsection (11) of section 445.007, Florida
 1423 Statutes, are amended to read:

1424 445.007 Local workforce development boards.—

1425 (2) (a) The local workforce development board shall elect a
 1426 chair from among the representatives described in Pub. L. No.
 1427 113-128, Title I, s. 107(b)(2)(A) to serve for a term of no more
 1428 than 2 years who ~~and~~ may not serve more than two terms as chair.
 1429 Members of a local workforce development board shall serve
 1430 staggered terms and may not serve for more than 8 consecutive
 1431 years, unless such member is a representative of a governmental
 1432 entity. Service in a term of office which commenced before July
 1433 1, 2021, does not count toward the 8-year limitation.

1434 (11) (a) To increase transparency and accountability, a
 1435 local workforce development board must comply with the
 1436 requirements of this section before contracting with a member of
 1437 the local board; a relative, as defined in s. 112.3143(1)(c), of
 1438 a local board member; an organization or individual represented
 1439 on the local board; or ~~of~~ an employee of the local board. Such
 1440 contracts may not be executed before or without the prior
 1441 approval of the department. Such contracts, as well as
 1442 documentation demonstrating adherence to this section as
 1443 specified by the department, must be submitted to the department
 1444 for review and approval. Such a contract must be approved by a
 1445 two-thirds vote of the local board, a quorum having been
 1446 established; all conflicts of interest must be disclosed before
 1447 the vote in a manner that is consistent with the procedures
 1448 outlined in s. 112.3143(4); and any member who may benefit from
 1449 the contract, or whose organization or relative may benefit from
 1450 the contract, must abstain from the vote. A contract subject to

28-01064A-22 2022848__

1451 the requirements of this subsection may not be included on a
 1452 consent agenda.

1453 (b) A contract under \$10,000 between a local board; a
 1454 relative, as defined in s. 112.3143(1)(c), of a local board
 1455 member; or ~~of~~ an employee of the local board is not required to
 1456 have the prior approval of the department, but must be approved
 1457 by a two-thirds vote of the local board, a quorum having been
 1458 established, and must be reported to the department and the
 1459 state board within 30 days after approval.

1460 Reviser's note.—Paragraph (2)(a) is amended to confirm an
 1461 editorial substitution to improve clarity. Paragraphs
 1462 (11)(a) and (b) are amended to confirm editorial deletions
 1463 to improve clarity.

1464 Section 48. Paragraph (1) of subsection (1) of section
 1465 468.505, Florida Statutes, is amended to read:
 1466 468.505 Exemptions; exceptions.—

1467 (1) Nothing in this part may be construed as prohibiting or
 1468 restricting the practice, services, or activities of:

1469 (1) A person employed by a nursing facility exempt from
 1470 licensing under s. 395.002(12) ~~395.002(13)~~, or a person exempt
 1471 from licensing under s. 464.022.

1472 Reviser's note.—Amended to conform to the reordering of
 1473 definitions in s. 395.002 by this act.

1474 Section 49. Subsection (9) of section 480.033, Florida
 1475 Statutes, is amended to read:
 1476 480.033 Definitions.—As used in this act:
 1477 (9) "Licensure" means the procedure by which a person,
 1478 hereinafter referred to as a "practitioner," applies to the
 1479 board for approval to practice massage therapy or to operate an

28-01064A-22 2022848__

1480 establishment.

1481 Reviser's note.—Amended to conform to ch. 2021-143, Laws of
 1482 Florida, which substituted references to massage therapy
 1483 practice for references to massage practice.

1484 Section 50. Paragraphs (g), (h), and (i) of subsection (1)
 1485 of section 553.791, Florida Statutes, are reordered and amended
 1486 to read:
 1487 553.791 Alternative plans review and inspection.—
 1488 (1) As used in this section, the term:
 1489 (g) ~~(h)~~ "Electronic signature" means any letters,
 1490 characters, or symbols manifested by electronic or similar means
 1491 which are executed or adopted by a party with an intent to
 1492 authenticate a writing or record.
 1493 (h) ~~(i)~~ "Electronic transmission" or "submitted
 1494 electronically" means any form or process of communication not
 1495 directly involving the physical transfer of paper or another
 1496 tangible medium which is suitable for the retention, retrieval,
 1497 and reproduction of information by the recipient and is
 1498 retrievable in paper form by the receipt through an automated
 1499 process. All notices provided for in this section may be
 1500 transmitted electronically and shall have the same legal effect
 1501 as if physically posted or mailed.
 1502 (i) ~~(g)~~ "Electronically posted" means providing notices of
 1503 decisions, results, or records, including inspection records,
 1504 through the use of a website or other form of electronic
 1505 communication used to transmit or display information.

1506 Reviser's note.—Amended to place the definitions in paragraphs
 1507 (g) though (i) in alphabetical order.
 1508 Section 51. Paragraph (c) of subsection (5) of section

28-01064A-22 2022848__

1509 604.73, Florida Statutes, is amended to read:
 1510 604.73 Urban agriculture pilot projects; local regulation
 1511 of urban agriculture.—
 1512 (5) LOCAL REGULATION.—Notwithstanding s. 604.50, s. 823.14,
 1513 or any other law to the contrary, urban agriculture is subject
 1514 to applicable municipal regulations if:
 1515 (c) Before the reenactment of the regulations under
 1516 paragraph (b), the municipality designates existing farm
 1517 operations, as defined in s. 823.14(3)(d) ~~823.14(3)(b)~~, within
 1518 its jurisdiction as legally nonconforming.
 1519 Reviser's note.—Amended to conform to the reordering of
 1520 definitions in s. 823.14(3) by this act.
 1521 Section 52. Section 624.105, Florida Statutes, is amended
 1522 to read:
 1523 624.105 Waiver of customer liability.—Any regulated company
 1524 as defined in s. 350.111, any electric utility as defined in s.
 1525 366.02(4) ~~366.02(2)~~, any utility as defined in s. 367.021(12) or
 1526 s. 367.022(2) and (7), and any provider of communications
 1527 services as defined in s. 202.11(1) may charge for and include
 1528 an optional waiver of liability provision in their customer
 1529 contracts under which the entity agrees to waive all or a
 1530 portion of the customer's liability for service from the entity
 1531 for a defined period in the event of the customer's call to
 1532 active military service, death, disability, involuntary
 1533 unemployment, qualification for family leave, or similar
 1534 qualifying event or condition. Such provisions may not be
 1535 effective in the customer's contract with the entity unless
 1536 affirmatively elected by the customer. No such provision shall
 1537 constitute insurance so long as the provision is a contract

28-01064A-22 2022848__

1538 between the entity and its customer.
 1539 Reviser's note.—Amended to conform to the reordering of
 1540 definitions in s. 366.02 by this act.
 1541 Section 53. Subsection (1) of section 624.51057, Florida
 1542 Statutes, is amended to read:
 1543 624.51057 Credit for contributions to eligible charitable
 1544 organizations.—
 1545 (1) For taxable years beginning on or after January 1,
 1546 2022, there is allowed a credit of 100 percent of an eligible
 1547 contribution made to an eligible charitable organization under
 1548 s. 402.62 against any tax due for a taxable year under s.
 1549 624.509(1) after deducting from such tax deductions for
 1550 assessments made pursuant to s. 440.51; credits for taxes paid
 1551 under ss. 175.101 and 185.08; credits for income taxes paid
 1552 under chapter 220; and the credit allowed under s. 624.509(5),
 1553 as such credit is limited by s. 624.509(6). An eligible
 1554 contribution must be made to an eligible charitable organization
 1555 on or before the date the taxpayer is required to file a return
 1556 pursuant to ss. 624.509 and 624.5092. An insurer claiming a
 1557 credit against premium tax liability under this section is not
 1558 required to pay any additional retaliatory tax levied under s.
 1559 624.5091 as a result of claiming such credit. Section 624.5091
 1560 does not limit such credit in any manner.
 1561 Reviser's note.—Amended to confirm an editorial insertion to
 1562 improve clarity.
 1563 Section 54. Paragraph (i) of subsection (1) of section
 1564 626.9541, Florida Statutes, is amended to read:
 1565 626.9541 Unfair methods of competition and unfair or
 1566 deceptive acts or practices defined.—

28-01064A-22

2022848__

1567 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
1568 ACTS.—The following are defined as unfair methods of competition
1569 and unfair or deceptive acts or practices:

1570 (i) *Unfair claim settlement practices.*—

1571 1. Attempting to settle claims on the basis of an
1572 application, when serving as a binder or intended to become a
1573 part of the policy, or any other material document which was
1574 altered without notice to, or knowledge or consent of, the
1575 insured;

1576 2. A material misrepresentation made to an insured or any
1577 other person having an interest in the proceeds payable under
1578 such contract or policy, for the purpose and with the intent of
1579 effecting settlement of such claims, loss, or damage under such
1580 contract or policy on less favorable terms than those provided
1581 in, and contemplated by, such contract or policy; ~~or~~

1582 3. Committing or performing with such frequency as to
1583 indicate a general business practice any of the following:

1584 a. Failing to adopt and implement standards for the proper
1585 investigation of claims;

1586 b. Misrepresenting pertinent facts or insurance policy
1587 provisions relating to coverages at issue;

1588 c. Failing to acknowledge and act promptly upon
1589 communications with respect to claims;

1590 d. Denying claims without conducting reasonable
1591 investigations based upon available information;

1592 e. Failing to affirm or deny full or partial coverage of
1593 claims, and, as to partial coverage, the dollar amount or extent
1594 of coverage, or failing to provide a written statement that the
1595 claim is being investigated, upon the written request of the

Page 55 of 94

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

28-01064A-22

2022848__

1596 insured within 30 days after proof-of-loss statements have been
1597 completed;

1598 f. Failing to promptly provide a reasonable explanation in
1599 writing to the insured of the basis in the insurance policy, in
1600 relation to the facts or applicable law, for denial of a claim
1601 or for the offer of a compromise settlement;

1602 g. Failing to promptly notify the insured of any additional
1603 information necessary for the processing of a claim; ~~or~~

1604 h. Failing to clearly explain the nature of the requested
1605 information and the reasons why such information is necessary;
1606 ~~or~~

1607 i. Failing to pay personal injury protection insurance
1608 claims within the time periods required by s. 627.736(4)(b). The
1609 office may order the insurer to pay restitution to a
1610 policyholder, medical provider, or other claimant, including
1611 interest at a rate consistent with the amount set forth in s.
1612 55.03(1), for the time period within which an insurer fails to
1613 pay claims as required by law. Restitution is in addition to any
1614 other penalties allowed by law, including, but not limited to,
1615 the suspension of the insurer's certificate of authority; ~~or~~

1616 4. Failing to pay undisputed amounts of partial or full
1617 benefits owed under first-party property insurance policies
1618 within 90 days after an insurer receives notice of a residential
1619 property insurance claim, determines the amounts of partial or
1620 full benefits, and agrees to coverage, unless payment of the
1621 undisputed benefits is prevented by an act of God, prevented by
1622 the impossibility of performance, or due to actions by the
1623 insured or claimant that constitute fraud, lack of cooperation,
1624 or intentional misrepresentation regarding the claim for which

Page 56 of 94

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

28-01064A-22 2022848__

1625 benefits are owed.

1626 Reviser's note.—Amended to correct punctuation sequences.

1627 Section 55. Paragraph (b) of subsection (16) of section

1628 633.202, Florida Statutes, is amended to read:

1629 633.202 Florida Fire Prevention Code.—

1630 (16)

1631 (b) Notwithstanding any other provision of law:

1632 1. A nonresidential farm building in which the occupancy is

1633 limited by the property owner to no more than 35 persons is

1634 exempt from the Florida Fire Prevention Code, including the

1635 national codes and Life Safety Code incorporated by reference.

1636 2. An agricultural pole barn is exempt from the Florida

1637 Fire Prevention Code, including the national codes and the Life

1638 Safety Code incorporated by reference.

1639 3. Except for an agricultural pole barn, a structure on a

1640 farm, as defined in s. 823.14(3)(c) ~~823.14(3)(b)~~, which is used

1641 by an owner for agritourism activity, as defined in s. 570.86,

1642 for which the owner receives consideration must be classified in

1643 one of the following classes:

1644 a. Class 1: A nonresidential farm building that is used by

1645 the owner 12 or fewer times per year for agritourism activity

1646 with up to 100 persons occupying the structure at one time. A

1647 structure in this class is subject to annual inspection for

1648 classification by the local authority having jurisdiction. This

1649 class is not subject to the Florida Fire Prevention Code but is

1650 subject to rules adopted by the State Fire Marshal pursuant to

1651 this section.

1652 b. Class 2: A nonresidential farm building that is used by

1653 the owner for agritourism activity with up to 300 persons

28-01064A-22 2022848__

1654 occupying the structure at one time. A structure in this class

1655 is subject to annual inspection for classification by the local

1656 authority having jurisdiction. This class is not subject to the

1657 Florida Fire Prevention Code but is subject to rules adopted by

1658 the State Fire Marshal pursuant to this section.

1659 c. Class 3: A structure or facility that is used primarily

1660 for housing, sheltering, or otherwise accommodating members of

1661 the general public. A structure or facility in this class is

1662 subject to annual inspection for classification by the local

1663 authority having jurisdiction. This class is subject to the

1664 Florida Fire Prevention Code.

1665 Reviser's note.—Amended to conform to the reordering of

1666 definitions in s. 823.14(3) by this act.

1667 Section 56. Paragraph (e) of subsection (1) of section

1668 660.46, Florida Statutes, is amended to read:

1669 660.46 Substitution of fiduciaries.—

1670 (1) The provisions of this section shall apply to the

1671 transfer of fiduciary accounts by substitution, and for those

1672 purposes these provisions shall constitute alternative

1673 procedures to those provided or required by any other provisions

1674 of law relating to the transfer of fiduciary accounts or the

1675 substitution of persons acting or who are to act in a fiduciary

1676 capacity. In this section, and only for its purposes, the term:

1677 (e) "Trust disclosure document" has the meaning ascribed in

1678 s. 736.1008(4)(c) ~~736.1008(4)(a)~~.

1679 Reviser's note.—Amended to conform to the reordering of

1680 definitions in s. 736.1008 by this act.

1681 Section 57. Subsection (4) of section 736.1008, Florida

1682 Statutes, is reordered and amended to read:

28-01064A-22

2022848__

1683 736.1008 Limitations on proceedings against trustees.-
 1684 (4) As used in this section, the term:
 1685 (a) ~~(e)~~ "Limitation notice" means a written statement of the
 1686 trustee or a trust director that an action by a beneficiary for
 1687 breach of trust based on any matter adequately disclosed in a
 1688 trust disclosure document may be barred unless the action is
 1689 commenced within 6 months after receipt of the trust disclosure
 1690 document or receipt of a limitation notice that applies to that
 1691 trust disclosure document, whichever is later. A limitation
 1692 notice may but is not required to be in the following form: "An
 1693 action for breach of trust based on matters disclosed in a trust
 1694 accounting or other written report of the trustee or a trust
 1695 director may be subject to a 6-month statute of limitations from
 1696 the receipt of the trust accounting or other written report. If
 1697 you have questions, please consult your attorney."
 1698 (b) "Trust accounting" means an accounting that adequately
 1699 discloses the information required by and that substantially
 1700 complies with the standards set forth in s. 736.08135.
 1701 (c) ~~(e)~~ "Trust disclosure document" means a trust accounting
 1702 or any other written report of the trustee or a trust director.
 1703 A trust disclosure document adequately discloses a matter if the
 1704 document provides sufficient information so that a beneficiary
 1705 knows of a claim or reasonably should have inquired into the
 1706 existence of a claim with respect to that matter.
 1707 Reviser's note.—Amended to place the definitions in subsection
 1708 (4) in alphabetical order.
 1709 Section 58. Paragraph (a) of subsection (1) and paragraph
 1710 (a) of subsection (2) of section 736.1411, Florida Statutes, are
 1711 amended to read:

Page 59 of 94

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

28-01064A-22

2022848__

1712 736.1411 No duty to monitor, inform, or advise.-
 1713 (1) Notwithstanding s. 736.1409(1), relating to the duty of
 1714 a directed trustee to take reasonable action when directed and
 1715 to the release of liability for such action, unless the terms of
 1716 a trust provide otherwise:
 1717 (a) A trustee does not have a duty to:
 1718 1. Monitor a trust director; or
 1719 2. Inform or give advice to a settlor, beneficiary,
 1720 trustee, or trust director concerning an instance in which the
 1721 trustee might have acted differently from ~~than~~ the trust
 1722 director.
 1723 (2) Notwithstanding s. 736.1408(1), relating to the
 1724 fiduciary duty of a trust director, unless the terms of a trust
 1725 provide otherwise:
 1726 (a) A trust director does not have a duty to:
 1727 1. Monitor a trustee or another trust director; or
 1728 2. Inform or give advice to a settlor, beneficiary,
 1729 trustee, or another trust director concerning an instance in
 1730 which the trust director might have acted differently from ~~than~~
 1731 a trustee or another trust director.
 1732 Reviser's note.—Amended to confirm an editorial substitution to
 1733 conform to context.
 1734 Section 59. Paragraph (a) of subsection (2) of section
 1735 738.602, Florida Statutes, is amended to read:
 1736 738.602 Payments from deferred compensation plans,
 1737 annuities, and retirement plans or accounts.-
 1738 (2) (a) For a fund that is a separate account, income of the
 1739 fund shall be determined:
 1740 1. As if the fund were a trust subject to the provisions of

Page 60 of 94

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

28-01064A-22 2022848__

1741 ss. 738.401-738.706; or

1742 2. As a unitrust amount calculated by multiplying the fair

1743 market value of the fund as of the first day of the first

1744 accounting period and, thereafter, as of the last day of the

1745 accounting period that immediately precedes the accounting

1746 period during which a payment is received by the percentage

1747 determined in accordance with s. 738.1041(2)(b)2.a. The

1748 fiduciary shall determine such percentage as of the first month

1749 that the fiduciary's election to treat the income of the fund as

1750 a unitrust amount becomes effective. For purposes of this

1751 subparagraph, "fair market value" means the fair market value of

1752 the assets held in the fund as of the applicable valuation date

1753 determined as provided in this subparagraph. The fiduciary is

1754 not liable for good faith reliance upon any valuation supplied

1755 by the person or persons in possession of the fund. If the

1756 fiduciary makes or terminates an election under this

1757 subparagraph, the fiduciary shall make such disclosure in a

1758 trust disclosure document that satisfies the requirements of s.

1759 736.1008(4)(c) ~~736.1008(4)(a)~~.

1760 Reviser's note.—Amended to conform to the reordering of

1761 definitions in s. 736.1008 by this act.

1762 Section 60. Subsection (2) of section 765.101, Florida

1763 Statutes, is amended to read:

1764 765.101 Definitions.—As used in this chapter:

1765 (2) "Attending physician" means the physician who has

1766 primary responsibility for the treatment and care of the patient

1767 while the patient receives such treatment or care in a hospital

1768 as defined in s. 395.002(12) ~~395.002(13)~~.

1769 Reviser's note.—Amended to conform to the reordering of

Page 61 of 94

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

28-01064A-22 2022848__

1770 definitions in s. 395.002 by this act.

1771 Section 61. Paragraph (e) of subsection (1) of section

1772 768.1382, Florida Statutes, is amended to read:

1773 768.1382 Streetlights, security lights, and other similar

1774 illumination; limitation on liability.—

1775 (1) As used in this section, the term:

1776 (e) "Streetlight provider" means the state or any of the

1777 state's officers, agencies, or instrumentalities, any political

1778 subdivision as defined in s. 1.01, any public utility as defined

1779 in s. 366.02(8) ~~366.02(1)~~, or any electric utility as defined in

1780 s. 366.02(4) ~~366.02(2)~~.

1781 Reviser's note.—Amended to conform to the reordering of

1782 definitions in s. 366.02 by this act.

1783 Section 62. Paragraph (b) of subsection (1) of section

1784 768.381, Florida Statutes, is amended to read:

1785 768.381 COVID-19-related claims against health care

1786 providers.—

1787 (1) DEFINITIONS.—As used in this section, the term:

1788 (b) "COVID-19" means the novel coronavirus identified as

1789 SARS-CoV-2 ~~SARS-zc-2~~; any disease caused by SARS-CoV-2, its

1790 viral fragments, or a virus mutating therefrom; and all

1791 conditions associated with the disease which are caused by SARS-

1792 CoV-2, its viral fragments, or a virus mutating therefrom.

1793 Reviser's note.—Amended to confirm a correction by the editors

1794 of an input error during production of the 2021 Florida

1795 Statutes.

1796 Section 63. Paragraph (b) of subsection (2) of section

1797 812.014, Florida Statutes, is amended to read:

1798 812.014 Theft.—

Page 62 of 94

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

28-01064A-22 2022848__

1799 (2)

1800 (b)1. If the property stolen is valued at \$20,000 or more,

1801 but less than \$100,000;

1802 2. If the property stolen is cargo valued at less than

1803 \$50,000 that has entered the stream of interstate or intrastate

1804 commerce from the shipper's loading platform to the consignee's

1805 receiving dock;

1806 3. If the property stolen is emergency medical equipment,

1807 valued at \$300 or more, that is taken from a facility licensed

1808 under chapter 395 or from an aircraft or vehicle permitted under

1809 chapter 401; or

1810 4. If the property stolen is law enforcement equipment,

1811 valued at \$300 or more, that is taken from an authorized

1812 emergency vehicle, as defined in s. 316.003,

1813

1814 the offender commits grand theft in the second degree,

1815 punishable as a felony of the second degree, as provided in s.

1816 775.082, s. 775.083, or s. 775.084. Emergency medical equipment

1817 means mechanical or electronic apparatus used to provide

1818 emergency services and care as defined in s. 395.002(9) or to

1819 treat medical emergencies. Law enforcement equipment means any

1820 property, device, or apparatus used by any law enforcement

1821 officer as defined in s. 943.10 in the officer's official

1822 business. However, if the property is stolen during a riot or an

1823 aggravated riot prohibited under s. 870.01 and the perpetration

1824 of the theft is facilitated by conditions arising from the riot;

1825 or within a county that is subject to a state of emergency

1826 declared by the Governor under chapter 252, the theft is

1827 committed after the declaration of emergency is made, and the

28-01064A-22 2022848__

1828 perpetration of the theft is facilitated by conditions arising

1829 from the emergency, the theft is a felony of the first degree,

1830 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1831 As used in this paragraph, the term "conditions arising from the

1832 riot" means civil unrest, power outages, curfews, or a reduction

1833 in the presence of or response time for first responders or

1834 homeland security personnel and the term "conditions arising

1835 from the emergency" means civil unrest, power outages, curfews,

1836 voluntary or mandatory evacuations, or a reduction in the

1837 presence of or response time for first responders or homeland

1838 security personnel. A person arrested for committing a theft

1839 during a riot or an aggravated riot or within a county that is

1840 subject to a state of emergency may not be released until the

1841 person appears before a committing magistrate at a first

1842 appearance hearing. For purposes of sentencing under chapter

1843 921, a felony offense that is reclassified under this paragraph

1844 is ranked one level above the ranking under s. 921.0022 or s.

1845 921.0023 of the offense committed.

1846 Reviser's note.—Amended to improve sentence structure.

1847 Section 64. Paragraph (g) of subsection (1) of section

1848 812.015, Florida Statutes, is amended to read:

1849 812.015 Retail and farm theft; transit fare evasion;

1850 mandatory fine; alternative punishment; detention and arrest;

1851 exemption from liability for false arrest; resisting arrest;

1852 penalties.—

1853 (1) As used in this section:

1854 (g) "Farm theft" means the unlawful taking possession of

1855 any items that are grown or produced on land owned, rented, or

1856 leased by another person. The term includes the unlawful taking

28-01064A-22 2022848__

1857 possession of equipment and associated materials used to grow or
 1858 produce farm products as defined in s. 823.14(3)(e)
 1859 ~~823.14(3)(d)~~.
 1860 Reviser's note.—Amended to conform to the reordering of
 1861 definitions in s. 823.14(3) by this act
 1862 Section 65. Subsection (3) of section 823.14, Florida
 1863 Statutes, is reordered and amended to read:
 1864 823.14 Florida Right to Farm Act.—
 1865 (3) DEFINITIONS.—As used in this section:
 1866 (a) "Agritourism activity" has the same meaning as provided
 1867 in s. 570.86.
 1868 ~~(b)(e)~~ "Established date of operation" means the date the
 1869 farm operation commenced. For an agritourism activity, the term
 1870 "established date of operation" means the date the specific
 1871 agritourism activity commenced. If the farm operation is
 1872 subsequently expanded within the original boundaries of the farm
 1873 land, the established date of operation of the expansion shall
 1874 also be considered as the date the original farm operation
 1875 commenced. If the land boundaries of the farm are subsequently
 1876 expanded, the established date of operation for each expansion
 1877 is deemed to be a separate and independent established date of
 1878 operation. The expanded operation shall not divest the farm
 1879 operation of a previous established date of operation.
 1880 ~~(c)(b)~~ "Farm" means the land, buildings, support
 1881 facilities, machinery, and other appurtenances used in the
 1882 production of farm or aquaculture products.
 1883 ~~(d)(e)~~ "Farm operation" means all conditions or activities
 1884 by the owner, lessee, agent, independent contractor, or supplier
 1885 which occur on a farm in connection with the production of farm,

28-01064A-22 2022848__

1886 honeybee, or apiculture products or in connection with
 1887 complementary agritourism activities. These conditions and
 1888 activities include, but are not limited to, the marketing of
 1889 farm products at roadside stands or farm markets; the operation
 1890 of machinery and irrigation pumps; the generation of noise,
 1891 odors, dust, fumes, and particle emissions; ground or aerial
 1892 seeding and spraying; the placement and operation of an apiary;
 1893 the application of chemical fertilizers, conditioners,
 1894 insecticides, pesticides, and herbicides; agritourism
 1895 activities; and the employment and use of labor.
 1896 ~~(e)(d)~~ "Farm product" means any plant, as defined in s.
 1897 581.011, or animal or insect useful to humans and includes, but
 1898 is not limited to, any product derived therefrom.
 1899 (f) "Nuisance" means any interference with reasonable use
 1900 and enjoyment of land, including, but not limited to, noise,
 1901 smoke, odors, dust, fumes, particle emissions, or vibration. The
 1902 term also includes all claims that meet the requirements of this
 1903 definition, regardless of whether the plaintiff designates those
 1904 claims as brought in nuisance, negligence, trespass, personal
 1905 injury, strict liability, or other tort.
 1906 Reviser's note.—Amended to place the definitions in subsection
 1907 (3) in alphabetical order.
 1908 Section 66. Paragraph (c) of subsection (5) of section
 1909 849.086, Florida Statutes, is amended to read:
 1910 849.086 Cardrooms authorized.—
 1911 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may
 1912 operate a cardroom in this state unless such person holds a
 1913 valid cardroom license issued pursuant to this section.
 1914 (c) Notwithstanding any other provision of law, a pari-

28-01064A-22 2022848__

1915 mutuel permitholder, other than a permitholder issued a permit
 1916 pursuant to s. 550.3345, may not be issued a license for the
 1917 operation of a cardroom if the permitholder did not hold an
 1918 operating license for the conduct of pari-mutuel wagering for
 1919 fiscal year 2020-2021. In order for an initial cardroom license
 1920 to be issued to a thoroughbred permitholder issued a permit
 1921 pursuant to s. 550.3345, the applicant must have requested, as
 1922 part of its pari-mutuel annual license application, to conduct
 1923 at least a full schedule of live racing. In order for a cardroom
 1924 license to be renewed by a thoroughbred permitholder, the
 1925 applicant must have requested, as part of its pari-mutuel annual
 1926 license application, to conduct at least 90 percent of the total
 1927 number of live performances conducted by such permitholder
 1928 during either the state fiscal year in which its initial
 1929 cardroom license was issued or the state fiscal year immediately
 1930 prior thereto if the permitholder ran at least a full schedule
 1931 of live racing or games in the prior year.

1932 Reviser's note.—Amended to confirm an editorial insertion to
 1933 improve clarity.

1934 Section 67. Subsection (3) of section 870.01, Florida
 1935 Statutes, is amended to read:

1936 870.01 Affrays and riots.—

1937 (3) A person commits aggravated rioting if, in the course
 1938 of committing a riot, he or she:

1939 (a) Participates with 25 or more other persons;
 1940 (b) Causes great bodily harm to a person not participating
 1941 in the riot;
 1942 (c) Causes property damage in excess of \$5,000;
 1943 (d) Displays, uses, threatens to use, or attempts to use a

28-01064A-22 2022848__

1944 deadly weapon; or

1945 (e) By force, or threat of force, endangers the safe
 1946 movement of a vehicle traveling on a public street, highway, or
 1947 road.

1948

1949 A person who commits aggravated ~~aggravating~~ rioting commits a
 1950 felony of the second degree, punishable as provided in s.
 1951 775.082, s. 775.083, or s. 775.084.

1952 Reviser's note.—Amended to confirm an editorial substitution to
 1953 conform to context. Chapter 2021-6, Laws of Florida,
 1954 introduced the crime of aggravated rioting to the statutes,
 1955 and all instances in the law except this one use the word
 1956 "aggravated."

1957 Section 68. Paragraph (a) of subsection (2) of section
 1958 948.16, Florida Statutes, is amended to read:

1959 948.16 Misdemeanor pretrial substance abuse education and
 1960 treatment intervention program; misdemeanor pretrial veterans'
 1961 treatment intervention program; misdemeanor pretrial mental
 1962 health court program.—

1963 (2) (a) A veteran or a servicemember, as defined in s.
 1964 394.47891(2)(d) or (c), respectively, who is otherwise qualified
 1965 to participate in a veterans treatment court program under s.
 1966 394.47891, and is charged with a misdemeanor is eligible for
 1967 admission into a misdemeanor veterans treatment court program
 1968 ~~program~~, for a period based on the program's requirements and
 1969 the treatment plan for the offender, pursuant to the
 1970 requirements of s. 394.47891(4) and (8).

1971 Reviser's note.—Amended to confirm an editorial deletion to
 1972 eliminate redundancy.

28-01064A-22 2022848__

1973 Section 69. Subsection (10) of section 1001.03, Florida
 1974 Statutes, is amended to read:
 1975 1001.03 Specific powers of State Board of Education.—
 1976 (10) COMMON PLACEMENT TESTING FOR PUBLIC POSTSECONDARY
 1977 EDUCATION.—The State Board of Education, in conjunction with the
 1978 Board of Governors, shall develop and implement a common
 1979 placement test to assess the basic communication and computation
 1980 ~~and communication~~ skills of students who intend to enter a
 1981 degree program at any Florida College System institution or
 1982 state university.
 1983 Reviser's note.—Amended to conform to ch. 2021-162, Laws of
 1984 Florida, which substituted the words "communication and
 1985 computation" for the words "computation and communication"
 1986 as those words relate to education.
 1987 Section 70. Subsection (1) of section 1001.10, Florida
 1988 Statutes, is amended to read:
 1989 1001.10 Commissioner of Education; general powers and
 1990 duties.—
 1991 (1) The Commissioner of Education is the chief educational
 1992 officer of the state and the sole custodian of the educational
 1993 data warehouse, and is responsible for giving full assistance to
 1994 the State Board of Education in enforcing compliance with the
 1995 mission and goals of the Early Learning-20 ~~Early Learning~~
 1996 education system, except for the State University System.
 1997 Reviser's note.—Amended to confirm the editorial substitution of
 1998 the term "Early Learning-20" for the term "Early Learning"
 1999 to correct a drafting error and conform to amendments by
 2000 ch. 2021-10, Laws of Florida.
 2001 Section 71. Subsection (7) of section 1001.42, Florida

28-01064A-22 2022848__

2002 Statutes, is amended to read:
 2003 1001.42 Powers and duties of district school board.—The
 2004 district school board, acting as a board, shall exercise all
 2005 powers and perform all duties listed below:
 2006 (7) PROHIBITION FROM EMPLOYMENT.—Prohibit educational
 2007 support employees, instructional personnel, and administrative
 2008 personnel, as defined in s. 1012.01, from employment in any
 2009 position that requires direct contact with students if the
 2010 employees or personnel are ineligible for such employment under
 2011 s. 1012.315 or have been terminated or have resigned in lieu of
 2012 termination for sexual misconduct with a student. If the
 2013 prohibited conduct occurs while employed, the district school
 2014 board must report the employees or personnel and the
 2015 disqualifying circumstances to the department for inclusion on
 2016 the disqualification list maintained by the department pursuant
 2017 to s. 1001.10(4)(b). An elected or appointed school board
 2018 official forfeits his or her salary for 1 year if:
 2019 (a) The school board official knowingly signs and transmits
 2020 to any state official a report of alleged misconduct by
 2021 educational support employees, instructional personnel, or
 2022 administrative personnel which the school board official knows
 2023 to be false or incorrect; or
 2024 (b) The school board official knowingly fails to adopt
 2025 policies that require:
 2026 1. Educational support employees, instructional personnel,
 2027 and administrative personnel to report alleged misconduct by
 2028 other educational support employees, instructional personnel,
 2029 and administrative personnel;
 2030 2. The district school superintendent to report misconduct

28-01064A-22 2022848__

2031 by educational support employees, instructional personnel, or
 2032 school administrators that would result in disqualification from
 2033 educator certification or employment as provided in s. 1012.315
 2034 to the law enforcement agencies with jurisdiction over the
 2035 conduct; or

2036 3. The investigation of all reports of alleged misconduct
 2037 by educational support employees, instructional personnel, and
 2038 administrative personnel, if the misconduct affects the health,
 2039 safety, or welfare of a student, regardless of whether the
 2040 person resigned or was terminated before the conclusion of the
 2041 investigation. The policies must require the district school
 2042 superintendent to notify the department of the result of the
 2043 investigation and whether the misconduct warranted termination,
 2044 regardless of whether the person resigned or was terminated
 2045 before the conclusion of the investigation.

2046 Reviser's note.—Amended to confirm editorial insertions to
 2047 improve clarity.

2048 Section 72. Paragraph (g) of subsection (12) of section
 2049 1002.33, Florida Statutes, is amended to read:

2050 1002.33 Charter schools.—

2051 (12) EMPLOYEES OF CHARTER SCHOOLS.—

2052 (g)1. A charter school shall employ or contract with
 2053 employees who have undergone background screening as provided in
 2054 s. 1012.32. Members of the governing board of the charter school
 2055 shall also undergo background screening in a manner similar to
 2056 that provided in s. 1012.32. An individual may not be employed
 2057 as an employee or contract personnel of a charter school or
 2058 serve as a member of a charter school governing board if the
 2059 individual is on the disqualification list maintained by the

28-01064A-22 2022848__

2060 department pursuant to s. 1001.10(4)(b).

2061 2. A charter school shall prohibit educational support
 2062 employees, instructional personnel, and school administrators,
 2063 as defined in s. 1012.01, from employment in any position that
 2064 requires direct contact with students if the employees,
 2065 personnel, or administrators are ineligible for such employment
 2066 under s. 1012.315 or have been terminated or have resigned in
 2067 lieu of termination for sexual misconduct with a student. If the
 2068 prohibited conduct occurs while employed, a charter school must
 2069 report the individual and the disqualifying circumstances to the
 2070 department for inclusion on the disqualification list maintained
 2071 pursuant to s. 1001.10(4)(b).

2072 3. The governing board of a charter school shall adopt
 2073 policies establishing standards of ethical conduct for
 2074 educational support employees, instructional personnel, and
 2075 school administrators. The policies must require all educational
 2076 support employees, instructional personnel, and school
 2077 administrators, as defined in s. 1012.01, to complete training
 2078 on the standards; establish the duty of educational support
 2079 employees, instructional personnel, and school administrators to
 2080 report, and procedures for reporting, alleged misconduct that
 2081 affects the health, safety, or welfare of a student; and include
 2082 an explanation of the liability protections provided under ss.
 2083 39.203 and 768.095. A charter school, or any of its employees,
 2084 may not enter into a confidentiality agreement regarding
 2085 terminated or dismissed educational support employees,
 2086 instructional personnel, or school administrators, or employees,
 2087 personnel, or administrators who resign in lieu of termination,
 2088 based in whole or in part on misconduct that affects the health,

28-01064A-22 2022848__
 2089 safety, or welfare of a student, and may not provide employees,
 2090 personnel, or administrators with employment references or
 2091 discuss the employees', personnel's, or administrators'
 2092 performance with prospective employers in another educational
 2093 setting, without disclosing the employees', personnel's, or
 2094 administrators' misconduct. Any part of an agreement or contract
 2095 that has the purpose or effect of concealing misconduct by
 2096 educational support employees, instructional personnel, or
 2097 school administrators which affects the health, safety, or
 2098 welfare of a student is void, is contrary to public policy, and
 2099 may not be enforced.

2100 4. Before employing an individual in any position that
 2101 requires direct contact with students, a charter school shall
 2102 conduct employment history checks of each individual through use
 2103 of the educator screening tools described in s. 1001.10(5), and
 2104 document the findings. If unable to contact a previous employer,
 2105 the charter school must document efforts to contact the
 2106 employer.

2107 5. The sponsor of a charter school that knowingly fails to
 2108 comply with this paragraph shall terminate the charter under
 2109 subsection (8).

2110 Reviser's note.—Amended to confirm an editorial insertion to
 2111 improve clarity.

2112 Section 73. Paragraph (f) of subsection (3) of section
 2113 1002.37, Florida Statutes, is amended to read:

2114 1002.37 The Florida Virtual School.—

2115 (3) Funding for the Florida Virtual School shall be
 2116 provided as follows:

2117 (f) The Florida Virtual School shall receive state funds

28-01064A-22 2022848__
 2118 for operating purposes as provided in the General Appropriations
 2119 Act. The calculation to determine the amount of state funds
 2120 includes: the sum of the base Florida Education Finance Program
 2121 funding, the state-funded discretionary contribution and a per-
 2122 full-time equivalent share of the discretionary millage
 2123 compression supplement, the exceptional student education
 2124 guaranteed allocation, the instructional materials allocation,
 2125 the evidence-based ~~research-based~~ reading instruction
 2126 allocation, the mental health assistance allocation, and the
 2127 teacher salary increase allocation. For the purpose of
 2128 calculating the state-funded discretionary contribution,
 2129 multiply the maximum allowable nonvoted discretionary millage
 2130 for operations pursuant to s. 1011.71(1) and (3) by the value of
 2131 96 percent of the current year's taxable value for school
 2132 purposes for the state; divide the result by the total full-time
 2133 equivalent membership of the state; and multiply the result by
 2134 the full-time equivalent membership of the school. Funds may not
 2135 be provided for the purpose of fulfilling the class size
 2136 requirements in ss. 1003.03 and 1011.685.

2137 Reviser's note.—Amended to conform to ch. 2021-9, Laws of
 2138 Florida, which renamed the "research-based reading
 2139 instruction allocation" as the "evidence-based reading
 2140 instruction allocation."

2141 Section 74. Paragraph (r) of subsection (1) of section
 2142 1002.421, Florida Statutes, is amended to read:

2143 1002.421 State school choice scholarship program
 2144 accountability and oversight.—

2145 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
 2146 school participating in an educational scholarship program

28-01064A-22 2022848__

2147 established pursuant to this chapter must be a private school as
 2148 defined in s. 1002.01(2) in this state, be registered, and be in
 2149 compliance with all requirements of this section in addition to
 2150 private school requirements outlined in s. 1002.42, specific
 2151 requirements identified within respective scholarship program
 2152 laws, and other provisions of Florida law that apply to private
 2153 schools, and must:

2154 (r) Prohibit education support employees, instructional
 2155 personnel, and school administrators from employment in any
 2156 position that requires direct contact with students if the
 2157 personnel or administrators are ineligible for such employment
 2158 pursuant to this section or s. 1012.315, or have been terminated
 2159 or have resigned in lieu of termination for sexual misconduct
 2160 with a student. If the prohibited conduct occurs subsequent to
 2161 employment, the private school must report the person and the
 2162 disqualifying circumstances to the department for inclusion on
 2163 the disqualification list maintained pursuant to s.
 2164 1001.10(4)(b).
 2165

2166 The department shall suspend the payment of funds to a private
 2167 school that knowingly fails to comply with this subsection, and
 2168 shall prohibit the school from enrolling new scholarship
 2169 students, for 1 fiscal year and until the school complies. If a
 2170 private school fails to meet the requirements of this subsection
 2171 or has consecutive years of material exceptions listed in the
 2172 report required under paragraph (q), the commissioner may
 2173 determine that the private school is ineligible to participate
 2174 in a scholarship program.
 2175 Reviser's note.—Amended to confirm an editorial insertion to

Page 75 of 94

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

28-01064A-22 2022848__

2176 improve clarity.

2177 Section 75. Paragraph (a) of subsection (3) of section
 2178 1002.82, Florida Statutes, is amended to read:
 2179 1002.82 Department of Education; powers and duties.—
 2180 (3)(a) The department shall adopt performance standards and
 2181 outcome measures for early learning coalitions that, at a
 2182 minimum, include the development of objective and statistically
 2183 valid customer service surveys by a state university or ~~of~~ other
 2184 independent researcher with specific expertise in customer
 2185 service survey development. The survey shall be deployed
 2186 beginning in fiscal year 2022-2023 and be distributed to:
 2187 1. Customers who use the services in s. 1002.92 upon the
 2188 completion of a referral inquiry.
 2189 2. Parents, annually, at the time of eligibility
 2190 determination.
 2191 3. Child care providers that participate in the school
 2192 readiness program or the Voluntary Prekindergarten Education
 2193 Program at the time of execution of the statewide provider
 2194 contract.
 2195 4. Board members required under s. 1002.83.
 2196 Reviser's note.—Amended to confirm an editorial substitution to
 2197 conform to context.

2198 Section 76. Paragraph (c) of subsection (3) of section
 2199 1003.4203, Florida Statutes, is amended to read:
 2200 1003.4203 Digital materials, CAPE Digital Tool
 2201 certificates, and technical assistance.—
 2202 (3) CAPE DIGITAL TOOL CERTIFICATES.—The department shall
 2203 identify, in the CAPE Industry Certification Funding List under
 2204 ss. 1003.492 and 1008.44, CAPE Digital Tool certificates that

Page 76 of 94

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

28-01064A-22 2022848__

2205 indicate a student's digital skills. The department shall notify
 2206 each school district when the certificates are available. The
 2207 certificates shall be made available to all public elementary
 2208 and middle grades students.

2209 (c) The Legislature intends that ~~by July 1, 2018~~, on an
 2210 annual basis, at least 75 percent of public middle grades
 2211 students earn at least one CAPE Digital Tool certificate.
 2212 Reviser's note.—Amended to delete obsolete language.

2213 Section 77. Paragraph (d) of subsection (3) of section
 2214 1003.4282, Florida Statutes, is amended to read:
 2215 1003.4282 Requirements for a standard high school diploma.—
 2216 (3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT
 2217 REQUIREMENTS.—

2218 (d) *Three credits in social studies.*—A student must earn
 2219 one credit in United States History; one credit in World
 2220 History; one-half credit in economics; and one-half credit in
 2221 United States Government, which must include a comparative
 2222 discussion of political ideologies, such as communism and
 2223 totalitarianism, that conflict with the principles of freedom
 2224 and democracy essential to the founding principles of the United
 2225 States. The United States History EOC assessment constitutes 30
 2226 percent of the student's final course grade. Beginning with the
 2227 2021-2022 school year, students taking the United States
 2228 Government course are required to take the assessment of civic
 2229 literacy identified by the State Board of Education pursuant to
 2230 s. 1007.25(5) ~~1007.25(4)~~. Students earning a passing score on
 2231 the assessment are exempt from the postsecondary civic literacy
 2232 assessment required by s. 1007.25(5) ~~1007.25(4)~~.
 2233 Reviser's note.—Amended to conform to the fact that s.

28-01064A-22 2022848__

2234 1007.25(5) relates to demonstration of competency in civic
 2235 literacy; s. 1007.25(4) relates to the identified digital
 2236 credential regarding competency in general education
 2237 courses.

2238 Section 78. Paragraph (a) of subsection (2) of section
 2239 1003.5716, Florida Statutes, is amended to read:
 2240 1003.5716 Transition to postsecondary education and career
 2241 opportunities.—All students with disabilities who are 3 years of
 2242 age to 21 years of age have the right to a free, appropriate
 2243 public education. As used in this section, the term "IEP" means
 2244 individual education plan.

2245 (2) Beginning not later than the first IEP to be in effect
 2246 when the student enters high school, attains the age of 14, or
 2247 when determined appropriate by the parent and the IEP team,
 2248 whichever occurs first, the IEP must include the following
 2249 statements that must be updated annually:

2250 (a) A statement of intent to pursue a standard high school
 2251 diploma and a Scholar or Merit designation, pursuant to s.
 2252 1003.4285, as determined by the parent.

2253 1. The statement must document discussion of the process
 2254 for a student with a disability who meets the requirements for a
 2255 standard high school diploma to defer the receipt of such
 2256 diploma pursuant to s. 1003.4282(9)(c) ~~1003.4282(10)(e)~~.

2257 2. For the IEP in effect at the beginning of the school
 2258 year the student is expected to graduate, the statement must
 2259 include a signed statement by the parent, the guardian, or the
 2260 student, if the student has reached the age of majority and
 2261 rights have transferred to the student, that he or she
 2262 understands the process for deferment and identifying if the

28-01064A-22 2022848__

2263 student will defer the receipt of his or her standard high
 2264 school diploma.

2265 Reviser's note.—Amended to conform to the redesignation of s.
 2266 1003.4282(10) (c) as s. 1003.4282(9) (c) necessitated by the
 2267 repeal of former s. 1003.4282(9) by s. 12, ch. 2021-52,
 2268 Laws of Florida.

2269 Section 79. Subsection (6) of section 1004.015, Florida
 2270 Statutes, is amended to read:

2271 1004.015 Florida Talent Development Council.—

2272 (6) The council shall coordinate, facilitate, and
 2273 communicate statewide efforts to meet supply and demand needs
 2274 for the state's health care workforce. Annually, beginning
 2275 December 1, 2021, the council shall report on the implementation
 2276 of this subsection and any other relevant information on the
 2277 Florida Talent Development ~~Developmental~~ Council's web page
 2278 located on the Department of Economic Opportunity's website. To
 2279 support the efforts of the council, the Board of Governors and
 2280 the State Board of Education shall:

2281 (a) Conduct a statistically valid biennial data-driven gap
 2282 analysis of the supply and demand of the health care workforce.
 2283 Demand must align with the Labor Market Estimating Conference
 2284 created in s. 216.136.

2285 (b) Provide 10-year trend information on nursing education
 2286 programs subject to the requirements of s. 464.019. The
 2287 Department of Health, the Board of Governors, the State Board of
 2288 Education, the Commission for Independent Education, the
 2289 Independent Colleges and Universities of Florida, and
 2290 postsecondary institutions participating in a state grant
 2291 program under s. 1009.89 or s. 1009.891, shall provide data on:

Page 79 of 94

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

28-01064A-22 2022848__

2292 1. The number and type of programs and student slots
 2293 available.

2294 2. The number of student applications submitted, the number
 2295 of qualified student applicants, and the number of students
 2296 accepted.

2297 3. The number of program graduates.

2298 4. Program retention rates of students tracked from program
 2299 entry to graduation.

2300 5. Graduate passage rates on and the number of times each
 2301 graduate took the National Council of State Boards of Nursing
 2302 Licensing Examination.

2303 6. The number of graduates who become employed as practical
 2304 or professional nurses in the state.

2305 7. The educational advancement of nurses through career
 2306 pathways by comparing their initial degree to the highest degree
 2307 they obtained for the preceding 10 years.

2308 (c) Develop a survey for use by the Department of Health,
 2309 the Commission for Independent Education, the Independent
 2310 Colleges and Universities of Florida, and postsecondary
 2311 institutions participating in a state grant program under s.
 2312 1009.89 or s. 1009.891, to collect data required under paragraph
 2313 (b). The survey must include, but is not limited to, a student's
 2314 age, gender, race, ethnicity, veteran status, wage, employer
 2315 information, loan debt, and retirement expectations.

2316 Reviser's note.—Amended to confirm an editorial substitution to
 2317 conform to the correct name of the council as referenced in
 2318 s. 1004.015, which creates it.

2319 Section 80. Paragraph (g) of subsection (3) of section
 2320 1004.097, Florida Statutes, is amended to read:

Page 80 of 94

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

28-01064A-22

2022848__

2321 1004.097 Free expression on campus.-
 2322 (3) RIGHT TO FREE-SPEECH ACTIVITIES.-
 2323 (g) Notwithstanding s. 934.03 and subject to the
 2324 protections provided in the Family Educational Rights and
 2325 Privacy Act of 1974, 20 U.S.C. s. 1232g, and ss. 1002.22 and
 2326 1002.225, a student may record video or audio of class lectures
 2327 for his or her ~~their~~ own personal educational use, in connection
 2328 with a complaint to the public institution of higher education
 2329 where the recording was made, or as evidence in, or in
 2330 preparation for, a criminal or civil proceeding. A recorded
 2331 lecture may not be published without the consent of the
 2332 lecturer.

2333 Reviser's note.-Amended to conform to the immediately preceding
 2334 context.

2335 Section 81. Paragraphs (a) and (f) of subsection (3) of
 2336 section 1006.60, Florida Statutes, are amended to read:
 2337 1006.60 Codes of conduct; disciplinary measures; rules or
 2338 regulations.-

2339 (3) The codes of conduct shall be published on the Florida
 2340 College System institution's or state university's website,
 2341 protect the rights of all students, and, at minimum, provide the
 2342 following due process protections to students and student
 2343 organizations:

2344 (a) The right to timely written notice. The code must
 2345 require that the institution or university provide a student or
 2346 student organization with timely written notice of the student's
 2347 or student organization's alleged violation of the code of
 2348 conduct. The notice must include sufficient detail and be
 2349 provided with sufficient time to prepare for any disciplinary

Page 81 of 94

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

28-01064A-22

2022848__

2350 proceeding.

2351 1. The written notice must include the allegations to be
 2352 investigated; the citation to the specific provision of the code
 2353 of conduct at issue; the process to be used in determining
 2354 whether a violation has occurred and associated rights; and the
 2355 date, time, and location of the disciplinary proceeding.

2356 2. The written notice is considered timely if it is
 2357 provided at least 7 business days before the disciplinary
 2358 proceeding and may be provided by delivery to the student's
 2359 institutional e-mail address and, if the student is under 18
 2360 years of age, to the student's parent or to the student
 2361 organization's e-mail address.

2362 3. At least 5 business days before the disciplinary
 2363 proceeding, the institution or university must provide the
 2364 student or student organization with:

2365 a. A listing of all known witnesses who ~~that~~ have provided,
 2366 or will provide, information against the student or student
 2367 organization.

2368 b. All known information relating to the allegation,
 2369 including inculpatory and exculpatory information.

2370 (f) The right to an advisor or advocate who may not serve
 2371 in any other role, including as an investigator, decider of
 2372 fact, hearing officer, or member of a committee or panel
 2373 convened to hear or decide the charge, or any appeal.

2374 Reviser's note.-Paragraph (a) is amended to confirm an editorial
 2375 substitution to conform to context. Paragraph (f) is
 2376 amended to improve clarity and correct sentence structure.

2377 Section 82. Paragraphs (b), (d), and (e) of subsection (5)
 2378 and paragraph (c) of subsection (8) of section 1008.25, Florida

Page 82 of 94

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

28-01064A-22

2022848__

2379 Statutes, are amended to read:

2380 1008.25 Public school student progression; student support;
2381 screening and progress monitoring; reporting requirements.—

2382 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

2383 (b) A Voluntary Prekindergarten Education Program student
2384 who exhibits a substantial deficiency in early literacy skills
2385 in accordance with the standards under s. 1002.67(1)(a) and
2386 based upon the results of the administration of the final
2387 coordinated screening and progress monitoring under s. 1008.2125
2388 shall be referred to the local school district and may be
2389 eligible to receive intensive reading interventions before
2390 participating in kindergarten. Such intensive reading
2391 interventions shall be paid for using funds from the district's
2392 evidence-based ~~research-based~~ reading instruction allocation in
2393 accordance with s. 1011.62(8) ~~1011.62(9)~~.

2394 (d) The parent of any student who exhibits a substantial
2395 deficiency in reading, as described in paragraph (a), must be
2396 notified in writing of the following:

2397 1. That his or her child has been identified as having a
2398 substantial deficiency in reading, including a description and
2399 explanation, in terms understandable to the parent, of the exact
2400 nature of the student's difficulty in learning and lack of
2401 achievement in reading.

2402 2. A description of the current services that are provided
2403 to the child.

2404 3. A description of the proposed intensive interventions
2405 and supports that will be provided to the child that are
2406 designed to remediate the identified area of reading deficiency.

2407 4. That if the child's reading deficiency is not remediated

28-01064A-22

2022848__

2408 by the end of grade 3, the child must be retained unless he or
2409 she is exempt from mandatory retention for good cause.

2410 5. Strategies, including multisensory strategies, through a
2411 read-at-home plan the parent can use in helping his or her child
2412 succeed in reading. The read-at-home plan must provide access to
2413 the resources identified in paragraph (e) ~~paragraph (d)~~.

2414 6. That the statewide, standardized English Language Arts
2415 assessment is not the sole determiner of promotion and that
2416 additional evaluations, portfolio reviews, and assessments are
2417 available to the child to assist parents and the school district
2418 in knowing when a child is reading at or above grade level and
2419 ready for grade promotion.

2420 7. The district's specific criteria and policies for a
2421 portfolio as provided in subparagraph (6)(b)4. and the evidence
2422 required for a student to demonstrate mastery of Florida's
2423 academic standards for English Language Arts. A school must
2424 immediately begin collecting evidence for a portfolio when a
2425 student in grade 3 is identified as being at risk of retention
2426 or upon the request of the parent, whichever occurs first.

2427 8. The district's specific criteria and policies for
2428 midyear promotion. Midyear promotion means promotion of a
2429 retained student at any time during the year of retention once
2430 the student has demonstrated ability to read at grade level.

2431 9. Information about the student's eligibility for the New
2432 Worlds Reading Initiative under s. 1003.485 and information on
2433 parent training modules and other reading engagement resources
2434 available through the initiative.

2435
2436 After initial notification, the school shall apprise the parent

28-01064A-22 2022848__

2437 at least monthly of the student's progress in response to the
 2438 intensive interventions and supports. Such communications must
 2439 be in writing and must explain any additional interventions or
 2440 supports that will be implemented to accelerate the student's
 2441 progress if the interventions and supports already being
 2442 implemented have not resulted in improvement.

2443 (e) The Department of Education shall compile resources
 2444 that each school district must incorporate into a read-at-home
 2445 plan provided to the parent of a student who is identified as
 2446 having a substantial reading deficiency pursuant to paragraph
 2447 (d) ~~paragraph (c)~~. The resources must be made available in an
 2448 electronic format that is accessible online and must include the
 2449 following:

2450 1. Developmentally appropriate, evidence-based strategies
 2451 and programming, including links to video training modules and
 2452 opportunities to sign up for at-home reading tips delivered
 2453 periodically via text and e-mail, which a parent can use to help
 2454 improve his or her child's literacy skills.

2455 2. An overview of the types of assessments used to identify
 2456 reading deficiencies and what those assessments measure or do
 2457 not measure, the frequency with which the assessments are
 2458 administered, and the requirements for interventions and
 2459 supports that districts must provide to students who do not make
 2460 adequate academic progress.

2461 3. An overview of the process for initiating and conducting
 2462 evaluations for exceptional education eligibility. The overview
 2463 must include an explanation that a diagnosis of a medical
 2464 condition alone is not sufficient to establish exceptional
 2465 education eligibility but may be used to document how that

Page 85 of 94

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

28-01064A-22 2022848__

2466 condition relates to the student's eligibility determination and
 2467 may be disclosed in an eligible student's individual education
 2468 plan when necessary to inform school personnel responsible for
 2469 implementing the plan.

2470 4. Characteristics of conditions associated with learning
 2471 disorders, including dyslexia, dysgraphia, dyscalculia, and
 2472 developmental aphasia.

2473 5. A list of resources that support informed parent
 2474 involvement in decisionmaking processes for students who have
 2475 difficulty in learning.

2476
 2477 Upon the request of a parent, resources meeting the requirements
 2478 of this paragraph must be provided to the parent in a hardcopy
 2479 format.

2480 (8) COORDINATED SCREENING AND PROGRESS MONITORING SYSTEM.—

2481 (c) A Voluntary Prekindergarten Education Program student
 2482 who is at risk of being identified as having a substantial
 2483 deficiency in early literacy skills, based upon results under
 2484 this subsection, must be referred to the school district in
 2485 which he or she resides and may be eligible to receive early
 2486 literacy instruction and interventions after program completion
 2487 and before participating in kindergarten. Such instruction and
 2488 interventions may be paid for using funds from the school
 2489 district's evidence-based reading instruction allocation in
 2490 accordance with s. 1011.62(8) ~~1011.62(9)~~.

2491 Reviser's note.—Paragraph (5) (b) is amended to conform to s. 18,
 2492 ch. 2021-9, Laws of Florida, which renamed the "research-
 2493 based reading instruction allocation" as the "evidence-
 2494 based research instruction allocation," and to correct a

Page 86 of 94

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

28-01064A-22 2022848__

2495 cross-reference to conform to the deletion of former s.
 2496 1011.62(8) by s. 3, ch. 2021-44. Paragraphs (5)(d) and (e)
 2497 are amended to correct cross-references to conform to the
 2498 addition of a new paragraph (b) by s. 66, ch. 2021-10, Laws
 2499 of Florida. Paragraph (8)(c) is amended to correct a cross-
 2500 reference to conform to the deletion of former s.
 2501 1011.62(8) by s. 3, ch. 2021-44.
 2502 Section 83. Paragraph (b) of subsection (3) of section
 2503 1008.30, Florida Statutes, is amended to read:
 2504 1008.30 Assessing college-level communication and
 2505 computation skills for public postsecondary education.—
 2506 (3) The rules adopted under subsection (2) must specify the
 2507 following:
 2508 (b) A student who is assessed for readiness for college-
 2509 level ~~computation and~~ communication and computation and whose
 2510 assessment results indicate a need for developmental education
 2511 must be advised of all the developmental education options
 2512 offered at the institution and, after advisement, may enroll in
 2513 the developmental education option of his or her choice.
 2514 Reviser's note.—Amended to conform to ch. 2021-162, Laws of
 2515 Florida, which substituted the words "communication and
 2516 computation" for references to the words "computation and
 2517 communication" as those words relate to education.
 2518 Section 84. Paragraph (c) of subsection (1) of section
 2519 1008.31, Florida Statutes, is amended to read:
 2520 1008.31 Florida's Early Learning-20 education performance
 2521 accountability system; legislative intent; mission, goals, and
 2522 systemwide measures; data quality improvements.—
 2523 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature

28-01064A-22 2022848__

2524 that:
 2525 (c) The Early Learning-20 ~~K-20~~ education performance
 2526 accountability system comply with the requirements of the "No
 2527 Child Left Behind Act of 2001," Pub. L. No. 107-110, and the
 2528 Individuals with Disabilities Education Act (IDEA).
 2529 Reviser's note.—Amended to conform to s. 67, ch. 2021-10, Laws
 2530 of Florida, and to provide consistent terminology with the
 2531 rest of this section.
 2532 Section 85. Paragraph (c) of subsection (5) of section
 2533 1008.365, Florida Statutes, is amended to read:
 2534 1008.365 Reading Achievement Initiative for Scholastic
 2535 Excellence Act.—
 2536 (5) The department shall provide progress monitoring data
 2537 to regional support teams regarding the implementation of
 2538 supports. Such supports must include:
 2539 (c) Evaluating a school's improvement plan for alignment
 2540 with the school district's K-12 comprehensive reading plan under
 2541 s. 1011.62(8)(d) ~~1011.62(9)(d)~~ and the school district's
 2542 allocation of resources as required by s. 1008.25(3)(a). If the
 2543 regional support team determines that the school district's
 2544 reading plan does not address the school's need to improve
 2545 student outcomes, the regional literacy support director, the
 2546 district school superintendent, or his or her designee, and the
 2547 director of the Just Read, Florida! Office shall convene a
 2548 meeting to rectify the deficiencies of the reading plan.
 2549 Reviser's note.—Amended to conform to the redesignation of s.
 2550 1011.62(9) as s. 1011.62(8) by s. 3, ch. 2021-44, Laws of
 2551 Florida.
 2552 Section 86. Paragraph (b) of subsection (14) and paragraph

28-01064A-22 2022848__

2553 (a) of subsection (15) of section 1011.62, Florida Statutes, are
2554 amended to read:

2555 1011.62 Funds for operation of schools.—If the annual
2556 allocation from the Florida Education Finance Program to each
2557 district for operation of schools is not determined in the
2558 annual appropriations act or the substantive bill implementing
2559 the annual appropriations act, it shall be determined as
2560 follows:

2561 (14) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
2562 assistance allocation is created to provide funding to assist
2563 school districts in establishing or expanding school-based
2564 mental health care; train educators and other school staff in
2565 detecting and responding to mental health issues; and connect
2566 children, youth, and families who may experience behavioral
2567 health issues with appropriate services. These funds shall be
2568 allocated annually in the General Appropriations Act or other
2569 law to each eligible school district. Each school district shall
2570 receive a minimum of \$100,000, with the remaining balance
2571 allocated based on each school district's proportionate share of
2572 the state's total unweighted full-time equivalent student
2573 enrollment. Charter schools that submit a plan separate from the
2574 school district are entitled to a proportionate share of
2575 district funding. The allocated funds may not supplant funds
2576 that are provided for this purpose from other operating funds
2577 and may not be used to increase salaries or provide bonuses.
2578 School districts are encouraged to maximize third-party health
2579 insurance benefits and Medicaid claiming for services, where
2580 appropriate.

2581 (b) The plans required under paragraph (a) must be focused

Page 89 of 94

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

28-01064A-22 2022848__

2582 on a multitiered system of supports to deliver evidence-based
2583 mental health care assessment, diagnosis, intervention,
2584 treatment, and recovery services to students with one or more
2585 mental health or co-occurring substance abuse diagnoses and to
2586 students at high risk of such diagnoses. The provision of these
2587 services must be coordinated with a student's primary mental
2588 health care provider and with other mental health providers
2589 involved in the student's care. At a minimum, the plans must
2590 include the following elements:

2591 1. Direct employment of school-based mental health services
2592 providers to expand and enhance school-based student services
2593 and to reduce the ratio of students to staff in order to better
2594 align with nationally recommended ratio models. These providers
2595 include, but are not limited to, certified school counselors,
2596 school psychologists, school social workers, and other licensed
2597 mental health professionals. The plan also must identify
2598 strategies to increase the amount of time that school-based
2599 student services personnel spend providing direct services to
2600 students, which may include the review and revision of district
2601 staffing resource allocations based on school or student mental
2602 health assistance needs.

2603 2. Contracts or interagency agreements with one or more
2604 local community behavioral health providers or providers of
2605 Community Action Team services to provide a behavioral health
2606 staff presence and services at district schools. Services may
2607 include, but are not limited to, mental health screenings and
2608 assessments, individual counseling, family counseling, group
2609 counseling, psychiatric or psychological services, trauma-
2610 informed care, mobile crisis services, and behavior

Page 90 of 94

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

28-01064A-22 2022848__

2611 modification. These behavioral health services may be provided
2612 on or off the school campus and may be supplemented by
2613 telehealth.

2614 3. Policies and procedures, including contracts with
2615 service providers, which will ensure that students who are
2616 referred to a school-based or community-based mental health
2617 service provider for mental health screening for the
2618 identification of mental health concerns and ensure that the
2619 assessment of students at risk for mental health disorders
2620 occurs within 15 days of referral. School-based mental health
2621 services must be initiated within 15 days after identification
2622 and assessment, and support by community-based mental health
2623 service providers for students who are referred for community-
2624 based mental health services must be initiated within 30 days
2625 after the school or district makes a referral.

2626 4. Strategies or programs to reduce the likelihood of at-
2627 risk students developing social, emotional, or behavioral health
2628 problems, depression, anxiety disorders, suicidal tendencies, or
2629 substance use disorders.

2630 5. Strategies to improve the early identification of
2631 social, emotional, or behavioral problems or substance use
2632 disorders, to improve the provision of early intervention
2633 services, and to assist students in dealing with trauma and
2634 violence.

2635 6. Procedures to assist a mental health services provider
2636 or a behavioral health provider as described in subparagraph 1.
2637 or subparagraph 2., respectively, or a school resource officer
2638 or school safety officer who has completed mental health crisis
2639 intervention training in attempting to verbally de-escalate a

28-01064A-22 2022848__

2640 student's crisis situation before initiating an involuntary
2641 examination pursuant to s. 394.463. Such procedures must include
2642 strategies to de-escalate a crisis situation for a student with
2643 a developmental disability as that term is defined in s.
2644 393.063.

2645 7. Policies of the school district which must require that
2646 in a student crisis situation, school or law enforcement
2647 personnel must make a reasonable attempt to contact a mental
2648 health professional who may initiate an involuntary examination
2649 pursuant to s. 394.463, unless the child poses an imminent
2650 danger to themselves or others, before initiating an involuntary
2651 examination pursuant to s. 394.463. Such contact may be in
2652 person or using telehealth as defined in s. 456.47. The mental
2653 health professional may be available to the school district
2654 either by contracts or interagency agreements with the managing
2655 entity, one or more local community behavioral health providers,
2656 or the local mobile response team or be a direct or contracted
2657 school district employee.

2658 (15) FUNDING COMPRESSION AND HOLD HARMLESS ALLOCATION.—The
2659 Legislature may provide an annual funding compression and hold
2660 harmless allocation in the General Appropriations Act. The
2661 allocation is created to provide additional funding to school
2662 districts if the school district's total funds per FTE in the
2663 prior year were less than the statewide average or if the school
2664 district's district cost differential in the current year is
2665 less than the prior year. The total allocation shall be
2666 distributed to eligible school districts as follows:

2667 (a) Using the most recent prior year FEFP calculation for
2668 each eligible school district, subtract the total school

28-01064A-22 2022848__

2669 district funds per FTE from the state average funds per FTE, not
 2670 including any adjustments made pursuant to paragraph (17) (b)
 2671 ~~paragraph (19) (b)~~. The resulting funds per FTE difference, or a
 2672 portion thereof, as designated in the General Appropriations
 2673 Act, shall then be multiplied by the school district's total
 2674 unweighted FTE.

2675

2676 This subsection expires July 1, 2022.

2677 Reviser's note.—Paragraph (14) (b) is amended to improve clarity
 2678 and conform to context. Paragraph (15) (a) is amended to
 2679 confirm an editorial substitution to conform to the
 2680 deletion of former subsections (8) and (11) by s. 3, ch.
 2681 2021-44, Laws of Florida.

2682 Section 87. Paragraph (a) of subsection (3) of section
 2683 1011.802, Florida Statutes, is amended to read:

2684 1011.802 Florida Pathways to Career Opportunities Grant
 2685 Program.—

2686 (3) (a) The department shall award grants for
 2687 preapprenticeship or apprenticeship programs with demonstrated
 2688 regional demand that:

2689 1. Address a critical statewide or regional shortage as
 2690 identified by the Labor Market Estimating Conference created in
 2691 s. 216.136 and ~~that~~ are industry sectors not adequately
 2692 represented throughout the state, such as health care;

2693 2. Address a critical statewide or regional shortage as
 2694 identified by the Labor Market Estimating Conference created in
 2695 s. 216.136; or

2696 3. Expand existing programs that exceed the median
 2697 completion rate and employment rate 1 year after completion of

28-01064A-22 2022848__

2698 similar programs in the region, or the state if there are no
 2699 similar programs in the region.

2700 Reviser's note.—Amended to confirm an editorial deletion to
 2701 improve sentence structure.

2702 Section 88. Subsection (3) of section 1012.976, Florida
 2703 Statutes, is amended to read:

2704 1012.976 Remuneration of state university employees;
 2705 limitations.—

2706 (3) EXCEPTIONS.—This section does not prohibit any party
 2707 from providing cash or cash-equivalent compensation from funds
 2708 that are not appropriated state funds to a state university
 2709 employee in excess of the limit in subsection (2). If a party is
 2710 unable or unwilling to fulfill an obligation to provide cash or
 2711 cash-equivalent compensation to a state university employee as
 2712 permitted under this subsection, appropriated state funds may
 2713 not be used to fulfill such obligation. This section does not
 2714 apply to university teaching faculty in instructional programs
 2715 classified as Computer Information Sciences and Support
 2716 Services; Engineering; Engineering Technologies and Engineering-
 2717 Related Fields; Florida Mental Health Institute; Health
 2718 Professions and Related Programs; Homeland Security, Law
 2719 Enforcement, Firefighting, and Related Fields; Mathematics;
 2720 Nursing; or Physical Sciences; or to medical school faculty or
 2721 staff.

2722 Reviser's note.—Amended to confirm editorial insertions to
 2723 improve clarity and sentence structure.

2724 Section 89. This act shall take effect on the 60th day
 2725 after adjournment sine die of the session of the Legislature in
 2726 which enacted.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 850

INTRODUCER: Senator Passidomo

SUBJECT: Florida Statutes

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz (DLR)	Phelps	RC	Favorable

I. Summary:

The Division of Law Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. A reviser's bill cannot be amended except to delete a bill section.

This bill deletes statutes provisions that have been repealed by a noncurrent (past-year) session of the Legislature where that repeal or expiration date has now occurred, rendering the provision of no effect (an example would be a repeal set for October 1, 2021, by the 2020 Regular Session of the Legislature).

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 112.24, 125.0104, 194.032, 216.181, 216.292, 255.065, 288.1226, 316.066, 339.63, 395.1055, 395.1065, 403.7046, 409.968, 420.0005, 420.9079, 499.0121, 499.051, 570.48, 573.123, 601.10, 601.15, 601.152, 601.80, 603.011, 721.071, 815.04, 815.045, 893.055, and 921.0022; repeals ss. 27.401, 197.318, 218.131, 331.326, 381.0068, 381.83, 393.0661, 403.73, 499.931, 502.222, 601.76, 1004.33, 1004.335, and 1004.34, F.S.

II. Present Situation:

The Division of Law Revision, under the authority and requirements of s. 11.242(5)(b) and (i), Florida Statutes, must remove repealed statutory provisions from the statutes text where the repeal was voted by the Legislature sitting in the current year; sections effectively repealed but where that repeal was passed by a past-year session of the Legislature can only be omitted from the statutes text through a reviser's bill pursuant to s. 11.242(5)(i).

III. Effect of Proposed Changes:

This bill will delete sections that have already been repealed by the Legislature by substantive legislation that the Division of Law Revision could not remove from the statutes text without the required inclusion in a reviser's bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 112.24, 125.0104, 194.032, 216.181, 216.292, 255.065, 288.1226, 316.066, 339.63, 395.1055, 395.1065, 403.7046, 409.968, 420.0005, 420.9079, 499.0121, 499.051, 570.48, 573.123, 601.10, 601.15, 601.152, 601.80, 603.011, 721.071, 815.04, 815.045, 893.055, and 921.0022, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: ss. 27.401, 197.318, 218.131, 331.326, 381.0068, 381.83, 393.0661, 403.73, 499.931, 502.222, 601.76, 1004.33, 1004.335, and 1004.34, F.S.

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 Passidomo

28-01065-22

2022850__

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; repealing ss.
 3 27.401, 112.24(6), 197.318, 216.181(11)(d),
 4 255.065(15), 288.1226(9), 316.066(2)(f), 331.326,
 5 339.63(6), 381.0068, 381.83, 393.0661, 395.1055(1)(f),
 6 403.7046(2), 403.73, 409.968(6), 420.0005(2),
 7 420.9079(3), 499.0121(7)(b), 499.051(7)(b), 499.931,
 8 502.222, 570.48(3), 573.123(2), 601.10(8)(b), 601.76,
 9 815.04(3), 893.055(17), 1004.33, 1004.335, and
 10 1004.34, F.S., and amending ss. 125.0104(9)(d),
 11 216.292(2)(a), 403.7046(3)(b), 601.15(7)(d), and
 12 601.152(8)(c), F. S., to delete provisions which have
 13 become inoperative by noncurrent repeal or expiration
 14 and, pursuant to s. 11.242(5)(b) and (i), F.S., may be
 15 omitted from the 2022 Florida Statutes only through a
 16 reviser's bill duly enacted by the Legislature;
 17 amending ss. 194.032, 395.1065, 603.011, 601.80,
 18 721.071, 815.045, and 921.0022, F.S., and repealing s.
 19 218.131, F.S., to conform to changes made by the act;
 20 providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 27.401, Florida Statutes, is repealed.

25 Reviser's note.—The cited section establishes the Cross-Circuit
 26 Conflict Representation Pilot Program and provides for its
 27 expiration, effective June 30, 2016.

28 Section 2. Subsection (6) of section 112.24, Florida
 29 Statutes, is repealed.

Page 1 of 36

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

28-01065-22

2022850__

30 Reviser's note.—The cited subsection, which relates to
 31 assignment of a state agency employee pursuant to
 32 intergovernmental interchange of public employees under
 33 specified recommendations and approval, for the 2020-2021
 34 fiscal year only, expired pursuant to its own terms,
 35 effective July 1, 2021.
 36 Section 3. Paragraph (d) of subsection (9) of section
 37 125.0104, Florida Statutes, is amended to read:
 38 125.0104 Tourist development tax; procedure for levying;
 39 authorized uses; referendum; enforcement.—
 40 (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any
 41 other powers and duties provided for agencies created for the
 42 purpose of tourism promotion by a county levying the tourist
 43 development tax, such agencies are authorized and empowered to:
 44 (d) Undertake marketing research and advertising research
 45 studies and provide reservations services and convention and
 46 meetings booking services consistent with the authorized uses of
 47 revenue as set forth in subsection (5).
 48 1. Information given to a county tourism promotion agency
 49 which, if released, would reveal the identity of persons or
 50 entities who provide data or other information as a response to
 51 a sales promotion effort, an advertisement, or a research
 52 project or whose names, addresses, meeting or convention plan
 53 information or accommodations or other visitation needs become
 54 booking or reservation list data, is exempt from s. 119.07(1)
 55 and s. 24(a), Art. I of the State Constitution.
 56 2. The following information, when held by a county tourism
 57 promotion agency, is exempt from s. 119.07(1) and s. 24(a), Art.
 58 I of the State Constitution:

Page 2 of 36

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

28-01065-22

2022850__

59 a. Booking business records, as defined in s. 255.047.
 60 b. Trade secrets and commercial or financial information
 61 gathered from a person and privileged or confidential, as
 62 defined and interpreted under 5 U.S.C. s. 552(b)(4), or any
 63 amendments thereto.

64 ~~3. A trade secret, as defined in s. 812.081, held by a~~
 65 ~~county tourism promotion agency is exempt from s. 119.07(1) and~~
 66 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~
 67 ~~subject to the Open Government Sunset Review Act in accordance~~
 68 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~
 69 ~~unless reviewed and saved from repeal through reenactment by the~~
 70 ~~Legislature.~~

71 Reviser's note.—Amended to conform to the repeal of subparagraph
 72 3. pursuant to its own terms, effective October 2, 2021.

73 Section 4. Section 197.318, Florida Statutes, is repealed.
 74 Reviser's note.—The cited section, which relates to abatement of
 75 taxes for residential improvements damaged or destroyed by
 76 Hurricane Hermine, Hurricane Matthew, or Hurricane Irma,
 77 expired pursuant to its own terms, effective January 1,
 78 2021.

79 Section 5. Paragraph (d) of subsection (11) of section
 80 216.181, Florida Statutes, is repealed.

81 Reviser's note.—The cited paragraph, which provided that the
 82 Legislative Budget Commission may increase the amounts
 83 appropriated to the Fish and Wildlife Conservation
 84 Commission or the Department of Environmental Protection
 85 for fixed capital outlay projects using funds from
 86 specified sources, for the 2020-2021 fiscal year only,
 87 expired pursuant to its own terms, effective July 1, 2021.

Page 3 of 36

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

28-01065-22

2022850__

88 Section 6. Paragraph (a) of subsection (2) of section
 89 216.292, Florida Statutes, is amended to read:

90 216.292 Appropriations nontransferable; exceptions.—

91 (2) The following transfers are authorized to be made by
 92 the head of each department or the Chief Justice of the Supreme
 93 Court whenever it is deemed necessary by reason of changed
 94 conditions:

95 (a) The transfer of appropriations funded from identical
 96 funding sources, except appropriations for fixed capital outlay,
 97 and the transfer of amounts included within the total original
 98 approved budget and plans of releases of appropriations as
 99 furnished pursuant to ss. 216.181 and 216.192, as follows:

100 1. Between categories of appropriations within a budget
 101 entity, if no category of appropriation is increased or
 102 decreased by more than 5 percent of the original approved budget
 103 or \$250,000, whichever is greater, by all action taken under
 104 this subsection.

105 2. Between budget entities within identical categories of
 106 appropriations, if no category of appropriation is increased or
 107 decreased by more than 5 percent of the original approved budget
 108 or \$250,000, whichever is greater, by all action taken under
 109 this subsection.

110 3. Any agency exceeding salary rate established pursuant to
 111 s. 216.181(8) on June 30th of any fiscal year shall not be
 112 authorized to make transfers pursuant to subparagraphs 1. and 2.
 113 in the subsequent fiscal year.

114 4. Notice of proposed transfers under subparagraphs 1. and
 115 2. shall be provided to the Executive Office of the Governor and
 116 the chairs of the legislative appropriations committees at least

Page 4 of 36

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

28-01065-22 2022850__

117 3 days prior to agency implementation in order to provide an
118 opportunity for review. The review shall be limited to ensuring
119 that the transfer is in compliance with the requirements of this
120 paragraph.

121 ~~5. For the 2020-2021 fiscal year, the review shall ensure~~
122 ~~that transfers proposed pursuant to this paragraph comply with~~
123 ~~this chapter, maximize the use of available and appropriate~~
124 ~~trust funds, and are not contrary to legislative policy and~~
125 ~~intent. This subparagraph expires July 1, 2021.~~

126 Reviser's note.—Amended to conform to the expiration of
127 subparagraph 5. pursuant to its own terms, effective July
128 1, 2021.

129 Section 7. Subsection (15) of section 255.065, Florida
130 Statutes, is repealed.

131 Reviser's note.—The cited subsection, which provides an
132 exemption from open government requirements for specified
133 unsolicited proposals received by a responsible public
134 entity, was repealed pursuant to its own terms, effective
135 October 2, 2021.

136 Section 8. Subsection (9) of section 288.1226, Florida
137 Statutes, is repealed.

138 Reviser's note.—The cited subsection, which provides an
139 exemption from open government requirements for the
140 identity of any person who responds to a marketing project
141 or advertising research project conducted by the Florida
142 Tourism Industry Marketing Corporation conducted by the
143 corporation in the performance of its duties on behalf of
144 Enterprise Florida, Inc., or trade secrets obtained
145 pursuant thereto, was repealed pursuant to its own terms,

28-01065-22 2022850__

146 effective October 2, 2021.

147 Section 9. Paragraph (f) of subsection (2) of section
148 316.066, Florida Statutes, is repealed.

149 Reviser's note.—The cited paragraph, which provides for an
150 exemption from open government requirements for requests
151 for phone numbers and addresses of parties in an automobile
152 crash report, by specified free newspapers, was repealed
153 pursuant to its own terms, effective October 2, 2019.

154 Section 10. Section 331.326, Florida Statutes, is repealed.

155 Reviser's note.—The cited section, which provides an exemption
156 from open government requirements for trade secrets in the
157 records of Space Florida, was repealed pursuant to its own
158 terms, effective October 2, 2021.

159 Section 11. Subsection (6) of section 339.63, Florida
160 Statutes, is repealed.

161 Reviser's note.—The cited subsection, which directs the
162 Department of Transportation to fully fund projects on
163 facilities that were designated as part of the Strategic
164 Intermodal System before the most recent designation
165 change, which were approved by the Secretary of
166 Transportation in May 2019, and for which construction has
167 commenced but is not completed, expired pursuant to its own
168 terms, effective July 1, 2021.

169 Section 12. Section 381.0068, Florida Statutes, is
170 repealed.

171 Reviser's note.—The cited section, which relates to a technical
172 review and advisory panel to assist the Department of
173 Health with rule adoption, was repealed by s. 9, ch. 2020-
174 150, Laws of Florida, effective July 1, 2021. Since the

28-01065-22

2022850__

175 section was not repealed by a "current session" of the
 176 Legislature, it may be omitted from the 2022 Florida
 177 Statutes only through a reviser's bill duly enacted by the
 178 Legislature. See s. 11.242(5)(b) and (i).

179 Section 13. Section 381.83, Florida Statutes, is repealed.

180 Reviser's note.—The cited section, which provides an exemption
 181 from open government requirements for trade secrets
 182 obtained under chapter 381, was repealed pursuant to its
 183 own terms, effective October 2, 2021.

184 Section 14. Section 393.0661, Florida Statutes, is
 185 repealed.

186 Reviser's note.—The cited section, which relates to a
 187 comprehensive redesign of the home and community-based
 188 services delivery system, was repealed by s. 3, ch. 2020-
 189 71, Laws of Florida, effective July 1, 2021. Since the
 190 section was not repealed by a "current session" of the
 191 Legislature, it may be omitted from the 2022 Florida
 192 Statutes only through a reviser's bill duly enacted by the
 193 Legislature. See s. 11.242(5)(b) and (i).

194 Section 15. Paragraph (f) of subsection (1) of section
 195 395.1055, Florida Statutes, is repealed.

196 Reviser's note.—The cited paragraph, which relates to submittal
 197 of such data as necessary to conduct certificate-of-need
 198 reviews required under part I of chapter 408 by hospitals,
 199 was repealed by s. 3, ch. 2019-136, Laws of Florida,
 200 effective July 1, 2021. Since the paragraph was not
 201 repealed by a "current session" of the Legislature, it may
 202 be omitted from the 2022 Florida Statutes only through a
 203 reviser's bill duly enacted by the Legislature. See s.

28-01065-22

2022850__

204 11.242(5)(b) and (i).

205 Section 16. Subsection (2) of section 403.7046, Florida
 206 Statutes, is repealed, and paragraph (b) of subsection (3) of
 207 that section is amended to read:

208 403.7046 Regulation of recovered materials.—

209 (3) Except as otherwise provided in this section or
 210 pursuant to a special act in effect on or before January 1,
 211 1993, a local government may not require a commercial
 212 establishment that generates source-separated recovered
 213 materials to sell or otherwise convey its recovered materials to
 214 the local government or to a facility designated by the local
 215 government, nor may the local government restrict such a
 216 generator's right to sell or otherwise convey such recovered
 217 materials to any properly certified recovered materials dealer
 218 who has satisfied the requirements of this section. A local
 219 government may not enact any ordinance that prevents such a
 220 dealer from entering into a contract with a commercial
 221 establishment to purchase, collect, transport, process, or
 222 receive source-separated recovered materials.

223 (b) ~~1~~ Before engaging in business within the jurisdiction
 224 of the local government, a recovered materials dealer or
 225 pyrolysis facility must provide the local government with a copy
 226 of the certification provided for in this section. In addition,
 227 the local government may establish a registration process
 228 whereby a recovered materials dealer or pyrolysis facility must
 229 register with the local government before engaging in business
 230 within the jurisdiction of the local government. Such
 231 registration process is limited to requiring the dealer or
 232 pyrolysis facility to register its name, including the owner or

28-01065-22 2022850__

233 operator of the dealer or pyrolysis facility, and, if the dealer
 234 or pyrolysis facility is a business entity, its general or
 235 limited partners, its corporate officers and directors, its
 236 permanent place of business, evidence of its certification under
 237 this section, and a certification that the recovered materials
 238 or post-use polymers will be processed at a recovered materials
 239 processing facility or pyrolysis facility satisfying the
 240 requirements of this section. The local government may not use
 241 the information provided in the registration application to
 242 compete unfairly with the recovered materials dealer until 90
 243 days after receipt of the application. All counties, and
 244 municipalities whose population exceeds 35,000 according to the
 245 population estimates determined pursuant to s. 186.901, may
 246 establish a reporting process that must be limited to the
 247 regulations, reporting format, and reporting frequency
 248 established by the department pursuant to this section, which
 249 must, at a minimum, include requiring the dealer or pyrolysis
 250 facility to identify the types and approximate amount of
 251 recovered materials or post-use polymers collected, recycled, or
 252 reused during the reporting period; the approximate percentage
 253 of recovered materials or post-use polymers reused, stored, or
 254 delivered to a recovered materials processing facility or
 255 pyrolysis facility or disposed of in a solid waste disposal
 256 facility; and the locations where any recovered materials or
 257 post-use polymers were disposed of as solid waste. The local
 258 government may charge the dealer or pyrolysis facility a
 259 registration fee commensurate with and no greater than the cost
 260 incurred by the local government in operating its registration
 261 program. Registration program costs are limited to those costs

28-01065-22 2022850__

262 associated with the activities described in this paragraph
 263 ~~subparagraph~~. Any reporting or registration process established
 264 by a local government with regard to recovered materials or
 265 post-use polymers is governed by this section and department
 266 rules adopted pursuant thereto.
 267 ~~2. Information reported under this subsection which, if~~
 268 ~~disclosed, would reveal a trade secret, as defined in s.~~
 269 ~~812.081, is confidential and exempt from s. 119.07(1) and s.~~
 270 ~~24(a), Art. I of the State Constitution. This subparagraph is~~
 271 ~~subject to the Open Government Sunset Review Act in accordance~~
 272 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~
 273 ~~unless reviewed and saved from repeal through reenactment by the~~
 274 ~~Legislature.~~
 275 Reviser's note.—Amended to conform to the repeal of subsection
 276 (2) and subparagraph (3)(b)2., which were repealed pursuant
 277 to their own terms, effective October 2, 2021.
 278 Section 17. Section 403.73, Florida Statutes, is repealed.
 279 Reviser's note.—The cited section, which provides an exemption
 280 from open government requirements for trade secrets within
 281 specified records, reports, or information under part IV of
 282 chapter 403, was repealed pursuant to its own terms,
 283 effective October 2, 2021.
 284 Section 18. Subsection (6) of section 409.968, Florida
 285 Statutes, is repealed.
 286 Reviser's note.—The cited subsection, which requires the Agency
 287 for Health Care Administration to withhold and set aside a
 288 portion of the managed care rates from the rate cells for
 289 special needs and home health services in managed medical
 290 assistance and managed long-term care programs to implement

28-01065-22 2022850__

291 a home health performance incentive program, expired
 292 pursuant to its own terms, effective July 1, 2021.
 293 Section 19. Subsection (2) of section 420.0005, Florida
 294 Statutes, is repealed.
 295 Reviser's note.—The cited subsection, which relates to use of
 296 funds as provided in the General Appropriations Act for the
 297 State Housing Trust Fund and the State Housing Fund for the
 298 2020-2021 fiscal year, expired pursuant to its own terms,
 299 effective July 1, 2021.
 300 Section 20. Subsection (3) of section 420.9079, Florida
 301 Statutes, is repealed.
 302 Reviser's note.—The cited subsection, which relates to use of
 303 funds as provided in the General Appropriations Act for the
 304 Local Government Housing Trust Fund for the 2020-2021
 305 fiscal year, expired pursuant to its own terms, effective
 306 July 1, 2021.
 307 Section 21. Paragraph (b) of subsection (7) of section
 308 499.0121, Florida Statutes, is repealed.
 309 Reviser's note.—The cited paragraph, which provides an exemption
 310 from open government requirements for information
 311 constituting a trade secret within prescription drug
 312 purchase lists, was repealed pursuant to its own terms,
 313 effective October 2, 2021.
 314 Section 22. Paragraph (b) of subsection (7) of section
 315 499.051, Florida Statutes, is repealed.
 316 Reviser's note.—The cited paragraph, which provides an exemption
 317 from open government requirements for information
 318 constituting a trade secret contained in a complaint or
 319 obtained by the Department of Business and Professional

28-01065-22 2022850__

320 Regulation pursuant to an investigation, was repealed
 321 pursuant to its own terms, effective October 2, 2021.
 322 Section 23. Section 499.931, Florida Statutes, is repealed.
 323 Reviser's note.—The cited section, which provides an exemption
 324 from open government requirements for trade secret
 325 information submitted under part III of chapter 499, was
 326 repealed pursuant to its own terms, effective October 2,
 327 2021.
 328 Section 24. Section 502.222, Florida Statutes, is repealed.
 329 Reviser's note.—The cited section, which provides an exemption
 330 from open government requirements for information in
 331 Department of Agriculture and Consumer Services records
 332 regarding matters encompassed by chapter 502 that would
 333 reveal a trade secret, was repealed pursuant to its own
 334 terms, effective October 2, 2021.
 335 Section 25. Subsection (3) of section 570.48, Florida
 336 Statutes, is repealed.
 337 Reviser's note.—The cited subsection, which provides an
 338 exemption from open government requirements for trade
 339 secret information within records of the Division of Fruit
 340 and Vegetables, was repealed pursuant to its own terms,
 341 effective October 2, 2021.
 342 Section 26. Subsection (2) of section 573.123, Florida
 343 Statutes, is repealed.
 344 Reviser's note.—The cited subsection, which provides an
 345 exemption from open government requirements for trade
 346 secret information relating to marketing orders, was
 347 repealed pursuant to its own terms, effective October 2,
 348 2021.

28-01065-22

2022850__

349 Section 27. Paragraph (b) of subsection (8) of section
 350 601.10, Florida Statutes, is repealed.
 351 Reviser's note.—The cited paragraph, which provides an exemption
 352 from open government requirements for trade secret
 353 information provided to the Department of Citrus, was
 354 repealed pursuant to its own terms, effective October 2,
 355 2021.
 356 Section 28. Paragraph (d) of subsection (7) of section
 357 601.15, Florida Statutes, is amended to read:
 358 601.15 Advertising campaign; methods of conducting;
 359 assessments; emergency reserve fund; citrus research.—
 360 (7) All assessments levied and collected under this chapter
 361 shall be paid into the State Treasury on or before the 15th day
 362 of each month. Such moneys shall be accounted for in a special
 363 fund to be designated as the Florida Citrus Advertising Trust
 364 Fund, and all moneys in such fund are appropriated to the
 365 department for the following purposes:
 366 (d)~~1~~ The pro rata portion of moneys allocated to each type
 367 of citrus product in noncommodity programs shall be used by the
 368 department to encourage substantial increases in the
 369 effectiveness, frequency, and volume of noncommodity
 370 advertising, merchandising, publicity, and sales promotion of
 371 such citrus products through rebates and incentive payments to
 372 handlers and trade customers for these activities. The
 373 department shall adopt rules providing for the use of such
 374 moneys. The rules shall establish alternate incentive programs,
 375 including at least one incentive program for product sold under
 376 advertised brands, one incentive program for product sold under
 377 private label brands, and one incentive program for product sold

Page 13 of 36

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

28-01065-22

2022850__

378 in bulk. For each incentive program, the rules must establish
 379 eligibility and performance requirements and must provide
 380 appropriate limitations on amounts payable to a handler or trade
 381 customer for a particular season. Such limitations may relate to
 382 the amount of citrus assessments levied and collected on the
 383 citrus product handled by such handler or trade customer during
 384 a 12-month representative period.
 385 ~~2. The department may require from participants in~~
 386 ~~noncommodity advertising and promotional programs commercial~~
 387 ~~information necessary to determine eligibility for and~~
 388 ~~performance in such programs. Any information required which~~
 389 ~~constitutes a trade secret as defined in s. 812.081 is~~
 390 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~
 391 ~~of the State Constitution. This subparagraph is subject to the~~
 392 ~~Open Government Sunset Review Act in accordance with s. 119.15~~
 393 ~~and shall stand repealed on October 2, 2021, unless reviewed and~~
 394 ~~saved from repeal through reenactment by the Legislature.~~
 395 Reviser's note.—Amended to conform to the repeal of subparagraph
 396 2. pursuant to its own terms, effective October 2, 2021.
 397 Section 29. Paragraph (c) of subsection (8) of section
 398 601.152, Florida Statutes, is amended to read:
 399 601.152 Special marketing orders.—
 400 (8)
 401 (c)~~1~~ Every handler shall, at such times as the department
 402 may require, file with the department a return, not under oath,
 403 on forms to be prescribed and furnished by the department,
 404 certified as true and correct, stating the quantity of the type,
 405 variety, and form of citrus fruit or citrus product specified in
 406 the marketing order first handled in the primary channels of

Page 14 of 36

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

28-01065-22

2022850__

407 trade in the state by such handler during the period of time
 408 specified in the marketing order. Such returns must contain any
 409 further information deemed by the department to be reasonably
 410 necessary to properly administer or enforce this section or any
 411 marketing order implemented under this section.

412 ~~2. Information that, if disclosed, would reveal a trade~~
 413 ~~secret, as defined in s. 812.081, of any person subject to a~~
 414 ~~marketing order is confidential and exempt from s. 119.07(1) and~~
 415 ~~s. 24(a), Art. I of the State Constitution. This subparagraph is~~
 416 ~~subject to the Open Government Sunset Review Act in accordance~~
 417 ~~with s. 119.15 and shall stand repealed on October 2, 2021,~~
 418 ~~unless reviewed and saved from repeal through reenactment by the~~
 419 ~~Legislature.~~

420 Reviser's note.—Amended to conform to the repeal of subparagraph
 421 2. pursuant to its own terms, effective October 2, 2021.

422 Section 30. Section 601.76, Florida Statutes, is repealed.

423 Reviser's note.—The cited section, which provides an exemption
 424 from open government requirements for formulas, which are
 425 deemed trade secrets, required to be filed with the
 426 Department of Agriculture under the section, was repealed
 427 pursuant to its own terms, effective October 2, 2021.

428 Section 31. Subsection (3) of section 815.04, Florida
 429 Statutes, is repealed.

430 Reviser's note.—The cited subsection, which provides an
 431 exemption from open government requirements for data,
 432 programs, or supporting documentation constituting a trade
 433 secret as defined in s. 812.081, held by an agency as
 434 defined in chapter 119 and that resides on specified
 435 electronic devices, was repealed pursuant to its own terms,

28-01065-22

2022850__

436 effective October 2, 2021.

437 Section 32. Subsection (17) of section 893.055, Florida
 438 Statutes, is repealed.

439 Reviser's note.—The cited subsection, which prohibits the
 440 Attorney General and the Department of Health from using
 441 funds received as part of a settlement agreement to
 442 administer the prescription drug monitoring program,
 443 expired pursuant to its own terms, effective July 1, 2021.
 444 Section 33. Sections 1004.33 and 1004.34, Florida Statutes,
 445 are repealed.

446 Reviser's note.—The cited sections, which relate to University
 447 of South Florida St. Petersburg and the University of South
 448 Florida Sarasota, respectively, were repealed by s. 8, ch.
 449 2018-4, Laws of Florida, effective July 1, 2020. Since the
 450 sections were not repealed by a "current session" of the
 451 Legislature, they may be omitted from the 2022 Florida
 452 Statutes only through a reviser's bill duly enacted by the
 453 Legislature. See s. 11.242(5)(b) and (i).

454 Section 34. Section 1004.335, Florida Statutes, is
 455 repealed.

456 Reviser's note.—The cited section, which relates to
 457 accreditation consolidation of South Florida branch
 458 campuses, expired pursuant to its own terms, effective July
 459 1, 2020.

460 Section 35. Paragraph (b) of subsection (1) of section
 461 194.032, Florida Statutes, is amended to read:

462 194.032 Hearing purposes; timetable.—

463 (1)

464 (b) Notwithstanding the provisions of paragraph (a), the

28-01065-22 2022850__

465 value adjustment board may meet prior to the approval of the
 466 assessment rolls by the Department of Revenue, but not earlier
 467 than July 1, to hear appeals pertaining to the denial by the
 468 property appraiser of exemptions, ~~tax abatements under s.~~
 469 ~~197.318~~, agricultural and high-water recharge classifications,
 470 classifications as historic property used for commercial or
 471 certain nonprofit purposes, and deferrals under subparagraphs
 472 (a)2., 3., and 4. In such event, however, the board may not
 473 certify any assessments under s. 193.122 until the Department of
 474 Revenue has approved the assessments in accordance with s.
 475 193.1142 and all hearings have been held with respect to the
 476 particular parcel under appeal.

477 Reviser's note.—Amended to conform to the repeal of s. 197.318
 478 by this act.

479 Section 36. Section 218.131, Florida Statutes, is repealed.

480 Reviser's note.—The cited section, which relates to offset for
 481 tax loss associated with reductions in value of certain
 482 residences due to specified hurricanes for the 2019-2020
 483 fiscal year, occurring as a direct result of the
 484 implementation of s. 197.318, is obsolete and intricately
 485 tied to s. 197.318, which is repealed by this act.

486 Section 37. Subsection (5) of section 395.1065, Florida
 487 Statutes, is amended to read:

488 395.1065 Criminal and administrative penalties;
 489 moratorium.—

490 (5) The agency shall impose a fine of \$500 for each
 491 instance of the facility's failure to provide the information
 492 required by rules adopted pursuant to s. 395.1055(1)(f)
 493 ~~395.1055(1)(g)~~.

28-01065-22 2022850__

494 Reviser's note.—Amended to conform to the repeal of s.
 495 395.1055(1)(f) by this act.

496 Section 38. Subsection (2) of section 603.011, Florida
 497 Statutes, is amended to read:

498 603.011 Fruit and vegetable inspection fees; penalty.—
 499 (2) All fees collected by the department under this section
 500 shall be deposited into the Citrus Inspection Trust Fund, except
 501 that fees collected pursuant to paragraph (1)(b) and s.
 502 570.48(3) ~~570.48(4)~~ shall be deposited in the General Inspection
 503 Trust Fund.

504 Reviser's note.—Amended to conform to the repeal of s. 570.48(3)
 505 by this act.

506 Section 39. Section 601.80, Florida Statutes, is amended to
 507 read:

508 601.80 Unlawful to use uncertified coloring matter.—It is
 509 unlawful for any person to use on oranges or citrus hybrids any
 510 coloring matter which has not first received the approval of the
 511 Department of Agriculture ~~as provided under s. 601.76~~.

512 Reviser's note.—Amended to conform to the repeal of s. 601.76 by
 513 this act.

514 Section 40. Subsection (1) of section 721.071, Florida
 515 Statutes, is amended to read:

516 721.071 Trade secrets.—

517 (1) If a developer or any other person filing material with
 518 the division pursuant to this chapter expects the division to
 519 keep the material confidential on grounds that the material
 520 constitutes a trade secret, as that term is defined in s.
 521 812.081, the developer or other person shall file the material
 522 together with an affidavit of confidentiality. "Filed material"

28-01065-22 2022850__

523 for purposes of this section shall mean material that is filed
 524 with the division with the expectation that the material will be
 525 kept confidential and that is accompanied by an affidavit of
 526 confidentiality. Filed material that is trade secret information
 527 includes, but is not limited to, service contracts relating to
 528 the operation of reservation systems ~~and those items and matters~~
 529 ~~described in s. 815.04(3).~~

530 Reviser's note.—Amended to conform to the repeal of s. 815.04(3)
 531 by this act.

532 Section 41. Section 815.045, Florida Statutes, is amended
 533 to read:

534 815.045 Trade secret information.—The Legislature finds
 535 that it is a public necessity that trade secret information as
 536 defined in s. 812.081, ~~and as provided for in s. 815.04(3)~~, be
 537 expressly made confidential and exempt from the public records
 538 law because it is a felony to disclose such records. Due to the
 539 legal uncertainty as to whether a public employee would be
 540 protected from a felony conviction if otherwise complying with
 541 chapter 119, and with s. 24(a), Art. I of the State
 542 Constitution, it is imperative that a public records exemption
 543 be created. The Legislature in making disclosure of trade
 544 secrets a crime has clearly established the importance attached
 545 to trade secret protection. Disclosing trade secrets in an
 546 agency's possession would negatively impact the business
 547 interests of those providing an agency such trade secrets by
 548 damaging them in the marketplace, and those entities and
 549 individuals disclosing such trade secrets would hesitate to
 550 cooperate with that agency, which would impair the effective and
 551 efficient administration of governmental functions. Thus, the

28-01065-22 2022850__

552 public and private harm in disclosing trade secrets
 553 significantly outweighs any public benefit derived from
 554 disclosure, and the public's ability to scrutinize and monitor
 555 agency action is not diminished by nondisclosure of trade
 556 secrets.

557 Reviser's note.—Amended to conform to the repeal of s. 815.04(3)
 558 by this act.

559 Section 42. Paragraphs (a) and (c) of subsection (3) of
 560 section 921.0022, Florida Statutes, are amended to read:

561 921.0022 Criminal Punishment Code; offense severity ranking
 562 chart.—

563 (3) OFFENSE SEVERITY RANKING CHART

564 (a) LEVEL 1

565

Florida Statute	Felony Degree	Description
24.118(3) (a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2) (b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2) (b)	3rd	Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000.
316.1935(1)	3rd	Fleeing or attempting to

	28-01065-22		2022850__	
			elude law enforcement officer.	
570	319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.	
571	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.	
572	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.	
573	322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.	
574	322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.	
575	322.212(5)(a)	3rd	False application for driver license or identification card.	
576				

	28-01065-22		2022850__	
	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.	
577	443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.	
578	509.151(1)	3rd	Defraud an innkeeper, food or lodging value \$1,000 or more.	
579	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.	
580	713.69	3rd	Tenant removes property upon which lien has accrued, value \$1,000 or more.	
581	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).	
582	<u>815.04(4)(a)</u> 815.04(5)(a)	3rd	Offense against intellectual property (i.e., computer	

	28-01065-22		2022850__	
				programs, data).
583	817.52(2)	3rd		Hiring with intent to defraud, motor vehicle services.
584	817.569(2)	3rd		Use of public record or public records information or providing false information to facilitate commission of a felony.
585	826.01	3rd		Bigamy.
586	828.122(3)	3rd		Fighting or baiting animals.
587	831.04(1)	3rd		Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
588	831.31(1)(a)	3rd		Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
589	832.041(1)	3rd		Stopping payment with intent to defraud \$150 or more.
590				

	28-01065-22		2022850__	
	832.05(2)(b) & (4)(c)	3rd		Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
591	838.15(2)	3rd		Commercial bribe receiving.
592	838.16	3rd		Commercial bribery.
593	843.18	3rd		Fleeing by boat to elude a law enforcement officer.
594	847.011(1)(a)	3rd		Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
595	849.09(1)(a)-(d)	3rd		Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
596	849.23	3rd		Gambling-related machines; "common offender" as to property rights.
597	849.25(2)	3rd		Engaging in bookmaking.

28-01065-22 2022850__

598	860.08	3rd	Interfere with a railroad signal.
599	860.13(1) (a)	3rd	Operate aircraft while under the influence.
600	893.13(2) (a) 2.	3rd	Purchase of cannabis.
601	893.13(6) (a)	3rd	Possession of cannabis (more than 20 grams).
602	934.03(1) (a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
603			
604	(c) LEVEL 3		
605			
606	Florida Statute	Felony Degree	Description
607	119.10(2) (b)	3rd	Unlawful use of confidential information from police reports.
	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.

28-01065-22 2022850__

608	316.193(2) (b)	3rd	Felony DUI, 3rd conviction.
609	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
610	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
611	319.33(1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
612	319.33(1) (c)	3rd	Procure or pass title on stolen vehicle.
613	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
614	327.35(2) (b)	3rd	Felony BUI.

28-01065-22 2022850__

615 328.05(2) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

616 328.07(4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

617 376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

618 379.2431 3rd Taking, disturbing, (1) (e) 5. mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

619

28-01065-22 2022850__

379.2431 3rd Possessing any marine (1) (e) 6. turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.

620 379.2431 3rd Soliciting to commit or (1) (e) 7. conspiring to commit a violation of the Marine Turtle Protection Act.

621 400.9935(4) (a) 3rd Operating a clinic, or or (b) offering services requiring licensure, without a license.

622 400.9935(4) (e) 3rd Filing a false license application or other required information or failing to report information.

623 440.1051(3) 3rd False report of workers' compensation fraud or retaliation for making such a report.

624

	28-01065-22		2022850__
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
625	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
626	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
627	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
628	697.08	3rd	Equity skimming.
629	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
630	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.

	28-01065-22		2022850__
631	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
632	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
633	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
634	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
635	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
636	812.081(2)	3rd	Theft of a trade secret.
637	<u>815.04(4)(b)</u>	2nd	Computer offense devised to defraud or obtain property.
	815.04(5)(b)		
638	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida

	28-01065-22		2022850__	
				Communications Fraud Act), property valued at less than \$20,000.
639	817.233	3rd		Burning to defraud insurer.
640	817.234	3rd		Unlawful solicitation of persons involved in motor vehicle accidents.
	(8) (b) & (c)			
641	817.234(11) (a)	3rd		Insurance fraud; property value less than \$20,000.
642	817.236	3rd		Filing a false motor vehicle insurance application.
643	817.2361	3rd		Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
644	817.413(2)	3rd		Sale of used goods of \$1,000 or more as new.
645	817.49(2) (b) 1.	3rd		Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or

	28-01065-22		2022850__	
				permanent disability.
646	831.28(2) (a)	3rd		Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
647	831.29	2nd		Possession of instruments for counterfeiting driver licenses or identification cards.
648	838.021(3) (b)	3rd		Threatens unlawful harm to public servant.
649	843.19	2nd		Injure, disable, or kill police, fire, or SAR canine or police horse.
650	860.15(3)	3rd		Overcharging for repairs and parts.
651	870.01(2)	3rd		Riot.
652	870.01(4)	3rd		Inciting a riot.
653	893.13(1) (a) 2.	3rd		Sell, manufacture, or

28-01065-22

2022850__

654

893.13(1)(d)2.

2nd

deliver cannabis (or other
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4)
drugs).

Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of university.

655

893.13(1)(f)2.

2nd

Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (2)(c)10., (3),
or (4) drugs within 1,000
feet of public housing
facility.

656

893.13(4)(c)

3rd

Use or hire of minor;
deliver to minor other

28-01065-22

2022850__

657

893.13(6)(a)

3rd

controlled substances.

Possession of any
controlled substance other
than felony possession of
cannabis.

658

893.13(7)(a)8.

3rd

Withhold information from
practitioner regarding
previous receipt of or
prescription for a
controlled substance.

659

893.13(7)(a)9.

3rd

Obtain or attempt to obtain
controlled substance by
fraud, forgery,
misrepresentation, etc.

660

893.13(7)(a)10.

3rd

Affix false or forged label
to package of controlled
substance.

661

893.13(7)(a)11.

3rd

Furnish false or fraudulent
material information on any
document or record required
by chapter 893.

662

893.13(8)(a)1.

3rd

Knowingly assist a patient,
other person, or owner of

28-01065-22

2022850__

an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

663

893.13(8)(a)2.

3rd

Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

664

893.13(8)(a)3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

665

893.13(8)(a)4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

666

28-01065-22

2022850__

918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

667

944.47
(1)(a)1. & 2.

3rd

Introduce contraband to correctional facility.

668

944.47(1)(c)

2nd

Possess contraband while upon the grounds of a correctional institution.

669

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment facility).

670

Reviser's note.—Amended to conform to the repeal of s. 815.04(3) by this act.

671

672

Section 43. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

673

674

675

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 852

INTRODUCER: Senator Passidomo

SUBJECT: Florida Statutes

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Pollitz (DLR)</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

The Division of Law Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes as part of the reviser's bill process for each regular session.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 267.1736, 341.822, 341.840, 475.631, 482.0815, 497.150, and 497.160, F.S.

II. Present Situation:

Section 9, ch. 2012-116, Laws of Florida, created s. 11.242(5)(j), Florida Statutes, requiring the Division of Law Revision to prepare reviser's bills each regular session to omit all statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes. Rulemaking authority is deemed unused if the statutory provision "has been in effect for more than 5 years and no rule has been promulgated in reliance thereon."

III. Effect of Proposed Changes:

The bill revises Florida Statutes text to conform to the directive in s. 9, ch. 2012-116, Laws of Florida, codified as s. 11.242(5)(j), Florida Statutes, to omit statutory provisions granting duplicative, redundant, or unused rulemaking authority from the Florida Statutes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 267.1736, 341.822, 341.840, 475.631, 482.0815, 497.150, and 497.160, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: None.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Passidomo

28-01066-22

2022852__

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 267.1736, 341.822, 341.840, 475.631, 482.0815,
 4 497.150, and 497.160, F.S., to conform to the
 5 directive of the Legislature in section 9 of chapter
 6 2012-116, Laws of Florida, codified as section
 7 11.242(5)(j), Florida Statutes, to prepare a reviser's
 8 bill to omit all statutes and laws, or parts thereof,
 9 which grant duplicative, redundant, or unused
 10 rulemaking authority; providing an effective date.

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

14 Section 1. Subsection (5) of section 267.1736, Florida
 15 Statutes, is amended to read:

16 267.1736 Direct-support organization.—

17 (5) The university shall establish policies ~~and may adopt~~
 18 ~~rules pursuant to s. 1004.28~~ prescribing the procedures by which
 19 the direct-support organization is governed and any conditions
 20 with which a direct-support organization must comply to use
 21 property, facilities, or personal services of the university.

22 Section 2. Paragraph (c) of subsection (2) of section
 23 341.822, Florida Statutes, is amended to read:

24 341.822 Powers and duties.—

25 (2)

26 (c) The enterprise shall establish a process to issue
 27 permits to railroad companies for the construction of
 28 communication facilities within a new or existing public or
 29 private high-speed rail system. ~~The enterprise may adopt rules~~

Page 1 of 3

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

28-01066-22

2022852__

30 ~~to administer such permits, including rules regarding the form,~~
 31 ~~content, and necessary supporting documentation for permit~~
 32 ~~applications; the process for submitting applications; and the~~
 33 ~~application fee for a permit under s. 341.825.~~ The enterprise
 34 shall provide a copy of a completed permit application to
 35 municipalities and counties where the high-speed rail system
 36 will be located. The enterprise shall allow each such
 37 municipality and county 30 days to provide comments to the
 38 enterprise regarding the application, including any
 39 recommendations regarding conditions that may be placed on the
 40 permit.

41 Section 3. Paragraphs (f) and (g) of subsection (7) of
 42 section 341.840, Florida Statutes, are amended to read:

43 341.840 Tax exemption.—

44 (7)

45 ~~(f) The enterprise may adopt rules governing the~~
 46 ~~application process for exemption of a contractor as an~~
 47 ~~authorized agent of the enterprise.~~

48 ~~(g) The Department of Revenue may adopt rules governing the~~
 49 ~~issuance and form of high-speed rail system exemption permits,~~
 50 ~~the audit of contractors and subcontractors using such permits,~~
 51 ~~the recapture of taxes on nonqualified purchases, and the manner~~
 52 ~~and form of refund applications.~~

53 Section 4. Subsection (2) of section 475.631, Florida
 54 Statutes, is amended to read:

55 475.631 Nonresident licenses and certifications.—

56 (2) All nonresident applicants, certified appraisers, and
 57 licensees shall comply with all requirements of board rules and
 58 this part. ~~The board may adopt rules pursuant to ss. 120.536(1)~~

Page 2 of 3

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

28-01066-22

2022852__

59 ~~and 120.54 necessary for the regulation of nonresident certified~~
60 ~~appraisers and licensees.~~

61 Section 5. Subsection (11) of section 482.0815, Florida
62 Statutes, is amended to read:

63 482.0815 Permit to perform preventive termite treatment
64 services for new construction only.-

65 ~~(11) The department shall adopt rules necessary to~~
66 ~~administer this section.~~

67 Section 6. Subsection (12) of section 497.150, Florida
68 Statutes, is amended to read:

69 497.150 Compliance examinations of existing licensees.-

70 ~~(12) The department may adopt rules pursuant to ss.~~
71 ~~120.536(1) and 120.54 for the implementation of this section.~~

72 Section 7. Subsection (3) of section 497.160, Florida
73 Statutes, is amended to read:

74 497.160 Receivership proceedings.-

75 ~~(3) The department may adopt rules for the implementation~~
76 ~~of this section.~~

77 Reviser's note.-This act amends provisions of the Florida
78 Statutes pursuant to the directive of the Legislature in s.
79 9, ch. 2012-116, Laws of Florida, codified as s.
80 11.242(5)(j), Florida Statutes, to prepare a reviser's bill
81 to omit all statutes and laws, or parts thereof, which
82 grant duplicative, redundant, or unused rulemaking
83 authority.

84 Section 8. This act shall take effect on the 60th day after
85 adjournment sine die of the session of the Legislature in which
86 enacted.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 854

INTRODUCER: Senator Passidomo

SUBJECT: Florida Statutes

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pollitz	Phelps	RC	Favorable

I. Summary:

The Division of Law Revision and Information of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills. Responses to directives from the Legislature to make specific changes in the statutes, such as renaming a department, are also submitted to the Legislature via reviser's bills.

Section 13, ch. 2021-269, Laws of Florida, directed the Division of Law Revision to replace references to the Division of Pari-mutuel Wagering and references to the Department of Business and Professional Regulation relating to gaming with references to the Florida Gaming Control Commission to conform the Florida Statutes to the transfer in s. 11, ch. 2021-269.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: amends ss. 16.71, 16.712, 16.713, 16.715, 20.165, 550.002, 550.0115, 550.01215, 550.0235, 550.0251, 550.0351, 550.054, 550.0555, 550.0651, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.105, 550.1155, 550.125, 550.155, 550.175, 550.1815, 550.24055, 550.2415, 550.2614, 550.26165, 550.2625, 550.26352, 550.2704, 550.334, 550.3345, 550.3355, 550.3551, 550.3615, 550.375, 550.495, 550.505, 550.5251, 550.625, 550.6305, 550.6308, 550.70, 550.902, 551.102, 551.103, 551.104, 551.1045, 551.105, 551.106, 551.107, 551.108, 551.109, 551.112, 551.114, 551.117, 551.118, 551.121, 551.122, 551.123, 565.02, 817.37, and 849.086, F.S.

II. Present Situation:

Section 11, ch. 2021-269, Laws of Florida, provides that:

- Effective July 1, 2022, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds in the Department of Business and Professional Regulation related to the oversight responsibilities by the state compliance agency for authorized gaming compacts under s. 285.710, Florida Statutes, the regulation of pari-mutuel wagering under chapter 550, Florida Statutes, the regulation of slot machines and slot machine gaming under chapter 551, Florida Statutes, and the regulation of cardrooms under s. 849.086, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Florida Gaming Control Commission within the Department of Legal Affairs, Office of the Attorney General.
- Notwithstanding chapter 60L-34, Florida Administrative Code, or any law to the contrary, employees who are transferred from the Department of Business and Professional Regulation to the Florida Gaming Control Commission within the Department of Legal Affairs, Office of the Attorney General, to fill positions transferred by this act retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.
- Effective July 1, 2022, the Pari-mutuel Wagering Trust Fund under s. 455.116, Florida Statutes, is transferred from the Department of Business and Professional Regulation to the Florida Gaming Control Commission.

III. Effect of Proposed Changes:

The bill revises Florida Statutes text to conform to the directive in s. 13, ch. 2021-269, Laws of Florida, by replacing references to the Division of Pari-mutuel Wagering and references to the Department of Business and Professional Regulation relating to gaming with references to the Florida Gaming Control Commission to conform the Florida Statutes to the transfer described in s. 11, ch. 2021-269.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: ss. 16.71, 16.712, 16.713, 16.715, 20.165, 550.002, 550.0115, 550.01215, 550.0235, 550.0251, 550.0351, 550.054, 550.0555, 550.0651, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.105, 550.1155, 550.125, 550.155, 550.175, 550.1815, 550.24055, 550.2415, 550.2614, 550.26165, 550.2625, 550.26352, 550.2704, 550.334, 550.3345, 550.3355, 550.3551, 550.3615, 550.375, 550.495, 550.505, 550.5251, 550.625, 550.6305, 550.6308, 550.70, 550.902, 551.102, 551.103, 551.104, 551.1045, 551.105, 551.106, 551.107, 551.108, 551.109, 551.112, 551.114, 551.117, 551.118, 551.121, 551.122, 551.123, 565.02, 817.37, and 849.086, F.S.

This bill creates the following sections of the Florida Statutes: None.

This bill repeals the following sections of the Florida Statutes: None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Passidomo

28-01067-22

2022854__

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 16.71, 16.712, 16.713, 16.715, 20.165, 550.002,
 4 550.0115, 550.01215, 550.0235, 550.0251, 550.0351,
 5 550.054, 550.0555, 550.0651, 550.0951, 550.09511,
 6 550.09512, 550.09514, 550.09515, 550.105, 550.1155,
 7 550.125, 550.155, 550.175, 550.1815, 550.24055,
 8 550.2415, 550.2614, 550.26165, 550.2625, 550.26352,
 9 550.2704, 550.334, 550.3345, 550.3355, 550.3551,
 10 550.3615, 550.375, 550.495, 550.505, 550.5251,
 11 550.625, 550.6305, 550.6308, 550.70, 550.902, 551.102,
 12 551.103, 551.104, 551.1045, 551.105, 551.106, 551.107,
 13 551.108, 551.109, 551.112, 551.114, 551.117, 551.118,
 14 551.121, 551.122, 551.123, 565.02, 817.37, and
 15 849.086, F.S., to conform to the directive of the
 16 Legislature to the Division of Law Revision in s. 13,
 17 ch. 2021-269, Laws of Florida, to replace references
 18 to the Division of Pari-mutuel Wagering and references
 19 to the Department of Business and Professional
 20 Regulation relating to gaming with references to the
 21 Florida Gaming Control Commission to conform the
 22 Florida Statutes to the transfer of duties in s. 11,
 23 ch. 2021-269; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Paragraph (b) of subsection (3) of section
 28 16.71, Florida Statutes, is amended to read:
 29 16.71 Florida Gaming Control Commission; creation;

Page 1 of 140

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

28-01067-22

2022854__

30 meetings; membership.-
 31 (3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.-
 32 (b) The Governor may not solicit or request any
 33 nominations, recommendations, or communications about potential
 34 candidates for appointment to the commission from:
 35 1. Any person that holds a permit or license issued under
 36 chapter 550, or a license issued under chapter 551 or chapter
 37 849; an officer, official, or employee of such permitholder or
 38 licensee; or an ultimate equitable owner, as defined in s.
 39 550.002(36) ~~550.002(37)~~, of such permitholder or licensee;
 40 2. Any officer, official, employee, or other person with
 41 duties or responsibilities relating to a gaming operation owned
 42 by an Indian tribe that has a valid and active compact with the
 43 state; a contractor or subcontractor of such tribe or an entity
 44 employed, licensed, or contracted by such tribe; or an ultimate
 45 equitable owner, as defined in s. 550.002(36) ~~550.002(37)~~, of
 46 such entity; or
 47 3. Any registered lobbyist for the executive or legislative
 48 branch who represents any person or entity identified in
 49 subparagraph 1. or subparagraph 2.
 50 Section 2. Paragraphs (f), (g), and (h) of subsection (1)
 51 of section 16.712, Florida Statutes, are amended to read:
 52 16.712 Florida Gaming Control Commission authorizations,
 53 duties, and responsibilities.-
 54 (1) The commission shall do all of the following:
 55 (f) Review any matter within the scope of the jurisdiction
 56 of the commission ~~Division of Pari mutuel Wagering~~.
 57 (g) Review the regulation of licensees, permitholders, or
 58 persons regulated by the commission ~~Division of Pari mutuel~~

Page 2 of 140

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

28-01067-22 2022854__

59 ~~Wagering~~ and the procedures used by the commission ~~division~~ to
60 implement and enforce the law.

61 (h) Review the procedures of the commission ~~Division of~~
62 ~~Pari-mutuel Wagering~~ which are used to qualify applicants
63 applying for a license, permit, or registration.

64 Section 3. Paragraphs (a) and (b) of subsection (2) of
65 section 16.713, Florida Statutes, are amended to read:

66 16.713 Florida Gaming Control Commission; appointment and
67 employment restrictions.—

68 (2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS
69 INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE
70 COMMISSION.—

71 (a) A person may not, for the 2 years immediately preceding
72 the date of appointment to or employment with the commission and
73 while appointed to or employed with the commission:

74 1. Hold a permit or license issued under chapter 550 or a
75 license issued under chapter 551 or chapter 849; be an officer,
76 official, or employee of such permitholder or licensee; or be an
77 ultimate equitable owner, as defined in s. 550.002(36)
78 ~~550.002(37)~~, of such permitholder or licensee;

79 2. Be an officer, official, employee, or other person with
80 duties or responsibilities relating to a gaming operation owned
81 by an Indian tribe that has a valid and active compact with the
82 state; be a contractor or subcontractor of such tribe or an
83 entity employed, licensed, or contracted by such tribe; or be an
84 ultimate equitable owner, as defined in s. 550.002(36)
85 ~~550.002(37)~~, of such entity;

86 3. Be a registered lobbyist for the executive or
87 legislative branch, except while a commissioner or employee of

Page 3 of 140

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

28-01067-22 2022854__

88 the commission when officially representing the commission; or

89 4. Be a bingo game operator or an employee of a bingo game
90 operator.

91 (b) A person is ineligible for appointment to or employment
92 with the commission if, within the 2 years immediately preceding
93 such appointment or employment, he or she violated paragraph (a)
94 or solicited or accepted employment with, acquired any direct or
95 indirect interest in, or had any direct or indirect business
96 association, partnership, or financial relationship with, or is
97 a relative of:

98 1. Any person or entity who is an applicant, licensee, or
99 registrant with the ~~Division of Pari-mutuel Wagering or the~~
100 commission; or

101 2. Any officer, official, employee, or other person with
102 duties or responsibilities relating to a gaming operation owned
103 by an Indian tribe that has a valid and active compact with the
104 state; any contractor or subcontractor of such tribe or an
105 entity employed, licensed, or contracted by such tribe; or any
106 ultimate equitable owner, as defined in s. 550.002(36)
107 ~~550.002(37)~~, of such entity.

108 For the purposes of this subsection, the term "relative" means a
109 spouse, father, mother, son, daughter, grandfather, grandmother,
110 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
111 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
112 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
113 stepbrother, stepsister, half-brother, or half-sister.

114 Section 4. Paragraphs (b) and (c) of subsection (2) of
115 section 16.715, Florida Statutes, are amended to read:
116

Page 4 of 140

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

28-01067-22 2022854__

117 16.715 Florida Gaming Control Commission standards of
 118 conduct; ex parte communications.-
 119 (2) FORMER COMMISSIONERS AND EMPLOYEES.-
 120 (b) A commissioner may not, for the 2 years immediately
 121 following the date of resignation or termination from the
 122 commission:
 123 1. Hold a permit or license issued under chapter 550, or a
 124 license issued under chapter 551 or chapter 849; be an officer,
 125 official, or employee of such permitholder or licensee; or be an
 126 ultimate equitable owner, as defined in s. 550.002(36)
 127 ~~550.002(37)~~, of such permitholder or licensee;
 128 2. Accept employment by or compensation from a business
 129 entity that, directly or indirectly, owns or controls a person
 130 regulated by the commission; from a person regulated by the
 131 commission; from a business entity which, directly or
 132 indirectly, is an affiliate or subsidiary of a person regulated
 133 by the commission; or from a business entity or trade
 134 association that has been a party to a commission proceeding
 135 within the 2 years preceding the member's resignation or
 136 termination of service on the commission; or
 137 3. Be a bingo game operator or an employee of a bingo game
 138 operator.
 139 (c) A person employed by the commission may not, for the 2
 140 years immediately following the date of termination or
 141 resignation from employment with the commission:
 142 1. Hold a permit or license issued under chapter 550, or a
 143 license issued under chapter 551 or chapter 849; be an officer,
 144 official, or employee of such permitholder or licensee; or be an
 145 ultimate equitable owner, as defined in s. 550.002(36).

Page 5 of 140

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

28-01067-22 2022854__

146 ~~550.002(37)~~, of such permitholder or licensee; or
 147 2. Be a bingo game operator or an employee of a bingo game
 148 operator.
 149 Section 5. Paragraph (g) of subsection (2) of section
 150 20.165, Florida Statutes, is amended to read:
 151 20.165 Department of Business and Professional Regulation.-
 152 There is created a Department of Business and Professional
 153 Regulation.
 154 (2) The following divisions of the Department of Business
 155 and Professional Regulation are established:
 156 ~~(g) Division of Pari-mutuel Wagering.~~
 157 Section 6. Subsections (8) through (10) and (12) through
 158 (39) of section 550.002, Florida Statutes, are redesignated as
 159 subsections (7) through (9) and subsections (11) through (38),
 160 respectively, present subsections (4), (5), (6), (7), and (11)
 161 of that section are amended, and a new subsection (4) is added
 162 to that section, to read:
 163 550.002 Definitions.-As used in this chapter, the term:
 164 (4) "Commission" means the Florida Gaming Control
 165 Commission.
 166 ~~(5) (4)~~ "Contributor" means a person who contributes to a
 167 pari-mutuel pool by engaging in any pari-mutuel wager pursuant
 168 to this chapter.
 169 ~~(6) (5)~~ "Current meet" or "current race meet" means the
 170 conduct of racing or games pursuant to a current year's
 171 operating license issued by the commission ~~division~~.
 172 ~~(6) "Department" means the Department of Business and~~
 173 ~~Professional Regulation.~~
 174 ~~(7) "Division" means the Division of Pari-mutuel Wagering~~

Page 6 of 140

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

28-01067-22

2022854__

175 ~~within the Department of Business and Professional Regulation.~~
 176 (10) ~~(11)~~ "Full schedule of live racing or games" means, for
 177 a jai alai permitholder, the conduct of a combination of at
 178 least 100 live evening or matinee performances during the
 179 preceding year; for a permitholder who has a converted permit or
 180 filed an application on or before June 1, 1990, for a converted
 181 permit, the conduct of a combination of at least 100 live
 182 evening and matinee wagering performances during either of the 2
 183 preceding years; for a jai alai permitholder who does not
 184 operate slot machines in its pari-mutuel facility, who has
 185 conducted at least 100 live performances per year for at least
 186 10 years after December 31, 1992, and whose handle on live jai
 187 alai games conducted at its pari-mutuel facility has been less
 188 than \$4 million per state fiscal year for at least 2 consecutive
 189 years after June 30, 1992, the conduct of a combination of at
 190 least 40 live evening or matinee performances during the
 191 preceding year; for a jai alai permitholder who operates slot
 192 machines in its pari-mutuel facility, the conduct of a
 193 combination of at least 150 performances during the preceding
 194 year; for a harness permitholder, the conduct of at least 100
 195 live regular wagering performances during the preceding year;
 196 for a quarter horse permitholder at its facility unless an
 197 alternative schedule of at least 20 live regular wagering
 198 performances is agreed upon by the permitholder and either the
 199 Florida Quarter Horse Racing Association or the horsemen's
 200 association representing the majority of the quarter horse
 201 owners and trainers at the facility and filed with the
 202 commission division along with its annual date application, in
 203 the 2010-2011 fiscal year, the conduct of at least 20 regular

Page 7 of 140

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

28-01067-22

2022854__

204 wagering performances, in the 2011-2012 and 2012-2013 fiscal
 205 years, the conduct of at least 30 live regular wagering
 206 performances, and for every fiscal year after the 2012-2013
 207 fiscal year, the conduct of at least 40 live regular wagering
 208 performances; for a quarter horse permitholder leasing another
 209 licensed racetrack, the conduct of 160 events at the leased
 210 facility; and for a thoroughbred permitholder, the conduct of at
 211 least 40 live regular wagering performances during the preceding
 212 year. For a permitholder which is restricted by statute to
 213 certain operating periods within the year when other members of
 214 its same class of permit are authorized to operate throughout
 215 the year, the specified number of live performances which
 216 constitute a full schedule of live racing or games shall be
 217 adjusted pro rata in accordance with the relationship between
 218 its authorized operating period and the full calendar year and
 219 the resulting specified number of live performances shall
 220 constitute the full schedule of live games for such permitholder
 221 and all other permitholders of the same class within 100 air
 222 miles of such permitholder. A live performance must consist of
 223 no fewer than eight races or games conducted live for each of a
 224 minimum of three performances each week at the permitholder's
 225 licensed facility under a single admission charge.
 226 Section 7. Section 550.0115, Florida Statutes, is amended
 227 to read:
 228 550.0115 Permitholder operating license.—After a permit has
 229 been issued by the commission division, and after the permit has
 230 been approved by election, the commission division shall issue
 231 to the permitholder an annual operating license to conduct pari-
 232 mutuel wagering at the location specified in the permit pursuant

Page 8 of 140

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

28-01067-22

2022854__

233 to the provisions of this chapter.

234 Section 8. Section 550.01215, Florida Statutes, is amended
235 to read:

236 550.01215 License application; periods of operation;
237 license fees; bond.—

238 (1) Each permitholder shall annually, during the period
239 between December 15 and January 4, file in writing with the
240 commission division its application for an operating license for
241 a pari-mutuel facility for the conduct of pari-mutuel wagering
242 during the next state fiscal year, including intertrack and
243 simulcast race wagering. Each application for live performances
244 must specify the number, dates, and starting times of all live
245 performances that the permitholder intends to conduct. It must
246 also specify which performances will be conducted as charity or
247 scholarship performances.

248 (a) Each application for an operating license also must
249 include:

250 1. For each permitholder, whether the permitholder intends
251 to accept wagers on intertrack or simulcast events.

252 2. For each permitholder that elects to operate a cardroom,
253 the dates and periods of operation the permitholder intends to
254 operate the cardroom.

255 3. For each thoroughbred racing permitholder that elects to
256 receive or rebroadcast out-of-state races, the dates for all
257 performances that the permitholder intends to conduct.

258 (b)1. A greyhound permitholder may not conduct live racing.
259 A jai alai permitholder, harness horse racing permitholder, or
260 quarter horse racing permitholder may elect not to conduct live
261 racing or games. A thoroughbred permitholder must conduct live

Page 9 of 140

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

28-01067-22

2022854__

262 racing. A greyhound permitholder, jai alai permitholder, harness
263 horse racing permitholder, or quarter horse racing permitholder
264 that does not conduct live racing or games retains its permit;
265 is a pari-mutuel facility as defined in s. 550.002(22)
266 ~~550.002(23)~~; if such permitholder has been issued a slot machine
267 license, the facility where such permit is located remains an
268 eligible facility as defined in s. 551.102(4), continues to be
269 eligible for a slot machine license pursuant to s. 551.104(3),
270 and is exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is
271 eligible, but not required, to be a guest track and, if the
272 permitholder is a harness horse racing permitholder, to be a
273 host track for purposes of intertrack wagering and simulcasting
274 pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and
275 remains eligible for a cardroom license.

276 2. A permitholder or licensee may not conduct live
277 greyhound racing or dogracing in connection with any wager for
278 money or any other thing of value in the state. The commission
279 ~~division~~ may deny, suspend, or revoke any permit or license
280 under this chapter if a permitholder or licensee conducts live
281 greyhound racing or dogracing in violation of this subparagraph.
282 In addition to, or in lieu of, denial, suspension, or revocation
283 of such permit or license, the commission division may impose a
284 civil penalty of up to \$5,000 against the permitholder or
285 licensee for a violation of this subparagraph. All penalties
286 imposed and collected must be deposited with the Chief Financial
287 Officer to the credit of the General Revenue Fund.

288 (c) Permitholders may amend their applications through
289 February 28.

290 (d) Notwithstanding any other provision of law, other than

Page 10 of 140

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

28-01067-22 2022854__
 291 a permitholder issued a permit pursuant to s. 550.3345, a pari-
 292 mutuel permitholder may not be issued an operating license for
 293 the conduct of pari-mutuel wagering, slot machine gaming, or the
 294 operation of a cardroom if the permitholder did not hold an
 295 operating license for the conduct of pari-mutuel wagering for
 296 fiscal year 2020-2021.

297 (2) After the first license has been issued to a
 298 permitholder, all subsequent annual applications for a license
 299 shall be accompanied by proof, in such form as the commission
 300 ~~division~~ may by rule require, that the permitholder continues to
 301 possess the qualifications prescribed by this chapter, and that
 302 the permit has not been disapproved at a later election.

303 (3) The commission ~~division~~ shall issue each license no
 304 later than March 15. Each permitholder shall operate all
 305 performances at the date and time specified on its license. The
 306 commission ~~division~~ shall have the authority to approve minor
 307 changes in racing dates after a license has been issued. The
 308 commission ~~division~~ may approve changes in racing dates after a
 309 license has been issued when there is no objection from any
 310 operating permitholder that is conducting live racing or games
 311 and that is located within 50 miles of the permitholder
 312 requesting the changes in operating dates. In the event of an
 313 objection, the commission ~~division~~ shall approve or disapprove
 314 the change in operating dates based upon the impact on operating
 315 permitholders located within 50 miles of the permitholder
 316 requesting the change in operating dates. In making the
 317 determination to change racing dates, the commission ~~division~~
 318 shall take into consideration the impact of such changes on
 319 state revenues. ~~Notwithstanding any other provision of law, and~~

28-01067-22 2022854__
 320 ~~for the 2021-2022 state fiscal year only, the division may~~
 321 ~~approve changes in operating dates for a jai alai permitholder,~~
 322 ~~harness horse racing permitholder, or quarter horse racing~~
 323 ~~permitholder if the request for such changes is received before~~
 324 ~~October 1, 2021.~~

325 (4) In the event that a permitholder fails to operate all
 326 performances specified on its license at the date and time
 327 specified, the commission ~~division~~ shall hold a hearing to
 328 determine whether to fine or suspend the permitholder's license,
 329 unless such failure was the direct result of fire, strike, war,
 330 hurricane, pandemic, or other disaster or event beyond the
 331 ability of the permitholder to control. Financial hardship to
 332 the permitholder shall not, in and of itself, constitute just
 333 cause for failure to operate all performances on the dates and
 334 at the times specified.

335 (5) In the event that performances licensed to be operated
 336 by a permitholder are vacated, abandoned, or will not be used
 337 for any reason, any permitholder shall be entitled, pursuant to
 338 rules adopted by the commission ~~division~~, to apply to conduct
 339 performances on the dates for which the performances have been
 340 abandoned. The commission ~~division~~ shall issue an amended
 341 license for all such replacement performances which have been
 342 requested in compliance with this chapter and commission
 343 ~~division~~ rules.

344 Section 9. Section 550.0235, Florida Statutes, is amended
 345 to read:

346 550.0235 Limitation of civil liability.—No permitholder
 347 licensed to conduct pari-mutuel wagering pursuant to the
 348 provisions of this chapter; no commissioner ~~division director~~ or

28-01067-22 2022854__
 349 employee of the commission division; and no steward, judge, or
 350 other person appointed to act pursuant to this chapter shall be
 351 held liable to any person, partnership, association,
 352 corporation, or other business entity for any cause whatsoever
 353 arising out of, or from, the performance by such permittee,
 354 director, employee, steward, judge, or other person of her or
 355 his duties and the exercise of her or his discretion with
 356 respect to the implementation and enforcement of the statutes
 357 and rules governing the conduct of pari-mutuel wagering, so long
 358 as she or he acted in good faith. This section shall not limit
 359 liability in any situation in which the negligent maintenance of
 360 the premises or the negligent conduct of a race contributed to
 361 an accident; nor shall it limit any contractual liability.

362 Section 10. Section 550.0251, Florida Statutes, is amended
 363 to read:

364 550.0251 The powers and duties of the Florida Gaming
 365 Control Commission Division of Pari-mutuel Wagering of the
 366 Department of Business and Professional Regulation.—The
 367 commission division shall administer this chapter and regulate
 368 the pari-mutuel industry under this chapter and the rules
 369 adopted pursuant thereto, and:

370 (1) The commission division shall make an annual report to
 371 the Governor showing its own actions, receipts derived under the
 372 provisions of this chapter, the practical effects of the
 373 application of this chapter, and any suggestions it may approve
 374 for the more effectual accomplishments of the purposes of this
 375 chapter.

376 (2) The commission division shall require an oath on
 377 application documents as required by rule, which oath must state

28-01067-22 2022854__
 378 that the information contained in the document is true and
 379 complete.
 380 (3) The commission division shall adopt reasonable rules
 381 for the control, supervision, and direction of all applicants,
 382 permittees, and licensees and for the holding, conducting, and
 383 operating of all racetracks, race meets, and races held in this
 384 state. Such rules must be uniform in their application and
 385 effect, and the duty of exercising this control and power is
 386 made mandatory upon the commission division.
 387 (4) The commission division may take testimony concerning
 388 any matter within its jurisdiction and issue summons and
 389 subpoenas for any witness and subpoenas duces tecum in
 390 connection with any matter within the jurisdiction of the
 391 commission division under its seal and signed by the director.
 392 (5) The commission division may adopt rules establishing
 393 procedures for testing occupational licenseholders officiating
 394 at or participating in any race or game at any pari-mutuel
 395 facility under the jurisdiction of the commission division for a
 396 controlled substance or alcohol and may prescribe procedural
 397 matters not in conflict with s. 120.80(4) (a).
 398 (6) In addition to the power to exclude certain persons
 399 from any pari-mutuel facility in this state, the commission
 400 division may exclude any person from any and all pari-mutuel
 401 facilities in this state for conduct that would constitute, if
 402 the person were a licensee, a violation of this chapter or the
 403 rules of the commission division. The commission division may
 404 exclude from any pari-mutuel facility within this state any
 405 person who has been ejected from a pari-mutuel facility in this
 406 state or who has been excluded from any pari-mutuel facility in

28-01067-22

2022854__

407 another state by the governmental department, agency,
 408 commission, or authority exercising regulatory jurisdiction over
 409 pari-mutuel facilities in such other state. The commission
 410 ~~division~~ may authorize any person who has been ejected or
 411 excluded from pari-mutuel facilities in this state or another
 412 state to attend the pari-mutuel facilities in this state upon a
 413 finding that the attendance of such person at pari-mutuel
 414 facilities would not be adverse to the public interest or to the
 415 integrity of the sport or industry; however, this subsection
 416 shall not be construed to abrogate the common-law right of a
 417 pari-mutuel permitholder to exclude absolutely a patron in this
 418 state.

419 (7) The commission ~~division~~ may oversee the making of, and
 420 distribution from, all pari-mutuel pools.

421 (8) The commission ~~department~~ may collect taxes and require
 422 compliance with reporting requirements for financial information
 423 as authorized by this chapter. In addition, the commission
 424 ~~secretary of the department~~ may require permitholders conducting
 425 pari-mutuel operations within the state to remit taxes,
 426 including fees, by electronic funds transfer if the taxes and
 427 fees amounted to \$50,000 or more in the prior reporting year.

428 (9) The commission ~~division~~ may conduct investigations in
 429 enforcing this chapter, except that all information obtained
 430 pursuant to an investigation by the commission ~~division~~ for an
 431 alleged violation of this chapter or rules of the commission
 432 ~~division~~ is exempt from s. 119.07(1) and from s. 24(a), Art. I
 433 of the State Constitution until an administrative complaint is
 434 issued or the investigation is closed or ceases to be active.
 435 This subsection does not prohibit the commission ~~division~~ from

Page 15 of 140

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

28-01067-22

2022854__

436 providing such information to any law enforcement agency or to
 437 any other regulatory agency. For the purposes of this
 438 subsection, an investigation is considered to be active while it
 439 is being conducted with reasonable dispatch and with a
 440 reasonable, good faith belief that it could lead to an
 441 administrative, civil, or criminal action by the commission
 442 ~~division~~ or another administrative or law enforcement agency.
 443 Except for active criminal intelligence or criminal
 444 investigative information, as defined in s. 119.011, and any
 445 other information that, if disclosed, would jeopardize the
 446 safety of an individual, all information, records, and
 447 transcriptions become public when the investigation is closed or
 448 ceases to be active.

449 (10) The commission ~~division~~ may impose an administrative
 450 fine for a violation under this chapter of not more than \$1,000
 451 for each count or separate offense, except as otherwise provided
 452 in this chapter, and may suspend or revoke a permit, a pari-
 453 mutuel license, or an occupational license for a violation under
 454 this chapter. All fines imposed and collected under this
 455 subsection must be deposited with the Chief Financial Officer to
 456 the credit of the General Revenue Fund.

457 (11) The commission ~~division~~ shall supervise and regulate
 458 the welfare of racing animals at pari-mutuel facilities.

459 (12) The commission ~~division~~ shall have full authority and
 460 power to make, adopt, amend, or repeal rules relating to
 461 cardroom operations, to enforce and to carry out the provisions
 462 of s. 849.086, and to regulate the authorized cardroom
 463 activities in the state.

464 (13) The commission ~~division~~ shall have the authority to

Page 16 of 140

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

28-01067-22

2022854__

465 suspend a permitholder's permit or license, if such permitholder
 466 is operating a cardroom facility and such permitholder's
 467 cardroom license has been suspended or revoked pursuant to s.
 468 849.086.

469 Section 11. Subsections (1), (2), and (4), paragraphs (a)
 470 and (c) of subsection (6), and subsection (7) of section
 471 550.0351, Florida Statutes, are amended to read:

472 550.0351 Charity racing days.—

473 (1) The commission ~~division~~ shall, upon the request of a
 474 permitholder, authorize each horseracing permitholder and jai
 475 alai permitholder up to five charity or scholarship days in
 476 addition to the regular racing days authorized by law.

477 (2) The proceeds of charity performances shall be paid to
 478 qualified beneficiaries selected by the permitholders from an
 479 authorized list of charities on file with the commission
 480 ~~division~~. Eligible charities include any charity that provides
 481 evidence of compliance with the provisions of chapter 496 and
 482 evidence of possession of a valid exemption from federal
 483 taxation issued by the Internal Revenue Service. In addition,
 484 the authorized list must include the Racing Scholarship Trust
 485 Fund, the Historical Resources Operating Trust Fund, major state
 486 and private institutions of higher learning, and Florida
 487 community colleges.

488 (4) The total of all profits derived from the conduct of a
 489 charity day performance must include all revenues derived from
 490 the conduct of that racing performance, including all state
 491 taxes that would otherwise be due to the state, except that the
 492 daily license fee as provided in s. 550.0951(1) and the breaks
 493 for the promotional trust funds as provided in s. 550.2625(3),

Page 17 of 140

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

28-01067-22

2022854__

494 (4), (5), (7), and (8) shall be paid to the commission ~~division~~.
 495 All other revenues from the charity racing performance,
 496 including the commissions, breaks, and admissions and the
 497 revenues from parking, programs, and concessions, shall be
 498 included in the total of all profits.

499 (6) (a) The commission ~~division~~ shall authorize one
 500 additional scholarship day for horseracing in addition to the
 501 regular racing days authorized by law and any additional days
 502 authorized by this section, to be conducted at all horse
 503 racetracks located in Hillsborough County. The permitholder
 504 shall conduct a full schedule of racing on the scholarship day.

505 (c) When a charity or scholarship performance is conducted
 506 as a matinee performance, the commission ~~division~~ may authorize
 507 the permitholder to conduct the evening performances of that
 508 operation day as a regular performance in addition to the
 509 regular operating days authorized by law.

510 (7) In addition to the eligible charities that meet the
 511 criteria set forth in this section, a jai alai permitholder is
 512 authorized to conduct two additional charity performances each
 513 fiscal year for a fund to benefit retired jai alai players. This
 514 performance shall be known as the "Retired Jai Alai Players
 515 Charity Day." The administration of this fund shall be
 516 determined by rule by the commission ~~division~~.

517 Section 12. Subsections (1), (2), (3), (4), (5), (6), and
 518 (7), paragraphs (a), (b), (c), and (e) of subsection (8),
 519 subsections (9), (10), (11), and (12), paragraph (a) of
 520 subsection (13), subsection (14), and paragraph (c) of
 521 subsection (15) of section 550.054, Florida Statutes, are
 522 amended to read:

Page 18 of 140

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

28-01067-22 2022854__

523 550.054 Application for permit to conduct pari-mutuel
 524 wagering.-

525 (1) Any person who possesses the qualifications prescribed
 526 in this chapter may apply to the commission division for a
 527 permit to conduct pari-mutuel operations under this chapter.
 528 Applications for a pari-mutuel permit are exempt from the 90-day
 529 licensing requirement of s. 120.60. Within 120 days after
 530 receipt of a complete application, the commission division shall
 531 grant or deny the permit. A completed application that is not
 532 acted upon within 120 days after receipt is deemed approved, and
 533 the commission division shall grant the permit.

534 (2) Upon each application filed and approved, a permit
 535 shall be issued to the applicant setting forth the name of the
 536 permitholder, the location of the pari-mutuel facility, the type
 537 of pari-mutuel activity desired to be conducted, and a statement
 538 showing qualifications of the applicant to conduct pari-mutuel
 539 performances under this chapter; however, a permit is
 540 ineffectual to authorize any pari-mutuel performances until
 541 approved by a majority of the electors participating in a
 542 ratification election in the county in which the applicant
 543 proposes to conduct pari-mutuel wagering activities. In
 544 addition, an application may not be considered, nor may a permit
 545 be issued by the commission division or be voted upon in any
 546 county, to conduct horseraces, harness horse races, or pari-
 547 mutuel wagering at a location within 100 miles of an existing
 548 pari-mutuel facility, or for jai alai within 50 miles of an
 549 existing pari-mutuel facility; this distance shall be measured
 550 on a straight line from the nearest property line of one pari-
 551 mutuel facility to the nearest property line of the other

Page 19 of 140

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

28-01067-22 2022854__

552 facility.

553 (3) The commission division shall require that each
 554 applicant submit an application setting forth:

555 (a) The full name of the applicant.

556 (b) If a corporation, the name of the state in which
 557 incorporated and the names and addresses of the officers,
 558 directors, and shareholders holding 5 percent or more equity or,
 559 if a business entity other than a corporation, the names and
 560 addresses of the principals, partners, or shareholders holding 5
 561 percent or more equity.

562 (c) The names and addresses of the ultimate equitable
 563 owners for a corporation or other business entity, if different
 564 from those provided under paragraph (b), unless the securities
 565 of the corporation or entity are registered pursuant to s. 12 of
 566 the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and
 567 if such corporation or entity files with the United States
 568 Securities and Exchange Commission the reports required by s. 13
 569 of that act or if the securities of the corporation or entity
 570 are regularly traded on an established securities market in the
 571 United States.

572 (d) The exact location where the applicant will conduct
 573 pari-mutuel performances.

574 (e) Whether the pari-mutuel facility is owned or leased
 575 and, if leased, the name and residence of the fee owner or, if a
 576 corporation, the names and addresses of the directors and
 577 stockholders thereof. However, this chapter does not prevent a
 578 person from applying to the commission division for a permit to
 579 conduct pari-mutuel operations, regardless of whether the pari-
 580 mutuel facility has been constructed or not, and having an

Page 20 of 140

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

28-01067-22

2022854__

581 election held in any county at the same time that elections are
582 held for the ratification of any permit in that county.

583 (f) A statement of the assets and liabilities of the
584 applicant.

585 (g) The names and addresses of any mortgagee of any pari-
586 mutuel facility and any financial agreement between the parties.
587 The commission division may require the names and addresses of
588 the officers and directors of the mortgagee, and of those
589 stockholders who hold more than 10 percent of the stock of the
590 mortgagee.

591 (h) A business plan for the first year of operation.

592 (i) For each individual listed in the application as an
593 owner, partner, officer, or director, a complete set of
594 fingerprints that has been taken by an authorized law
595 enforcement officer. These sets of fingerprints must be
596 submitted to the Federal Bureau of Investigation for processing.
597 Applicants who are foreign nationals shall submit such documents
598 as necessary to allow the commission division to conduct
599 criminal history records checks in the applicant's home country.
600 The applicant must pay the cost of processing. The commission
601 division may charge a \$2 handling fee for each set of
602 fingerprint records.

603 (j) The type of pari-mutuel activity to be conducted and
604 the desired period of operation.

605 (k) Other information the commission division requires.

606 (4) The commission division shall require each applicant to
607 deposit with the board of county commissioners of the county in
608 which the election is to be held, a sufficient sum, in currency
609 or by check certified by a bank licensed to do business in the

Page 21 of 140

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

28-01067-22

2022854__

610 state to pay the expenses of holding the election provided in s.
611 550.0651.

612 (5) Upon receiving an application and any amendments
613 properly made thereto, the commission division shall further
614 investigate the matters contained in the application. If the
615 applicant meets all requirements, conditions, and qualifications
616 set forth in this chapter and the rules of the commission
617 division, the commission division shall grant the permit.

618 (6) After initial approval of the permit and the source of
619 financing, the terms and parties of any subsequent refinancing
620 must be disclosed by the applicant or the permitholder to the
621 commission division.

622 (7) If the commission division refuses to grant the permit,
623 the money deposited with the board of county commissioners for
624 holding the election must be refunded to the applicant. If the
625 commission division grants the permit applied for, the board of
626 county commissioners shall order an election in the county to
627 decide whether the permit will be approved, as provided in s.
628 550.0651.

629 (8) (a) The commission division may charge the applicant for
630 reasonable, anticipated costs incurred by the commission
631 division in determining the eligibility of any person or entity
632 specified in s. 550.1815(1)(a) to hold any pari-mutuel permit,
633 against such person or entity.

634 (b) The commission division may, by rule, determine the
635 manner of paying its anticipated costs associated with
636 determination of eligibility and the procedure for filing
637 applications for determination of eligibility.

638 (c) The commission division shall furnish to the applicant

Page 22 of 140

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

28-01067-22

2022854__

639 an itemized statement of actual costs incurred during the
640 investigation to determine eligibility.

641 (e) If the actual costs of investigation exceed anticipated
642 costs, the commission ~~division~~ shall assess the applicant the
643 amount necessary to recover all actual costs.

644 (9) (a) After a permit has been granted by the commission
645 ~~division~~ and has been ratified and approved by the majority of
646 the electors participating in the election in the county
647 designated in the permit, the commission ~~division~~ shall grant to
648 the lawful permitholder, subject to the conditions of this
649 chapter, a license to conduct pari-mutuel operations under this
650 chapter, and, except as provided in s. 550.5251, the commission
651 ~~division~~ shall fix annually the time, place, and number of days
652 during which pari-mutuel operations may be conducted by the
653 permitholder at the location fixed in the permit and ratified in
654 the election. After the first license has been issued to the
655 holder of a ratified permit for racing in any county, all
656 subsequent annual applications for a license by that
657 permitholder must be accompanied by proof, in such form as the
658 commission ~~division~~ requires, that the ratified permitholder
659 still possesses all the qualifications prescribed by this
660 chapter and that the permit has not been recalled at a later
661 election held in the county.

662 (b) The commission ~~division~~ may revoke or suspend any
663 permit or license issued under this chapter upon the willful
664 violation by the permitholder or licensee of any provision of
665 this chapter or of any rule adopted under this chapter. In lieu
666 of suspending or revoking a permit or license, the commission
667 ~~division~~ may impose a civil penalty against the permitholder or

Page 23 of 140

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

28-01067-22

2022854__

668 licensee for a violation of this chapter or any rule adopted by
669 the commission ~~division~~. The penalty so imposed may not exceed
670 \$1,000 for each count or separate offense. All penalties imposed
671 and collected must be deposited with the Chief Financial Officer
672 to the credit of the General Revenue Fund.

673 (c) The commission ~~division~~ shall revoke the permit of any
674 permitholder, other than a permitholder issued a permit pursuant
675 to s. 550.3345, who did not hold an operating license for the
676 conduct of pari-mutuel wagering for fiscal year 2020-2021. A
677 permit revoked under this paragraph is void and may not be
678 reissued.

679 (10) If a permitholder has failed to complete construction
680 of at least 50 percent of the facilities necessary to conduct
681 pari-mutuel operations within 12 months after approval by the
682 voters of the permit, the commission ~~division~~ shall revoke the
683 permit upon adequate notice to the permitholder. However, the
684 commission ~~division~~, upon good cause shown by the permitholder,
685 may grant one extension of up to 12 months.

686 (11) (a) A permit granted under this chapter may not be
687 transferred or assigned except upon written approval by the
688 commission ~~division~~ pursuant to s. 550.1815, except that the
689 holder of any permit that has been converted to a jai alai
690 permit may lease or build anywhere within the county in which
691 its permit is located.

692 (b) If a permit to conduct pari-mutuel wagering is held by
693 a corporation or business entity other than an individual, the
694 transfer of 10 percent or more of the stock or other evidence of
695 ownership or equity in the permitholder may not be made without
696 the prior approval of the transferee by the commission ~~division~~

Page 24 of 140

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

28-01067-22

2022854__

697 pursuant to s. 550.1815.

698 (12) Changes in ownership or interest of a pari-mutuel
699 permit of 5 percent or more of the stock or other evidence of
700 ownership or equity in the permit holder shall be approved by the
701 commission division prior to such change, unless the owner is an
702 existing owner of that permit who was previously approved by the
703 commission division. Changes in ownership or interest of a pari-
704 mutuel permit of less than 5 percent shall be reported to the
705 commission division within 20 days of the change. The commission
706 division may then conduct an investigation to ensure that the
707 permit is properly updated to show the change in ownership or
708 interest.

709 (13) (a) Notwithstanding any provisions of this chapter, no
710 thoroughbred horse racing permit or license issued under this
711 chapter shall be transferred, or reissued when such reissuance
712 is in the nature of a transfer so as to permit or authorize a
713 licensee to change the location of a thoroughbred horse
714 racetrack except upon proof in such form as the commission
715 division may prescribe that a referendum election has been held:

716 1. If the proposed new location is within the same county
717 as the already licensed location, in the county where the
718 licensee desires to conduct the race meeting and that a majority
719 of the electors voting on that question in such election voted
720 in favor of the transfer of such license.

721 2. If the proposed new location is not within the same
722 county as the already licensed location, in the county where the
723 licensee desires to conduct the race meeting and in the county
724 where the licensee is already licensed to conduct the race
725 meeting and that a majority of the electors voting on that

Page 25 of 140

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

28-01067-22

2022854__

726 question in each such election voted in favor of the transfer of
727 such license.

728 (14) (a) Any holder of a permit to conduct jai alai may
729 apply to the commission division to convert such permit to a
730 permit to conduct greyhound racing in lieu of jai alai if:

731 1. Such permit is located in a county in which the
732 commission division has issued only two pari-mutuel permits
733 pursuant to this section;

734 2. Such permit was not previously converted from any other
735 class of permit; and

736 3. The holder of the permit has not conducted jai alai
737 games during a period of 10 years immediately preceding his or
738 her application for conversion under this subsection.

739 (b) The commission division, upon application from the
740 holder of a jai alai permit meeting all conditions of this
741 section, shall convert the permit and shall issue to the
742 permit holder a permit to conduct greyhound racing. A
743 permit holder of a permit converted under this section shall be
744 required to apply for and conduct a full schedule of live racing
745 each fiscal year to be eligible for any tax credit provided by
746 this chapter. The holder of a permit converted pursuant to this
747 subsection or any holder of a permit to conduct greyhound racing
748 located in a county in which it is the only permit issued
749 pursuant to this section who operates at a leased facility
750 pursuant to s. 550.475 may move the location for which the
751 permit has been issued to another location within a 30-mile
752 radius of the location fixed in the permit issued in that
753 county, provided the move does not cross the county boundary and
754 such location is approved under the zoning regulations of the

Page 26 of 140

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

28-01067-22 2022854__

755 county or municipality in which the permit is located, and upon
756 such relocation may use the permit for the conduct of pari-
757 mutuel wagering and the operation of a cardroom. The provisions
758 of s. 550.6305(9) (d) and (f) shall apply to any permit converted
759 under this subsection and shall continue to apply to any permit
760 which was previously included under and subject to such
761 provisions before a conversion pursuant to this section
762 occurred.

763 (15)

764 (c) Additional permits for the conduct of pari-mutuel
765 wagering may not be approved or issued by the commission or
766 former Division of Pari-mutuel Wagering ~~division~~ after January
767 1, 2021; and

768 Section 13. Subsection (2) of section 550.0555, Florida
769 Statutes, is amended to read:

770 550.0555 Greyhound dogracing permits; relocation within a
771 county; conditions.-

772 (2) Any holder of a valid outstanding permit for greyhound
773 dogracing in a county in which there is only one dogracing
774 permit issued, as well as any holder of a valid outstanding
775 permit for jai alai in a county where only one jai alai permit
776 is issued, is authorized, without the necessity of an additional
777 county referendum required under s. 550.0651, to move the
778 location for which the permit has been issued to another
779 location within a 30-mile radius of the location fixed in the
780 permit issued in that county, provided the move does not cross
781 the county boundary, that such relocation is approved under the
782 zoning regulations of the county or municipality in which the
783 permit is to be located as a planned development use, consistent

Page 27 of 140

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

28-01067-22 2022854__

784 with the comprehensive plan, and that such move is approved by
785 the commission ~~department~~ after it is determined at a proceeding
786 pursuant to chapter 120 in the county affected that the move is
787 necessary to ensure the revenue-producing capability of the
788 permittee without deteriorating the revenue-producing capability
789 of any other pari-mutuel permittee within 50 miles; the distance
790 shall be measured on a straight line from the nearest property
791 line of one racing plant or jai alai fronton to the nearest
792 property line of the other.

793 Section 14. Subsections (1), (3), and (5) of section
794 550.0651, Florida Statutes, are amended to read:

795 550.0651 Elections for ratification of permits; municipal
796 prohibitions.-

797 (1) The holder of any permit may have submitted to the
798 electors of the county designated therein the question whether
799 or not such permit will be ratified or rejected. Such questions
800 shall be submitted to the electors for approval or rejection at
801 a special election to be called for that purpose only. The board
802 of county commissioners of the county designated, upon the
803 presentation to such board at a regular or special meeting of a
804 written application, accompanied by a certified copy of the
805 permit granted by the commission ~~division~~, and asking for an
806 election in the county in which the application was made, shall
807 order a special election in the county for the particular
808 purpose of deciding whether such permit shall be approved and
809 license issued and race meetings permitted in such county by
810 such permittee and shall cause the clerk of such board to give
811 notice of the special election by publishing the same once each
812 week for 2 consecutive weeks in one or more newspapers of

Page 28 of 140

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

28-01067-22

2022854__

813 general circulation in the county. Each permit covering each
814 track must be voted upon separately and in separate elections,
815 and an election may not be called more often than once every 2
816 years for the ratification of any permit covering the same
817 track.

818 (3) When a permit has been granted by the commission
819 ~~division~~ and no application to the board of county commissioners
820 has been made by the permittee within 6 months after the
821 granting of the permit, the permit becomes void. The commission
822 ~~division~~ shall cancel the permit without notice to the
823 permitholder, and the board of county commissioners holding the
824 deposit for the election shall refund the deposit to the
825 permitholder upon being notified by the commission ~~division~~ that
826 the permit has become void and has been canceled.

827 (5) If at any such special election the majority of the
828 electors voting on the question of ratification or rejection of
829 any permit vote against such ratification, such permit is void.
830 If a majority of the electors voting on the question of
831 ratification or rejection of any permit vote for such
832 ratification, such permit becomes effectual and the holder
833 thereof may conduct racing upon complying with the other
834 provisions of this chapter. The board of county commissioners
835 shall immediately certify the results of the election to the
836 commission ~~division~~.

837 Section 15. Subsection (1), paragraph (c) of subsection
838 (2), paragraph (c) of subsection (3), and subsections (5) and
839 (6) of section 550.0951, Florida Statutes, are amended to read:
840 550.0951 Payment of daily license fee and taxes;
841 penalties.-

Page 29 of 140

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

28-01067-22

2022854__

842 (1) DAILY LICENSE FEE.-

843 (a) Each person engaged in the business of conducting race
844 meetings or jai alai games under this chapter, hereinafter
845 referred to as the "permitholder," "licensee," or "permittee,"
846 shall pay to the commission ~~division~~, for the use of the
847 commission ~~division~~, a daily license fee on each live or
848 simulcast pari-mutuel event of \$100 for each horserace and \$80
849 for each dograce and \$40 for each jai alai game conducted at a
850 racetrack or fronton licensed under this chapter. In addition to
851 the tax exemption specified in s. 550.09514(1) of \$360,000 or
852 \$500,000 per greyhound permitholder per state fiscal year, each
853 greyhound permitholder shall receive in the current state fiscal
854 year a tax credit equal to the number of live greyhound races
855 conducted in the previous state fiscal year times the daily
856 license fee specified for each dograce in this subsection
857 applicable for the previous state fiscal year. This tax credit
858 and the exemption in s. 550.09514(1) shall be applicable to any
859 tax imposed by this chapter or the daily license fees imposed by
860 this chapter except during any charity or scholarship
861 performances conducted pursuant to s. 550.0351. Each
862 permitholder shall pay daily license fees not to exceed \$500 per
863 day on any simulcast races or games on which such permitholder
864 accepts wagers regardless of the number of out-of-state events
865 taken or the number of out-of-state locations from which such
866 events are taken. This license fee shall be deposited with the
867 Chief Financial Officer to the credit of the Pari-mutuel
868 Wagering Trust Fund.

869 (b) Each permitholder that cannot utilize the full amount
870 of the exemption of \$360,000 or \$500,000 provided in s.

Page 30 of 140

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

28-01067-22 2022854__

871 550.09514(1) or the daily license fee credit provided in this
 872 section may, after notifying the commission division in writing,
 873 elect once per state fiscal year on a form provided by the
 874 commission division to transfer such exemption or credit or any
 875 portion thereof to any greyhound permitholder which acts as a
 876 host track to such permitholder for the purpose of intertrack
 877 wagering. Once an election to transfer such exemption or credit
 878 is filed with the commission division, it shall not be
 879 rescinded. The commission division shall disapprove the transfer
 880 when the amount of the exemption or credit or portion thereof is
 881 unavailable to the transferring permitholder or when the
 882 permitholder who is entitled to transfer the exemption or credit
 883 or who is entitled to receive the exemption or credit owes taxes
 884 to the state pursuant to a deficiency letter or administrative
 885 complaint issued by the commission division. Upon approval of
 886 the transfer by the commission division, the transferred tax
 887 exemption or credit shall be effective for the first performance
 888 of the next payment period as specified in subsection (5). The
 889 exemption or credit transferred to such host track may be
 890 applied by such host track against any taxes imposed by this
 891 chapter or daily license fees imposed by this chapter. The
 892 greyhound permitholder host track to which such exemption or
 893 credit is transferred shall reimburse such permitholder the
 894 exact monetary value of such transferred exemption or credit as
 895 actually applied against the taxes and daily license fees of the
 896 host track. The commission division shall ensure that all
 897 transfers of exemption or credit are made in accordance with
 898 this subsection and shall have the authority to adopt rules to
 899 ensure the implementation of this section.

Page 31 of 140

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

28-01067-22 2022854__

900 (2) ADMISSION TAX.—

901 (c) A permitholder may issue tax-free passes to its
 902 officers, officials, and employees or other persons actually
 903 engaged in working at the racetrack, including accredited press
 904 representatives such as reporters and editors, and may also
 905 issue tax-free passes to other permitholders for the use of
 906 their officers and officials. The permitholder shall file with
 907 the commission division a list of all persons to whom tax-free
 908 passes are issued under this paragraph.

909 (3) TAX ON HANDLE.—Each permitholder shall pay a tax on
 910 contributions to pari-mutuel pools, the aggregate of which is
 911 hereinafter referred to as "handle," on races or games conducted
 912 by the permitholder. The tax is imposed daily and is based on
 913 the total contributions to all pari-mutuel pools conducted
 914 during the daily performance. If a permitholder conducts more
 915 than one performance daily, the tax is imposed on each
 916 performance separately.

917 (c)1. The tax on handle for intertrack wagering is 2.0
 918 percent of the handle if the host track is a horse track, 3.3
 919 percent if the host track is a harness track, 5.5 percent if the
 920 host track is a dog track, and 7.1 percent if the host track is
 921 a jai alai fronton. The tax on handle for intertrack wagering is
 922 0.5 percent if the host track and the guest track are
 923 thoroughbred permitholders or if the guest track is located
 924 outside the market area of the host track and within the market
 925 area of a thoroughbred permitholder currently conducting a live
 926 race meet. The tax on handle for intertrack wagering on
 927 rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent
 928 of the handle and 1.5 percent of the handle for intertrack

Page 32 of 140

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

28-01067-22 2022854__

929 wagering on rebroadcasts of simulcast harness horseraces. The
 930 tax shall be deposited into the Pari-mutuel Wagering Trust Fund.
 931 2. The tax on handle for intertrack wagers accepted by any
 932 dog track located in an area of the state in which there are
 933 only three permitholders, all of which are greyhound
 934 permitholders, located in three contiguous counties, from any
 935 greyhound permitholder also located within such area or any dog
 936 track or jai alai fronton located as specified in s. 550.615(6)
 937 or (9), on races or games received from the same class of
 938 permitholder located within the same market area is 3.9 percent
 939 if the host facility is a greyhound permitholder and, if the
 940 host facility is a jai alai permitholder, the rate shall be 6.1
 941 percent except that it shall be 2.3 percent on handle at such
 942 time as the total tax on intertrack handle paid to the
 943 commission division by the permitholder during the current state
 944 fiscal year exceeds the total tax on intertrack handle paid to
 945 the commission division by the permitholder during the 1992-1993
 946 state fiscal year.

947 (5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments
 948 imposed by this section shall be paid to the commission
 949 division. The commission division shall deposit these sums with
 950 the Chief Financial Officer, to the credit of the Pari-mutuel
 951 Wagering Trust Fund, hereby established. The permitholder shall
 952 remit to the commission division payment for the daily license
 953 fee, the admission tax, the tax on handle, and the breaks tax.
 954 Such payments shall be remitted by 3 p.m. Wednesday of each week
 955 for taxes imposed and collected for the preceding week ending on
 956 Sunday. Beginning on July 1, 2012, such payments shall be
 957 remitted by 3 p.m. on the 5th day of each calendar month for

28-01067-22 2022854__

958 taxes imposed and collected for the preceding calendar month. If
 959 the 5th day of the calendar month falls on a weekend, payments
 960 shall be remitted by 3 p.m. the first Monday following the
 961 weekend. Permitholders shall file a report under oath by the 5th
 962 day of each calendar month for all taxes remitted during the
 963 preceding calendar month. Such payments shall be accompanied by
 964 a report under oath showing the total of all admissions, the
 965 pari-mutuel wagering activities for the preceding calendar
 966 month, and such other information as may be prescribed by the
 967 commission division.

968 (6) PENALTIES.—

969 (a) The failure of any permitholder to make payments as
 970 prescribed in subsection (5) is a violation of this section, and
 971 the permitholder may be subjected by the commission division to
 972 a civil penalty of up to \$1,000 for each day the tax payment is
 973 not remitted. All penalties imposed and collected shall be
 974 deposited in the General Revenue Fund. If a permitholder fails
 975 to pay penalties imposed by order of the commission division
 976 under this subsection, the commission division may suspend or
 977 revoke the license of the permitholder, cancel the permit of the
 978 permitholder, or deny issuance of any further license or permit
 979 to the permitholder.

980 (b) In addition to the civil penalty prescribed in
 981 paragraph (a), any willful or wanton failure by any permitholder
 982 to make payments of the daily license fee, admission tax, tax on
 983 handle, or breaks tax constitutes sufficient grounds for the
 984 commission division to suspend or revoke the license of the
 985 permitholder, to cancel the permit of the permitholder, or to
 986 deny issuance of any further license or permit to the

28-01067-22

2022854__

987 permitholder.

988 Section 16. Paragraphs (b), (c), (d), and (e) of subsection
989 (2) and paragraph (a) of subsection (3) of section 550.09511,
990 Florida Statutes, are amended to read:

991 550.09511 Jai alai taxes; abandoned interest in a permit
992 for nonpayment of taxes.—

993 (2) Notwithstanding the provisions of s. 550.0951(3)(b),
994 wagering on live jai alai performances shall be subject to the
995 following taxes:

996 (b) At such time as the total of admissions tax, daily
997 license fee, and tax on handle for live jai alai performances
998 paid to the ~~commission division~~ by a permitholder during the
999 current state fiscal year exceeds the total state tax revenues
1000 from wagering on live jai alai performances paid or due by the
1001 permitholder in fiscal year 1991-1992, the permitholder shall
1002 pay tax on handle for live jai alai performances at a rate of
1003 2.55 percent of the handle per performance for the remainder of
1004 the current state fiscal year. For purposes of this section,
1005 total state tax revenues on live jai alai wagering in fiscal
1006 year 1991-1992 shall include any admissions tax, tax on handle,
1007 surtaxes on handle, and daily license fees.

1008 (c) If no tax on handle for live jai alai performances were
1009 paid to the ~~commission division~~ by a jai alai permitholder
1010 during the 1991-1992 state fiscal year, then at such time as the
1011 total of admissions tax, daily license fee, and tax on handle
1012 for live jai alai performances paid to the ~~commission division~~
1013 by a permitholder during the current state fiscal year exceeds
1014 the total state tax revenues from wagering on live jai alai
1015 performances paid or due by the permitholder in the last state

Page 35 of 140

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

28-01067-22

2022854__

1016 fiscal year in which the permitholder conducted a full schedule
1017 of live games, the permitholder shall pay tax on handle for live
1018 jai alai performances at a rate of 3.3 percent of the handle per
1019 performance for the remainder of the current state fiscal year.
1020 For purposes of this section, total state tax revenues on live
1021 jai alai wagering shall include any admissions tax, tax on
1022 handle, surtaxes on handle, and daily license fees. This
1023 paragraph shall take effect July 1, 1993.

1024 (d) A permitholder who obtains a new permit issued by the
1025 ~~commission division~~ subsequent to the 1991-1992 state fiscal
1026 year and a permitholder whose permit has been converted to a jai
1027 alai permit under the provisions of this chapter, shall, at such
1028 time as the total of admissions tax, daily license fee, and tax
1029 on handle for live jai alai performances paid to the commission
1030 ~~division~~ by the permitholder during the current state fiscal
1031 year exceeds the average total state tax revenues from wagering
1032 on live jai alai performances for the first 3 consecutive jai
1033 alai seasons paid to or due the ~~commission division~~ by the
1034 permitholder and during which the permitholder conducted a full
1035 schedule of live games, pay tax on handle for live jai alai
1036 performances at a rate of 3.3 percent of the handle per
1037 performance for the remainder of the current state fiscal year.

1038 (e) The payment of taxes pursuant to paragraphs (b), (c),
1039 and (d) shall be calculated and commence beginning the day in
1040 which the permitholder is first entitled to the reduced rate
1041 specified in this section and the report of taxes required by s.
1042 550.0951(5) is submitted to the commission division.

1043 (3) (a) Notwithstanding the provisions of subsection (2) and
1044 s. 550.0951(3)(c)1., any jai alai permitholder which is

Page 36 of 140

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

28-01067-22 2022854__

1045 restricted under Florida law from operating live performances on
 1046 a year-round basis is entitled to conduct wagering on live
 1047 performances at a tax rate of 3.85 percent of live handle. Such
 1048 permitholder is also entitled to conduct intertrack wagering as
 1049 a host permitholder on live jai alai games at its fronton at a
 1050 tax rate of 3.3 percent of handle at such time as the total tax
 1051 on intertrack handle paid to the commission division by the
 1052 permitholder during the current state fiscal year exceeds the
 1053 total tax on intertrack handle paid to the former Division of
 1054 Pari-mutuel Wagering by the permitholder during the 1992-1993
 1055 state fiscal year.

1056 Section 17. Paragraph (b) of subsection (3) of section
 1057 550.09512, Florida Statutes, is amended to read:

1058 550.09512 Harness horse taxes; abandoned interest in a
 1059 permit for nonpayment of taxes.—

1060 (3)

1061 (b) In order to maximize the tax revenues to the state, the
 1062 commission division shall reissue an escheated harness horse
 1063 permit to a qualified applicant pursuant to the provisions of
 1064 this chapter as for the issuance of an initial permit. However,
 1065 the provisions of this chapter relating to referendum
 1066 requirements for a pari-mutuel permit shall not apply to the
 1067 reissuance of an escheated harness horse permit. As specified in
 1068 the application and upon approval by the commission division of
 1069 an application for the permit, the new permitholder shall be
 1070 authorized to operate a harness horse facility anywhere in the
 1071 same county in which the escheated permit was authorized to be
 1072 operated, notwithstanding the provisions of s. 550.054(2)
 1073 relating to mileage limitations.

Page 37 of 140

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

28-01067-22 2022854__

1074 Section 18. Paragraphs (a), (b), (d), (e), and (f) of
 1075 subsection (2) of section 550.09514, Florida Statutes, are
 1076 amended to read:

1077 550.09514 Greyhound dogracing taxes; purse requirements.—

1078 (2) (a) The commission division shall determine for each
 1079 greyhound permitholder the annual purse percentage rate of live
 1080 handle for the state fiscal year 1993-1994 by dividing total
 1081 purses paid on live handle by the permitholder, exclusive of
 1082 payments made from outside sources, during the 1993-1994 state
 1083 fiscal year by the permitholder's live handle for the 1993-1994
 1084 state fiscal year. Each permitholder shall pay as purses for
 1085 live races conducted during its current race meet a percentage
 1086 of its live handle not less than the percentage determined under
 1087 this paragraph, exclusive of payments made by outside sources,
 1088 for its 1993-1994 state fiscal year.

1089 (b) Except as otherwise set forth herein, in addition to
 1090 the minimum purse percentage required by paragraph (a), each
 1091 permitholder shall pay as purses an annual amount equal to 75
 1092 percent of the daily license fees paid by each permitholder for
 1093 the 1994-1995 fiscal year. This purse supplement shall be
 1094 disbursed weekly during the permitholder's race meet in an
 1095 amount determined by dividing the annual purse supplement by the
 1096 number of performances approved for the permitholder pursuant to
 1097 its annual license and multiplying that amount by the number of
 1098 performances conducted each week. For the greyhound
 1099 permitholders in the county where there are two greyhound
 1100 permitholders located as specified in s. 550.615(6), such
 1101 permitholders shall pay in the aggregate an amount equal to 75
 1102 percent of the daily license fees paid by such permitholders for

Page 38 of 140

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

28-01067-22

2022854__

1103 the 1994-1995 fiscal year. These permitholders shall be jointly
1104 and severally liable for such purse payments. The additional
1105 purses provided by this paragraph must be used exclusively for
1106 purses other than stakes. The commission ~~division~~ shall conduct
1107 audits necessary to ensure compliance with this section.

1108 (d) The commission ~~division~~ shall require sufficient
1109 documentation from each greyhound permitholder regarding purses
1110 paid on live racing to assure that the annual purse percentage
1111 rates paid by each permitholder on the live races are not
1112 reduced below those paid during the 1993-1994 state fiscal year.
1113 The commission ~~division~~ shall require sufficient documentation
1114 from each greyhound permitholder to assure that the purses paid
1115 by each permitholder on the greyhound intertrack and simulcast
1116 broadcasts are in compliance with the requirements of paragraph
1117 (c).

1118 (e) In addition to the purse requirements of paragraphs
1119 (a)-(c), each greyhound permitholder shall pay as purses an
1120 amount equal to one-third of the amount of the tax reduction on
1121 live and simulcast handle applicable to such permitholder as a
1122 result of the reductions in tax rates provided by this act
1123 through the amendments to s. 550.0951(3). With respect to
1124 intertrack wagering when the host and guest tracks are greyhound
1125 permitholders not within the same market area, an amount equal
1126 to the tax reduction applicable to the guest track handle as a
1127 result of the reduction in tax rate provided by this act through
1128 the amendment to s. 550.0951(3) shall be distributed to the
1129 guest track, one-third of which amount shall be paid as purses
1130 at the guest track. However, if the guest track is a greyhound
1131 permitholder within the market area of the host or if the guest

Page 39 of 140

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

28-01067-22

2022854__

1132 track is not a greyhound permitholder, an amount equal to such
1133 tax reduction applicable to the guest track handle shall be
1134 retained by the host track, one-third of which amount shall be
1135 paid as purses at the host track. These purse funds shall be
1136 disbursed in the week received if the permitholder conducts at
1137 least one live performance during that week. If the permitholder
1138 does not conduct at least one live performance during the week
1139 in which the purse funds are received, the purse funds shall be
1140 disbursed weekly during the permitholder's next race meet in an
1141 amount determined by dividing the purse amount by the number of
1142 performances approved for the permitholder pursuant to its
1143 annual license, and multiplying that amount by the number of
1144 performances conducted each week. The commission ~~division~~ shall
1145 conduct audits necessary to ensure compliance with this
1146 paragraph.

1147 (f) Each greyhound permitholder shall, during the
1148 permitholder's race meet, supply kennel operators and the
1149 commission ~~Division of Pari Mutuel Wagering~~ with a weekly report
1150 showing purses paid on live greyhound races and all greyhound
1151 intertrack and simulcast broadcasts, including both as a guest
1152 and a host together with the handle or commission calculations
1153 on which such purses were paid and the transmission costs of
1154 sending the simulcast or intertrack broadcasts, so that the
1155 kennel operators may determine statutory and contractual
1156 compliance.

1157 Section 19. Paragraph (b) of subsection (3) of section
1158 550.09515, Florida Statutes, is amended to read:

1159 550.09515 Thoroughbred horse taxes; abandoned interest in a
1160 permit for nonpayment of taxes.-

Page 40 of 140

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

28-01067-22

2022854__

1161 (3)

1162 (b) In order to maximize the tax revenues to the state, the

1163 ~~commission division~~ shall reissue an escheated thoroughbred

1164 horse permit to a qualified applicant pursuant to the provisions

1165 of this chapter as for the issuance of an initial permit.

1166 However, the provisions of this chapter relating to referendum

1167 requirements for a pari-mutuel permit shall not apply to the

1168 reissuance of an escheated thoroughbred horse permit. As

1169 specified in the application and upon approval by the commission

1170 ~~division~~ of an application for the permit, the new permit holder

1171 shall be authorized to operate a thoroughbred horse facility

1172 anywhere in the same county in which the escheated permit was

1173 authorized to be operated, notwithstanding the provisions of s.

1174 550.054(2) relating to mileage limitations.

1175 Section 20. Subsection (1), paragraph (b) of subsection

1176 (2), paragraphs (a), (b), (c), (e), and (f) of subsection (5),

1177 subsections (6), (7), and (8), and paragraphs (a), (c), and (d)

1178 of subsection (10) of section 550.105, Florida Statutes, are

1179 amended to read:

1180 550.105 Occupational licenses of racetrack employees; fees;

1181 denial, suspension, and revocation of license; penalties and

1182 fines.—

1183 (1) Each person connected with a racetrack or jai alai

1184 fronton, as specified in paragraph (2)(a), shall purchase from

1185 the commission division an occupational license. All moneys

1186 collected pursuant to this section each fiscal year shall be

1187 deposited into the Pari-mutuel Wagering Trust Fund. Pursuant to

1188 the rules adopted by the commission division, an occupational

1189 license may be valid for a period of up to 3 years for a fee

Page 41 of 140

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

28-01067-22

2022854__

1190 that does not exceed the full occupational license fee for each

1191 of the years for which the license is purchased. The

1192 occupational license shall be valid during its specified term at

1193 any pari-mutuel facility.

1194 (2)

1195 (b) The commission division shall adopt rules pertaining to

1196 pari-mutuel occupational licenses, licensing periods, and

1197 renewal cycles.

1198 (5) (a) The commission division may:

1199 1. Deny a license to or revoke, suspend, or place

1200 conditions upon or restrictions on a license of any person who

1201 has been refused a license by any other state racing commission

1202 or racing authority;

1203 2. Deny, suspend, or place conditions on a license of any

1204 person who is under suspension or has unpaid fines in another

1205 jurisdiction;

1206

1207 if the state racing commission or racing authority of such other

1208 state or jurisdiction extends to the commission division

1209 reciprocal courtesy to maintain the disciplinary control.

1210 (b) The commission division may deny, suspend, revoke, or

1211 declare ineligible any occupational license if the applicant for

1212 or holder thereof has violated the provisions of this chapter or

1213 the rules of the commission division governing the conduct of

1214 persons connected with racetracks and frontons. In addition, the

1215 commission division may deny, suspend, revoke, or declare

1216 ineligible any occupational license if the applicant for such

1217 license has been convicted in this state, in any other state, or

1218 under the laws of the United States of a capital felony, a

Page 42 of 140

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

28-01067-22 2022854__
 1219 felony, or an offense in any other state which would be a felony
 1220 under the laws of this state involving arson; trafficking in,
 1221 conspiracy to traffic in, smuggling, importing, conspiracy to
 1222 smuggle or import, or delivery, sale, or distribution of a
 1223 controlled substance; or a crime involving a lack of good moral
 1224 character, or has had a pari-mutuel license revoked by this
 1225 state or any other jurisdiction for an offense related to pari-
 1226 mutuel wagering.

1227 (c) The commission ~~division~~ may deny, declare ineligible,
 1228 or revoke any occupational license if the applicant for such
 1229 license has been convicted of a felony or misdemeanor in this
 1230 state, in any other state, or under the laws of the United
 1231 States, if such felony or misdemeanor is related to gambling or
 1232 bookmaking, as contemplated in s. 849.25, or involves cruelty to
 1233 animals. If the applicant establishes that she or he is of good
 1234 moral character, that she or he has been rehabilitated, and that
 1235 the crime she or he was convicted of is not related to pari-
 1236 mutuel wagering and is not a capital offense, the restrictions
 1237 excluding offenders may be waived by the director of the
 1238 commission ~~division~~.

1239 (e) If an occupational license will expire by commission
 1240 ~~division~~ rule during the period of a suspension the commission
 1241 ~~division~~ intends to impose, or if a license would have expired
 1242 but for pending administrative charges and the occupational
 1243 licensee is found to be in violation of any of the charges, the
 1244 license may be revoked and a time period of license
 1245 ineligibility may be declared. The commission ~~division~~ may bring
 1246 administrative charges against any person not holding a current
 1247 license for violations of statutes or rules which occurred while

28-01067-22 2022854__
 1248 such person held an occupational license, and the commission
 1249 ~~division~~ may declare such person ineligible to hold a license
 1250 for a period of time. The commission ~~division~~ may impose a civil
 1251 fine of up to \$1,000 for each violation of the rules of the
 1252 commission ~~division~~ in addition to or in lieu of any other
 1253 penalty provided for in this section. In addition to any other
 1254 penalty provided by law, the commission ~~division~~ may exclude
 1255 from all pari-mutuel facilities in this state, for a period not
 1256 to exceed the period of suspension, revocation, or
 1257 ineligibility, any person whose occupational license application
 1258 has been denied by the commission ~~division~~, who has been
 1259 declared ineligible to hold an occupational license, or whose
 1260 occupational license has been suspended or revoked by the
 1261 commission ~~division~~.

1262 (f) The commission ~~division~~ may cancel any occupational
 1263 license that has been voluntarily relinquished by the licensee.

1264 (6) In order to promote the orderly presentation of pari-
 1265 mutuel meets authorized in this chapter, the commission ~~division~~
 1266 may issue a temporary occupational license. The commission
 1267 ~~division~~ shall adopt rules to implement this subsection.
 1268 However, no temporary occupational license shall be valid for
 1269 more than 90 days, and no more than one temporary license may be
 1270 issued for any person in any year.

1271 (7) The commission ~~division~~ may deny, revoke, or suspend
 1272 any occupational license if the applicant therefor or holder
 1273 thereof accumulates unpaid obligations or defaults in
 1274 obligations, or issues drafts or checks that are dishonored or
 1275 for which payment is refused without reasonable cause, if such
 1276 unpaid obligations, defaults, or dishonored or refused drafts or

28-01067-22 2022854__

1277 checks directly relate to the sport of jai alai or racing being
 1278 conducted at a pari-mutuel facility within this state.

1279 (8) The commission ~~division~~ may fine, or suspend or revoke,
 1280 or place conditions upon, the license of any licensee who under
 1281 oath knowingly provides false information regarding an
 1282 investigation by the commission ~~division~~.

1283 (10) (a) Upon application for an occupational license, the
 1284 commission ~~division~~ may require the applicant's full legal name;
 1285 any nickname, alias, or maiden name for the applicant; name of
 1286 the applicant's spouse; the applicant's date of birth, residence
 1287 address, mailing address, residence address and business phone
 1288 number, and social security number; disclosure of any felony or
 1289 any conviction involving bookmaking, illegal gambling, or
 1290 cruelty to animals; disclosure of any past or present
 1291 enforcement or actions by any racing or gaming agency against
 1292 the applicant; and any information the commission ~~division~~
 1293 determines is necessary to establish the identity of the
 1294 applicant or to establish that the applicant is of good moral
 1295 character. Fingerprints shall be taken in a manner approved by
 1296 the commission ~~division~~ and then shall be submitted to the
 1297 Federal Bureau of Investigation, or to the association of state
 1298 officials regulating pari-mutuel wagering pursuant to the
 1299 Federal Pari-mutuel Licensing Simplification Act of 1988. The
 1300 cost of processing fingerprints shall be borne by the applicant
 1301 and paid to the association of state officials regulating pari-
 1302 mutuel wagering from the trust fund to which the processing fees
 1303 are deposited. The commission ~~division~~, by rule, may require
 1304 additional information from licensees which is reasonably
 1305 necessary to regulate the industry. The commission ~~division~~ may,

28-01067-22 2022854__

1306 by rule, exempt certain occupations or groups of persons from
 1307 the fingerprinting requirements.

1308 (c) The Department of Law Enforcement shall search all
 1309 arrest fingerprints received pursuant to s. 943.051 against the
 1310 fingerprints retained in the statewide automated biometric
 1311 identification system under paragraph (b). Any arrest record
 1312 that is identified with the retained fingerprints of a person
 1313 subject to the criminal history screening requirements of this
 1314 section shall be reported to the commission ~~division~~. Each
 1315 licensee shall pay a fee to the commission ~~division~~ for the cost
 1316 of retention of the fingerprints and the ongoing searches under
 1317 this paragraph. The commission ~~division~~ shall forward the
 1318 payment to the Department of Law Enforcement. The amount of the
 1319 fee to be imposed for performing these searches and the
 1320 procedures for the retention of licensee fingerprints shall be
 1321 as established by rule of the Department of Law Enforcement. The
 1322 commission ~~division~~ shall inform the Department of Law
 1323 Enforcement of any change in the license status of licensees
 1324 whose fingerprints are retained under paragraph (b).

1325 (d) The commission ~~division~~ shall request the Department of
 1326 Law Enforcement to forward the fingerprints to the Federal
 1327 Bureau of Investigation for a national criminal history records
 1328 check at least once every 5 years following issuance of a
 1329 license. If the fingerprints of a person who is licensed have
 1330 not been retained by the Department of Law Enforcement, the
 1331 person must file a complete set of fingerprints as provided in
 1332 paragraph (a). The commission ~~division~~ shall collect the fees
 1333 for the cost of the national criminal history records check
 1334 under this paragraph and forward the payment to the Department

28-01067-22 2022854__

1335 of Law Enforcement. The cost of processing fingerprints and
 1336 conducting a criminal history records check under this paragraph
 1337 for a general occupational license shall be borne by the
 1338 applicant. The cost of processing fingerprints and conducting a
 1339 criminal history records check under this paragraph for a
 1340 business or professional occupational license shall be borne by
 1341 the person being checked. The Department of Law Enforcement may
 1342 invoice the commission division for the fingerprints submitted
 1343 each month. Under penalty of perjury, each person who is
 1344 licensed or who is fingerprinted as required by this section
 1345 must agree to inform the commission division within 48 hours if
 1346 he or she is convicted of or has entered a plea of guilty or
 1347 nolo contendere to any disqualifying offense, regardless of
 1348 adjudication.

1349 Section 21. Subsection (1) of section 550.1155, Florida
 1350 Statutes, is amended to read:

1351 550.1155 Authority of stewards, judges, panel of judges, or
 1352 player's manager to impose penalties against occupational
 1353 licensees; disposition of funds collected.-

1354 (1) The stewards at a horse racetrack or the judges, a
 1355 panel of judges, or a player's manager at a jai alai fronton may
 1356 impose a civil penalty against any occupational licensee for
 1357 violation of the pari-mutuel laws or any rule adopted by the
 1358 commission division. The penalty may not exceed \$1,000 for each
 1359 count or separate offense or exceed 60 days of suspension for
 1360 each count or separate offense.

1361 Section 22. Subsection (2) and paragraph (a) of subsection
 1362 (3) of section 550.125, Florida Statutes, are amended to read:

1363 550.125 Uniform reporting system; bond requirement.-

Page 47 of 140

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

28-01067-22 2022854__

1364 (2) (a) Each permitholder that conducts race meetings or jai
 1365 alai exhibitions under this chapter shall keep records that
 1366 clearly show the total number of admissions and the total amount
 1367 of money contributed to each pari-mutuel pool on each race or
 1368 exhibition separately and the amount of money received daily
 1369 from admission fees and, within 120 days after the end of its
 1370 fiscal year, shall submit to the commission division a complete
 1371 annual report of its accounts, audited by a certified public
 1372 accountant licensed to practice in the state.

1373 (b) The commission division shall adopt rules specifying
 1374 the form and content of such reports, including, but not limited
 1375 to, requirements for a statement of assets and liabilities,
 1376 operating revenues and expenses, and net worth, which statement
 1377 must be audited by a certified public accountant licensed to
 1378 practice in this state, and any supporting informational
 1379 schedule found necessary by the commission division to verify
 1380 the foregoing financial statement, which informational schedule
 1381 must be attested to under oath by the permitholder or an officer
 1382 of record, to permit the commission division to:

1383 1. Assess the profitability and financial soundness of
 1384 permitholders, both individually and as an industry;

1385 2. Plan and recommend measures necessary to preserve and
 1386 protect the pari-mutuel revenues of the state; and

1387 3. Completely identify the holdings, transactions, and
 1388 investments of permitholders with other business entities.

1389 (c) The Auditor General and the Office of Program Policy
 1390 Analysis and Government Accountability may, pursuant to their
 1391 own authority or at the direction of the Legislative Auditing
 1392 Committee, audit, examine, and check the books and records of

Page 48 of 140

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

28-01067-22 2022854__

1393 any permitholder. These audit reports shall become part of, and
1394 be maintained in, the commission division files.

1395 (d) The commission division shall annually review the books
1396 and records of each permitholder and verify that the breaks and
1397 unclaimed ticket payments made by each permitholder are true and
1398 correct.

1399 (3) (a) Each permitholder to which a license is granted
1400 under this chapter, at its own cost and expense, must, before
1401 the license is delivered, give a bond in the penal sum of
1402 \$50,000 payable to the Governor of the state and her or his
1403 successors in office, with a surety or sureties to be approved
1404 by the commission division and the Chief Financial Officer,
1405 conditioned to faithfully make the payments to the Chief
1406 Financial Officer in her or his capacity as treasurer of the
1407 commission division; to keep its books and records and make
1408 reports as provided; and to conduct its racing in conformity
1409 with this chapter. When the greatest amount of tax owed during
1410 any month in the prior state fiscal year, in which a full
1411 schedule of live racing was conducted, is less than \$50,000, the
1412 commission division may assess a bond in a sum less than
1413 \$50,000. The commission division may review the bond for
1414 adequacy and require adjustments each fiscal year. The
1415 commission division has the authority to adopt rules to
1416 implement this paragraph and establish guidelines for such
1417 bonds.

1418 Section 23. Subsection (1) of section 550.155, Florida
1419 Statutes, is amended to read:

1420 550.155 Pari-mutuel pool within track enclosure; takeouts;
1421 breaks; penalty for purchasing part of a pari-mutuel pool for or

Page 49 of 140

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

28-01067-22 2022854__

1422 through another in specified circumstances.-

1423 (1) Wagering on the results of a horserace, dograce, or on
1424 the scores or points of a jai alai game and the sale of tickets
1425 or other evidences showing an interest in or a contribution to a
1426 pari-mutuel pool are allowed within the enclosure of any pari-
1427 mutuel facility licensed and conducted under this chapter but
1428 are not allowed elsewhere in this state, must be supervised by
1429 the commission division, and are subject to such reasonable
1430 rules that the commission division prescribes.

1431 Section 24. Section 550.175, Florida Statutes, is amended
1432 to read:

1433 550.175 Petition for election to revoke permit.—Upon
1434 petition of 20 percent of the qualified electors of any county
1435 wherein any pari-mutuel wagering has been licensed and conducted
1436 under this chapter, the county commissioners of such county
1437 shall provide for the submission to the electors of such county
1438 at the then next succeeding general election the question of
1439 whether any permit or permits theretofore granted shall be
1440 continued or revoked, and if a majority of the electors voting
1441 on such question in such election vote to cancel or recall the
1442 permit theretofore given, the commission division may not
1443 thereafter grant any license on the permit so recalled. Every
1444 signature upon every recall petition must be signed in the
1445 presence of the clerk of the board of county commissioners at
1446 the office of the clerk of the circuit court of the county, and
1447 the petitioner must present at the time of such signing her or
1448 his registration receipt showing the petitioner's qualification
1449 as an elector of the county at the time of the signing of the
1450 petition. Not more than one permit may be included in any one

Page 50 of 140

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

28-01067-22

2022854__

1451 petition; and, in all elections in which the recall of more than
 1452 one permit is voted on, the voters shall be given an opportunity
 1453 to vote for or against the recall of each permit separately.

1454 Nothing in this chapter shall be construed to prevent the
 1455 holding of later referendum or recall elections.

1456 Section 25. Subsections (1), (3), and (5) of section
 1457 550.1815, Florida Statutes, are amended to read:

1458 550.1815 Certain persons prohibited from holding racing or
 1459 jai alai permits; suspension and revocation.—

1460 (1) A corporation, general or limited partnership, sole
 1461 proprietorship, business trust, joint venture, or unincorporated
 1462 association, or other business entity may not hold any
 1463 horseracing or greyhound permit or jai alai fronton permit in
 1464 this state if any one of the persons or entities specified in
 1465 paragraph (a) has been determined by the commission division not
 1466 to be of good moral character or has been convicted of any
 1467 offense specified in paragraph (b).

- 1468 (a)1. The permitholder;
 1469 2. An employee of the permitholder;
 1470 3. The sole proprietor of the permitholder;
 1471 4. A corporate officer or director of the permitholder;
 1472 5. A general partner of the permitholder;
 1473 6. A trustee of the permitholder;
 1474 7. A member of an unincorporated association permitholder;
 1475 8. A joint venturer of the permitholder;
 1476 9. The owner of more than 5 percent of any equity interest
 1477 in the permitholder, whether as a common shareholder, general or
 1478 limited partner, voting trustee, or trust beneficiary; or
 1479 10. An owner of any interest in the permit or permitholder,

Page 51 of 140

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

28-01067-22

2022854__

1480 including any immediate family member of the owner, or holder of
 1481 any debt, mortgage, contract, or concession from the
 1482 permitholder, who by virtue thereof is able to control the
 1483 business of the permitholder.

1484 (b)1. A felony in this state;

1485 2. Any felony in any other state which would be a felony if
 1486 committed in this state under the laws of this state;

1487 3. Any felony under the laws of the United States;

1488 4. A felony under the laws of another state if related to
 1489 gambling which would be a felony under the laws of this state if
 1490 committed in this state; or

1491 5. Bookmaking as defined in s. 849.25.

1492 (3) After notice and hearing, the commission division shall
 1493 refuse to issue or renew or shall suspend, as appropriate, any
 1494 permit found in violation of subsection (1). The order shall
 1495 become effective 120 days after service of the order upon the
 1496 permitholder and shall be amended to constitute a final order of
 1497 revocation unless the permitholder has, within that period of
 1498 time, either caused the divestiture, or agreed with the
 1499 convicted person upon a complete immediate divestiture, of her
 1500 or his holding, or has petitioned the circuit court as provided
 1501 in subsection (4) or, in the case of corporate officers or
 1502 directors of the holder or employees of the holder, has
 1503 terminated the relationship between the permitholder and those
 1504 persons mentioned. The commission division may, by order, extend
 1505 the 120-day period for divestiture, upon good cause shown, to
 1506 avoid interruption of any jai alai or race meeting or to
 1507 otherwise effectuate this section. If no action has been taken
 1508 by the permitholder within the 120-day period following the

Page 52 of 140

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

28-01067-22

2022854__

1509 issuance of the order of suspension, the commission division
 1510 shall, without further notice or hearing, enter a final order of
 1511 revocation of the permit. When any permitholder or sole
 1512 proprietor of a permitholder is convicted of an offense
 1513 specified in paragraph (1)(b), the commission department may
 1514 approve a transfer of the permit to a qualified applicant, upon
 1515 a finding that revocation of the permit would impair the state's
 1516 revenue from the operation of the permit or otherwise be
 1517 detrimental to the interests of the state in the regulation of
 1518 the industry of pari-mutuel wagering. In such approval, no
 1519 public referendum is required, notwithstanding any other
 1520 provision of law. A petition for transfer after conviction must
 1521 be filed with the commission department within 30 days after
 1522 service upon the permitholder of the final order of revocation.
 1523 The timely filing of such a petition automatically stays any
 1524 revocation order until further order of the commission
 1525 ~~department~~.

1526 (5) The commission division shall make such rules for the
 1527 photographing, fingerprinting, and obtaining of personal data of
 1528 individuals described in paragraph (1)(a) and the obtaining of
 1529 such data regarding the business entities described in paragraph
 1530 (1)(a) as is necessary to effectuate the provisions of this
 1531 section.

1532 Section 26. Paragraph (a) of subsection (2), paragraph (c)
 1533 of subsection (3), and subsection (6) of section 550.24055,
 1534 Florida Statutes, are amended to read:

1535 550.24055 Use of controlled substances or alcohol
 1536 prohibited; testing of certain occupational licensees; penalty;
 1537 evidence of test or action taken and admissibility for criminal

Page 53 of 140

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

28-01067-22

2022854__

1538 prosecution limited.-

1539 (2) The occupational licensees, by applying for and holding
 1540 such licenses, are deemed to have given their consents to submit
 1541 to an approved chemical test of their breath for the purpose of
 1542 determining the alcoholic content of their blood and to a urine
 1543 or blood test for the purpose of detecting the presence of
 1544 controlled substances. Such tests shall only be conducted upon
 1545 reasonable cause that a violation has occurred as shall be
 1546 determined solely by the stewards at a horseracing meeting or
 1547 the judges or board of judges at a jai alai meet. The failure to
 1548 submit to such test may result in a suspension of the person's
 1549 occupational license for a period of 10 days or until this
 1550 section has been complied with, whichever is longer.

1551 (a) If there was at the time of the test 0.05 percent or
 1552 less by weight of alcohol in the person's blood, the person is
 1553 presumed not to have been under the influence of alcoholic
 1554 beverages to the extent that the person's normal faculties were
 1555 impaired, and no action of any sort may be taken by the
 1556 stewards, judges, or board of judges or the commission division.
 1557

1558 All tests relating to alcohol must be performed in a manner
 1559 substantially similar, or identical, to the provisions of s.
 1560 316.1934 and rules adopted pursuant to that section. Following a
 1561 test of the urine or blood to determine the presence of a
 1562 controlled substance as defined in chapter 893, if a controlled
 1563 substance is found to exist, the stewards, judges, or board of
 1564 judges may take such action as is permitted in this section.

1565 (3) A violation of subsection (2) is subject to the
 1566 following penalties:

Page 54 of 140

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

28-01067-22

2022854__

1567 (c) If the second violation occurred within 1 year after
 1568 the first violation, then upon the finding of a third violation
 1569 of this section within 1 year after the second violation, the
 1570 stewards, judges, or board of judges may suspend the licensee
 1571 for up to 120 days; and the stewards, judges, or board of judges
 1572 shall forward the results of the tests under paragraphs (a) and
 1573 (b) and this violation to the commission division. In addition
 1574 to the action taken by the stewards, judges, or board of judges,
 1575 the ~~commission division~~, after a hearing, may deny, suspend, or
 1576 revoke the occupational license of the licensee and may impose a
 1577 civil penalty of up to \$5,000 in addition to, or in lieu of, a
 1578 suspension or revocation, it being the intent of the Legislature
 1579 that the ~~commission division~~ shall have no authority over the
 1580 enforcement of this section until a licensee has committed the
 1581 third violation within 2 years after the first violation.

1582 (6) Evidence of any test or actions taken by the stewards,
 1583 judges, or board of judges or the commission division under this
 1584 section is inadmissible for any purpose in any court for
 1585 criminal prosecution, it being the intent of the Legislature to
 1586 provide a method and means by which the health, safety, and
 1587 welfare of those officiating at or participating in a race meet
 1588 or a jai alai game are sufficiently protected. However, this
 1589 subsection does not prohibit any person so authorized from
 1590 pursuing an independent investigation as a result of a ruling
 1591 made by the stewards, judges, or board of judges, or the
 1592 commission division.

1593 Section 27. Paragraphs (a) and (b) of subsection (1),
 1594 subsection (2), paragraphs (a), (b), and (c) of subsection (3),
 1595 subsection (5), paragraphs (b) and (c) of subsection (6),

Page 55 of 140

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

28-01067-22

2022854__

1596 paragraphs (a), (b), (c), (d), and (e) of subsection (7), and
 1597 subsections (9), (10), (11), and (12) of section 550.2415,
 1598 Florida Statutes, are amended to read:

1599 550.2415 Racing of animals under certain conditions
 1600 prohibited; penalties; exceptions.—

1601 (1) (a) The racing of an animal that has been impermissibly
 1602 medicated or determined to have a prohibited substance present
 1603 is prohibited. It is a violation of this section for a person to
 1604 impermissibly medicate an animal or for an animal to have a
 1605 prohibited substance present resulting in a positive test for
 1606 such medications or substances based on samples taken from the
 1607 animal before or immediately after the racing of that animal.
 1608 Test results and the identities of the animals being tested and
 1609 of their trainers and owners of record are confidential and
 1610 exempt from s. 119.07(1) and from s. 24(a), Art. I of the State
 1611 Constitution for 10 days after testing of all samples collected
 1612 on a particular day has been completed and any positive test
 1613 results derived from such samples have been reported to the
 1614 director of the commission division or administrative action has
 1615 been commenced.

1616 (b) It is a violation of this section for a race-day
 1617 specimen to contain a level of a naturally occurring substance
 1618 which exceeds normal physiological concentrations. The
 1619 commission division may solicit input from the Department of
 1620 Agriculture and Consumer Services and adopt rules that specify
 1621 normal physiological concentrations of naturally occurring
 1622 substances in the natural untreated animal and rules that
 1623 specify acceptable levels of environmental contaminants and
 1624 trace levels of substances in test samples.

Page 56 of 140

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

28-01067-22

2022854__

1625 (2) Administrative action may be taken by the commission
 1626 ~~division~~ against an occupational licensee responsible pursuant
 1627 to rule of the commission ~~division~~ for the condition of an
 1628 animal that has been impermissibly medicated or drugged in
 1629 violation of this section.

1630 (3) (a) Upon the finding of a violation of this section, the
 1631 commission ~~division~~ may revoke or suspend the license or permit
 1632 of the violator or deny a license or permit to the violator;
 1633 impose a fine against the violator in an amount not exceeding
 1634 the purse or sweepstakes earned by the animal in the race at
 1635 issue or \$10,000, whichever is greater; require the full or
 1636 partial return of the purse, sweepstakes, and trophy of the race
 1637 at issue; or impose against the violator any combination of such
 1638 penalties. The finding of a violation of this section does not
 1639 prohibit a prosecution for criminal acts committed.

1640 (b) The commission ~~division~~, notwithstanding chapter 120,
 1641 may summarily suspend the license of an occupational licensee
 1642 responsible under this section or commission ~~division~~ rule for
 1643 the condition of a race animal if the commission ~~division~~
 1644 laboratory reports the presence of a prohibited substance in the
 1645 animal or its blood, urine, saliva, or any other bodily fluid,
 1646 either before a race in which the animal is entered or after a
 1647 race the animal has run.

1648 (c) If an occupational licensee is summarily suspended
 1649 under this section, the commission ~~division~~ shall offer the
 1650 licensee a prompt postsuspension hearing within 72 hours, at
 1651 which the commission ~~division~~ shall produce the laboratory
 1652 report and documentation which, on its face, establishes the
 1653 responsibility of the occupational licensee. Upon production of

Page 57 of 140

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

28-01067-22

2022854__

1654 the documentation, the occupational licensee has the burden of
 1655 proving his or her lack of responsibility.

1656 (5) The commission ~~division~~ shall implement a split-sample
 1657 procedure for testing animals under this section.

1658 (a) The commission ~~division~~ shall notify the owner or
 1659 trainer, the stewards, and the appropriate horsemen's
 1660 association of all drug test results. If a drug test result is
 1661 positive, and upon request by the affected trainer or owner of
 1662 the animal from which the sample was obtained, the commission
 1663 ~~division~~ shall send the split sample to an approved independent
 1664 laboratory for analysis. The commission ~~division~~ shall establish
 1665 standards and rules for uniform enforcement and shall maintain a
 1666 list of at least five approved independent laboratories for an
 1667 owner or trainer to select from if a drug test result is
 1668 positive.

1669 (b) If the commission ~~division~~ laboratory's findings are
 1670 not confirmed by the independent laboratory, no further
 1671 administrative or disciplinary action under this section may be
 1672 pursued.

1673 (c) If the independent laboratory confirms the commission
 1674 ~~division~~ laboratory's positive result, the commission ~~division~~
 1675 may commence administrative proceedings as prescribed in this
 1676 chapter and consistent with chapter 120. For purposes of this
 1677 subsection, the commission ~~department~~ shall in good faith
 1678 attempt to obtain a sufficient quantity of the test fluid to
 1679 allow both a primary test and a secondary test to be made.

1680 (d) For the testing of a racehorse, if there is an
 1681 insufficient quantity of the secondary (split) sample for
 1682 confirmation of the commission ~~division~~ laboratory's positive

Page 58 of 140

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

28-01067-22

2022854__

1683 result, the ~~commission division~~ may not take further action on
 1684 the matter against the owner or trainer, and any resulting
 1685 license suspension must be immediately lifted.

1686 (e) The ~~commission division~~ shall require its laboratory
 1687 and the independent laboratories to annually participate in an
 1688 externally administered quality assurance program designed to
 1689 assess testing proficiency in the detection and appropriate
 1690 quantification of medications, drugs, and naturally occurring
 1691 substances that may be administered to racing animals. The
 1692 administrator of the quality assurance program shall report its
 1693 results and findings to the ~~commission division~~ and the
 1694 Department of Agriculture and Consumer Services.

1695 (6)
 1696 (b) Any act committed by any licensee that would constitute
 1697 cruelty to animals as defined in s. 828.02 involving any animal
 1698 constitutes a violation of this chapter. Imposition of any
 1699 penalty by the ~~commission division~~ for violation of this chapter
 1700 or any rule adopted by the ~~commission division~~ pursuant to this
 1701 chapter shall not prohibit a criminal prosecution for cruelty to
 1702 animals.

1703 (c) The ~~commission division~~ may inspect any area at a pari-
 1704 mutuel facility where racing animals are raced, trained, housed,
 1705 or maintained, including any areas where food, medications, or
 1706 other supplies are kept, to ensure the humane treatment of
 1707 racing animals and compliance with this chapter and the rules of
 1708 the ~~commission division~~.

1709 (7) (a) In order to protect the safety and welfare of racing
 1710 animals and the integrity of the races in which the animals
 1711 participate, the ~~commission division~~ shall adopt rules

Page 59 of 140

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

28-01067-22

2022854__

1712 establishing the conditions of use and maximum concentrations of
 1713 medications, drugs, and naturally occurring substances
 1714 identified in the Controlled Therapeutic Medication Schedule,
 1715 Version 2.1, revised April 17, 2014, adopted by the Association
 1716 of Racing Commissioners International, Inc. Controlled
 1717 therapeutic medications include only the specific medications
 1718 and concentrations allowed in biological samples which have been
 1719 approved by the Association of Racing Commissioners
 1720 International, Inc., as controlled therapeutic medications.

1721 (b) The ~~commission division~~ rules must designate the
 1722 appropriate biological specimens by which the administration of
 1723 medications, drugs, and naturally occurring substances is
 1724 monitored and must determine the testing methodologies,
 1725 including measurement uncertainties, for screening such
 1726 specimens to confirm the presence of medications, drugs, and
 1727 naturally occurring substances.

1728 (c) The ~~commission division~~ rules must include a
 1729 classification system for drugs and substances and a
 1730 corresponding penalty schedule for violations which incorporates
 1731 the Uniform Classification Guidelines for Foreign Substances,
 1732 Version 8.0, revised December 2014, by the Association of Racing
 1733 Commissioners International, Inc. The ~~commission division~~ shall
 1734 adopt laboratory screening limits approved by the Association of
 1735 Racing Commissioners International, Inc., for drugs and
 1736 medications that are not included as controlled therapeutic
 1737 medications, the presence of which in a sample may result in a
 1738 violation of this section.

1739 (d) The ~~commission division~~ rules must include conditions
 1740 for the use of furosemide to treat exercise-induced pulmonary

Page 60 of 140

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

28-01067-22 2022854__

1741 hemorrhage.

1742 (e) The commission ~~division~~ may solicit input from the
1743 Department of Agriculture and Consumer Services in adopting the
1744 rules required under this subsection. ~~Such rules must be adopted~~
1745 ~~before January 1, 2016.~~

1746 (9) (a) The commission ~~division~~ may conduct a postmortem
1747 examination of any animal that is injured at a permitted
1748 racetrack while in training or in competition and that
1749 subsequently expires or is destroyed. The commission ~~division~~
1750 may conduct a postmortem examination of any animal that expires
1751 while housed at a permitted racetrack, association compound, or
1752 licensed farm. Trainers and owners shall be requested to comply
1753 with this paragraph as a condition of licensure.

1754 (b) The commission ~~division~~ may take possession of the
1755 animal upon death for postmortem examination. The commission
1756 ~~division~~ may submit blood, urine, other bodily fluid specimens,
1757 or other tissue specimens collected during a postmortem
1758 examination for testing by the commission ~~division~~ laboratory or
1759 its designee. Upon completion of the postmortem examination, the
1760 carcass must be returned to the owner or disposed of at the
1761 owner's option.

1762 (10) The presence of a prohibited substance in an animal,
1763 found by the commission ~~division~~ laboratory in a bodily fluid
1764 specimen collected after the race or during the postmortem
1765 examination of the animal, which breaks down during a race
1766 constitutes a violation of this section.

1767 (11) The cost of postmortem examinations, testing, and
1768 disposal must be borne by the commission ~~division~~.

1769 (12) The commission ~~division~~ shall adopt rules to implement

Page 61 of 140

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

28-01067-22 2022854__

1770 this section.

1771 Section 28. Subsection (4) of section 550.2614, Florida
1772 Statutes, is amended to read:

1773 550.2614 Distribution of certain funds to a horsemen's
1774 association.—

1775 (4) The commission ~~division~~ shall adopt rules to facilitate
1776 the orderly transfer of funds in accordance with this section.
1777 The commission ~~division~~ shall also monitor the membership rolls
1778 of the horsemen's association to ensure that complete, accurate,
1779 and timely listings are maintained for the purposes specified in
1780 this section.

1781 Section 29. Subsection (3) of section 550.26165, Florida
1782 Statutes, is amended to read:

1783 550.26165 Breeders' awards.—

1784 (3) Breeders' associations shall submit their plans to the
1785 commission ~~division~~ at least 60 days before the beginning of the
1786 payment year. The payment year may be a calendar year or any 12-
1787 month period, but once established, the yearly base may not be
1788 changed except for compelling reasons. Once a plan is approved,
1789 the commission ~~division~~ may not allow the plan to be amended
1790 during the year, except for the most compelling reasons.

1791 Section 30. Paragraphs (b) and (d) of subsection (2),
1792 subsections (3) and (4), paragraphs (a), (f), (g), and (h) of
1793 subsection (5), paragraph (e) of subsection (6), and subsections
1794 (7) and (8) of section 550.2625, Florida Statutes, are amended
1795 to read:

1796 550.2625 Horseracing; minimum purse requirement, Florida
1797 breeders' and owners' awards.—

1798 (2) Each permitholder conducting a horserace meet is

Page 62 of 140

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

28-01067-22

2022854__

1799 required to pay from the takeout withheld on pari-mutuel pools a
1800 sum for purses in accordance with the type of race performed.

1801 (b)1. A permitholder conducting a harness horse race meet
1802 under this chapter must pay to the purse pool from the takeout
1803 withheld a purse requirement that totals an amount not less than
1804 8.25 percent of all contributions to pari-mutuel pools conducted
1805 during the race meet. An amount not less than 7.75 percent of
1806 the total handle shall be paid from this purse pool as purses.

1807 2. An amount not to exceed 0.5 percent of the total handle
1808 on all harness horse races that are subject to the purse
1809 requirement of subparagraph 1., must be available for use to
1810 provide medical, dental, surgical, life, funeral, or disability
1811 insurance benefits for occupational licensees who work at tracks
1812 in this state at which harness horse races are conducted. Such
1813 insurance benefits must be paid from the purse pool specified in
1814 subparagraph 1. An annual plan for payment of insurance benefits
1815 from the purse pool, including qualifications for eligibility,
1816 must be submitted by the Florida Standardbred Breeders and
1817 Owners Association for approval to the commission division. An
1818 annual report of the implemented plan shall be submitted to the
1819 commission division. All records of the Florida Standardbred
1820 Breeders and Owners Association concerning the administration of
1821 the plan must be available for audit at the discretion of the
1822 commission division to determine that the plan has been
1823 implemented and administered as authorized. If the commission
1824 division finds that the Florida Standardbred Breeders and Owners
1825 Association has not complied with the provisions of this
1826 section, the commission division may order the association to
1827 cease and desist from administering the plan and shall appoint

Page 63 of 140

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

28-01067-22

2022854__

1828 the commission division as temporary administrator of the plan
1829 until the commission division reestablishes administration of
1830 the plan with the association.

1831 (d) The commission division shall adopt reasonable rules to
1832 ensure the timely and accurate payment of all amounts withheld
1833 by horserace permitholders regarding the distribution of purses,
1834 owners' awards, and other amounts collected for payment to
1835 owners and breeders. Each permitholder that fails to pay out all
1836 moneys collected for payment to owners and breeders shall,
1837 within 10 days after the end of the meet during which the
1838 permitholder underpaid purses, deposit an amount equal to the
1839 underpayment into a separate interest-bearing account to be
1840 distributed to owners and breeders in accordance with commission
1841 division rules.

1842 (3) Each horseracing permitholder conducting any
1843 thoroughbred race under this chapter, including any intertrack
1844 race taken pursuant to ss. 550.615-550.6305 or any interstate
1845 simulcast taken pursuant to s. 550.3551(3) shall pay a sum equal
1846 to 0.955 percent on all pari-mutuel pools conducted during any
1847 such race for the payment of breeders', stallion, or special
1848 racing awards as authorized in this chapter. This subsection
1849 also applies to all Breeder's Cup races conducted outside this
1850 state taken pursuant to s. 550.3551(3). On any race originating
1851 live in this state which is broadcast out-of-state to any
1852 location at which wagers are accepted pursuant to s.
1853 550.3551(2), the host track is required to pay 3.475 percent of
1854 the gross revenue derived from such out-of-state broadcasts as
1855 breeders', stallion, or special racing awards. The Florida
1856 Thoroughbred Breeders' Association is authorized to receive

Page 64 of 140

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

28-01067-22

2022854__

1857 these payments from the permitholders and make payments of
 1858 awards earned. The Florida Thoroughbred Breeders' Association
 1859 has the right to withhold up to 10 percent of the permitholder's
 1860 payments under this section as a fee for administering the
 1861 payments of awards and for general promotion of the industry.
 1862 The permitholder shall remit these payments to the Florida
 1863 Thoroughbred Breeders' Association by the 5th day of each
 1864 calendar month for such sums accruing during the preceding
 1865 calendar month and shall report such payments to the commission
 1866 ~~division~~ as prescribed by the commission division. With the
 1867 exception of the 10-percent fee, the moneys paid by the
 1868 permitholders shall be maintained in a separate, interest-
 1869 bearing account, and such payments together with any interest
 1870 earned shall be used exclusively for the payment of breeders',
 1871 stallion, or special racing awards in accordance with the
 1872 following provisions:

1873 (a) The breeder of each Florida-bred thoroughbred horse
 1874 winning a thoroughbred horse race is entitled to an award of up
 1875 to, but not exceeding, 20 percent of the announced gross purse,
 1876 including nomination fees, eligibility fees, starting fees,
 1877 supplementary fees, and moneys added by the sponsor of the race.

1878 (b) The owner or owners of the sire of a Florida-bred
 1879 thoroughbred horse that wins a stakes race is entitled to a
 1880 stallion award of up to, but not exceeding, 20 percent of the
 1881 announced gross purse, including nomination fees, eligibility
 1882 fees, starting fees, supplementary fees, and moneys added by the
 1883 sponsor of the race.

1884 (c) The owners of thoroughbred horses participating in
 1885 thoroughbred stakes races, nonstakes races, or both may receive

Page 65 of 140

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

28-01067-22

2022854__

1886 a special racing award in accordance with the agreement
 1887 established pursuant to s. 550.26165(1).

1888 (d) In order for a breeder of a Florida-bred thoroughbred
 1889 horse to be eligible to receive a breeder's award, the horse
 1890 must have been registered as a Florida-bred horse with the
 1891 Florida Thoroughbred Breeders' Association, and the Jockey Club
 1892 certificate for the horse must show that it has been duly
 1893 registered as a Florida-bred horse as evidenced by the seal and
 1894 proper serial number of the Florida Thoroughbred Breeders'
 1895 Association registry. The Florida Thoroughbred Breeders'
 1896 Association shall be permitted to charge the registrant a
 1897 reasonable fee for this verification and registration.

1898 (e) In order for an owner of the sire of a thoroughbred
 1899 horse winning a stakes race to be eligible to receive a stallion
 1900 award, the stallion must have been registered with the Florida
 1901 Thoroughbred Breeders' Association, and the breeding of the
 1902 registered Florida-bred horse must have occurred in this state.
 1903 The stallion must be standing permanently in this state during
 1904 the period of time between February 1 and June 15 of each year
 1905 or, if the stallion is dead, must have stood permanently in this
 1906 state for a period of not less than 1 year immediately prior to
 1907 its death. The removal of a stallion from this state during the
 1908 period of time between February 1 and June 15 of any year for
 1909 any reason, other than exclusively for prescribed medical
 1910 treatment, as approved by the Florida Thoroughbred Breeders'
 1911 Association, renders the owner or owners of the stallion
 1912 ineligible to receive a stallion award under any circumstances
 1913 for offspring sired prior to removal; however, if a removed
 1914 stallion is returned to this state, all offspring sired

Page 66 of 140

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

28-01067-22

2022854__

1915 subsequent to the return make the owner or owners of the
 1916 stallion eligible for the stallion award but only for those
 1917 offspring sired subsequent to such return to this state. The
 1918 Florida Thoroughbred Breeders' Association shall maintain
 1919 complete records showing the date the stallion arrived in this
 1920 state for the first time, whether or not the stallion remained
 1921 in the state permanently, the location of the stallion, and
 1922 whether the stallion is still standing in this state and
 1923 complete records showing awards earned, received, and
 1924 distributed. The association may charge the owner, owners, or
 1925 breeder a reasonable fee for this service.

1926 (f) A permitholder conducting a thoroughbred horse race
 1927 under the provisions of this chapter shall, within 30 days after
 1928 the end of the race meet during which the race is conducted,
 1929 certify to the Florida Thoroughbred Breeders' Association such
 1930 information relating to the thoroughbred horses winning a stakes
 1931 or other horserace at the meet as may be required to determine
 1932 the eligibility for payment of breeders', stallion, and special
 1933 racing awards.

1934 (g) The Florida Thoroughbred Breeders' Association shall
 1935 maintain complete records showing the starters and winners in
 1936 all races conducted at thoroughbred tracks in this state; shall
 1937 maintain complete records showing awards earned, received, and
 1938 distributed; and may charge the owner, owners, or breeder a
 1939 reasonable fee for this service.

1940 (h) The Florida Thoroughbred Breeders' Association shall
 1941 annually establish a uniform rate and procedure for the payment
 1942 of breeders' and stallion awards and shall make breeders' and
 1943 stallion award payments in strict compliance with the

Page 67 of 140

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

28-01067-22

2022854__

1944 established uniform rate and procedure plan. The plan may set a
 1945 cap on winnings and may limit, exclude, or defer payments to
 1946 certain classes of races, such as the Florida stallion stakes
 1947 races, in order to assure that there are adequate revenues to
 1948 meet the proposed uniform rate. Such plan must include proposals
 1949 for the general promotion of the industry. Priority shall be
 1950 placed upon imposing such restrictions in lieu of allowing the
 1951 uniform rate to be less than 15 percent of the total purse
 1952 payment. The uniform rate and procedure plan must be approved by
 1953 the commission division before implementation. In the absence of
 1954 an approved plan and procedure, the authorized rate for
 1955 breeders' and stallion awards is 15 percent of the announced
 1956 gross purse for each race. Such purse must include nomination
 1957 fees, eligibility fees, starting fees, supplementary fees, and
 1958 moneys added by the sponsor of the race. If the funds in the
 1959 account for payment of breeders' and stallion awards are not
 1960 sufficient to meet all earned breeders' and stallion awards,
 1961 those breeders and stallion owners not receiving payments have
 1962 first call on any subsequent receipts in that or any subsequent
 1963 year.

1964 (i) The Florida Thoroughbred Breeders' Association shall
 1965 keep accurate records showing receipts and disbursements of such
 1966 payments and shall annually file a full and complete report to
 1967 the commission division showing such receipts and disbursements
 1968 and the sums withheld for administration. The commission
 1969 division may audit the records and accounts of the Florida
 1970 Thoroughbred Breeders' Association to determine that payments
 1971 have been made to eligible breeders and stallion owners in
 1972 accordance with this section.

Page 68 of 140

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

28-01067-22 2022854__

1973 (j) If the commission division finds that the Florida
 1974 Thoroughbred Breeders' Association has not complied with any
 1975 provision of this section, the commission division may order the
 1976 association to cease and desist from receiving funds and
 1977 administering funds received under this section. If the
 1978 commission division enters such an order, the permitholder shall
 1979 make the payments authorized in this section to the commission
 1980 division for deposit into the Pari-mutuel Wagering Trust Fund;
 1981 and any funds in the Florida Thoroughbred Breeders' Association
 1982 account shall be immediately paid to the commission Division of
 1983 Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering
 1984 Trust Fund. The commission division shall authorize payment from
 1985 these funds to any breeder or stallion owner entitled to an
 1986 award that has not been previously paid by the Florida
 1987 Thoroughbred Breeders' Association in accordance with the
 1988 applicable rate.

1989 (4) Each permitholder conducting a harness horse race under
 1990 this chapter shall pay a sum equal to the breaks on all pari-
 1991 mutuel pools conducted during that race for the payment of
 1992 breeders' awards, stallion awards, and stallion stakes and for
 1993 additional expenditures as authorized in this section. The
 1994 Florida Standardbred Breeders and Owners Association is
 1995 authorized to receive these payments from the permitholders and
 1996 make payments as authorized in this subsection. The Florida
 1997 Standardbred Breeders and Owners Association has the right to
 1998 withhold up to 10 percent of the permitholder's payments under
 1999 this section and under s. 550.2633 as a fee for administering
 2000 these payments. The permitholder shall remit these payments to
 2001 the Florida Standardbred Breeders and Owners Association by the

28-01067-22 2022854__

2002 5th day of each calendar month for such sums accruing during the
 2003 preceding calendar month and shall report such payments to the
 2004 commission division as prescribed by the commission division.
 2005 With the exception of the 10-percent fee for administering the
 2006 payments and the use of the moneys authorized by paragraph (j),
 2007 the moneys paid by the permitholders shall be maintained in a
 2008 separate, interest-bearing account; and such payments together
 2009 with any interest earned shall be allocated for the payment of
 2010 breeders' awards, stallion awards, stallion stakes, additional
 2011 purses, and prizes for, and the general promotion of owning and
 2012 breeding of, Florida-bred standardbred horses. Payment of
 2013 breeders' awards and stallion awards shall be made in accordance
 2014 with the following provisions:

2015 (a) The breeder of each Florida-bred standardbred horse
 2016 winning a harness horse race is entitled to an award of up to,
 2017 but not exceeding, 20 percent of the announced gross purse,
 2018 including nomination fees, eligibility fees, starting fees,
 2019 supplementary fees, and moneys added by the sponsor of the race.

2020 (b) The owner or owners of the sire of a Florida-bred
 2021 standardbred horse that wins a stakes race is entitled to a
 2022 stallion award of up to, but not exceeding, 20 percent of the
 2023 announced gross purse, including nomination fees, eligibility
 2024 fees, starting fees, supplementary fees, and moneys added by the
 2025 sponsor of the race.

2026 (c) In order for a breeder of a Florida-bred standardbred
 2027 horse to be eligible to receive a breeder's award, the horse
 2028 winning the race must have been registered as a Florida-bred
 2029 horse with the Florida Standardbred Breeders and Owners
 2030 Association and a registration certificate under seal for the

28-01067-22

2022854__

2031 winning horse must show that the winner has been duly registered
 2032 as a Florida-bred horse as evidenced by the seal and proper
 2033 serial number of the United States Trotting Association
 2034 registry. The Florida Standardbred Breeders and Owners
 2035 Association shall be permitted to charge the registrant a
 2036 reasonable fee for this verification and registration.

2037 (d) In order for an owner of the sire of a standardbred
 2038 horse winning a stakes race to be eligible to receive a stallion
 2039 award, the stallion must have been registered with the Florida
 2040 Standardbred Breeders and Owners Association, and the breeding
 2041 of the registered Florida-bred horse must have occurred in this
 2042 state. The stallion must be standing permanently in this state
 2043 or, if the stallion is dead, must have stood permanently in this
 2044 state for a period of not less than 1 year immediately prior to
 2045 its death. The removal of a stallion from this state for any
 2046 reason, other than exclusively for prescribed medical treatment,
 2047 renders the owner or the owners of the stallion ineligible to
 2048 receive a stallion award under any circumstances for offspring
 2049 sired prior to removal; however, if a removed stallion is
 2050 returned to this state, all offspring sired subsequent to the
 2051 return make the owner or owners of the stallion eligible for the
 2052 stallion award but only for those offspring sired subsequent to
 2053 such return to this state. The Florida Standardbred Breeders and
 2054 Owners Association shall maintain complete records showing the
 2055 date the stallion arrived in this state for the first time,
 2056 whether or not the stallion remained in the state permanently,
 2057 the location of the stallion, and whether the stallion is still
 2058 standing in this state and complete records showing awards
 2059 earned, received, and distributed. The association may charge

Page 71 of 140

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

28-01067-22

2022854__

2060 the owner, owners, or breeder a reasonable fee for this service.

2061 (e) A permitholder conducting a harness horse race under
 2062 this chapter shall, within 30 days after the end of the race
 2063 meet during which the race is conducted, certify to the Florida
 2064 Standardbred Breeders and Owners Association such information
 2065 relating to the horse winning a stakes or other horserace at the
 2066 meet as may be required to determine the eligibility for payment
 2067 of breeders' awards and stallion awards.

2068 (f) The Florida Standardbred Breeders and Owners
 2069 Association shall maintain complete records showing the starters
 2070 and winners in all races conducted at harness horse racetracks
 2071 in this state; shall maintain complete records showing awards
 2072 earned, received, and distributed; and may charge the owner,
 2073 owners, or breeder a reasonable fee for this service.

2074 (g) The Florida Standardbred Breeders and Owners
 2075 Association shall annually establish a uniform rate and
 2076 procedure for the payment of breeders' awards, stallion awards,
 2077 stallion stakes, additional purses, and prizes for, and for the
 2078 general promotion of owning and breeding of, Florida-bred
 2079 standardbred horses and shall make award payments and
 2080 allocations in strict compliance with the established uniform
 2081 rate and procedure. The plan may set a cap on winnings, and may
 2082 limit, exclude, or defer payments to certain classes of races,
 2083 such as the Florida Breeders' stakes races, in order to assure
 2084 that there are adequate revenues to meet the proposed uniform
 2085 rate. Priority shall be placed on imposing such restrictions in
 2086 lieu of allowing the uniform rate allocated to payment of
 2087 breeder and stallion awards to be less than 10 percent of the
 2088 total purse payment. The uniform rate and procedure must be

Page 72 of 140

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

28-01067-22 2022854__

2089 approved by the commission division before implementation. In
 2090 the absence of an approved plan and procedure, the authorized
 2091 rate for breeders' and stallion awards is 10 percent of the
 2092 announced gross purse for each race. Such purse must include
 2093 nomination fees, eligibility fees, starting fees, supplementary
 2094 fees, and moneys added by the sponsor of the race. If the funds
 2095 in the account for payment of breeders' and stallion awards are
 2096 not sufficient to meet all earned breeders' and stallion awards,
 2097 those breeders and stallion owners not receiving payments have
 2098 first call on any subsequent receipts in that or any subsequent
 2099 year.

2100 (h) The Florida Standardbred Breeders and Owners
 2101 Association shall keep accurate records showing receipts and
 2102 disbursements of such payments and shall annually file a full
 2103 and complete report to the commission division showing such
 2104 receipts and disbursements and the sums withheld for
 2105 administration. The commission division may audit the records
 2106 and accounts of the Florida Standardbred Breeders and Owners
 2107 Association to determine that payments have been made to
 2108 eligible breeders, stallion owners, and owners of Florida-bred
 2109 standardbred horses in accordance with this section.

2110 (i) If the commission division finds that the Florida
 2111 Standardbred Breeders and Owners Association has not complied
 2112 with any provision of this section, the commission division may
 2113 order the association to cease and desist from receiving funds
 2114 and administering funds received under this section and under s.
 2115 550.2633. If the commission division enters such an order, the
 2116 permitholder shall make the payments authorized in this section
 2117 and s. 550.2633 to the commission division for deposit into the

Page 73 of 140

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

28-01067-22 2022854__

2118 Pari-mutuel Wagering Trust Fund; and any funds in the Florida
 2119 Standardbred Breeders and Owners Association account shall be
 2120 immediately paid to the commission division for deposit to the
 2121 Pari-mutuel Wagering Trust Fund. The commission division shall
 2122 authorize payment from these funds to any breeder, stallion
 2123 owner, or owner of a Florida-bred standardbred horse entitled to
 2124 an award that has not been previously paid by the Florida
 2125 Standardbred Breeders and Owners Association in accordance with
 2126 the applicable rate.

2127 (j) The board of directors of the Florida Standardbred
 2128 Breeders and Owners Association may authorize the release of up
 2129 to 25 percent of the funds available for breeders' awards,
 2130 stallion awards, stallion stakes, additional purses, and prizes
 2131 for, and for the general promotion of owning and breeding of,
 2132 Florida-bred standardbred horses to be used for purses for, and
 2133 promotion of, Florida-bred standardbred horses at race meetings
 2134 at which there is no pari-mutuel wagering unless, and to the
 2135 extent that, such release would render the funds available for
 2136 such awards insufficient to pay the breeders' and stallion
 2137 awards earned pursuant to the annual plan of the association.
 2138 Any such funds so released and used for purses are not
 2139 considered to be an "announced gross purse" as that term is used
 2140 in paragraphs (a) and (b), and no breeders' or stallion awards,
 2141 stallion stakes, or owner awards are required to be paid for
 2142 standardbred horses winning races in meetings at which there is
 2143 no pari-mutuel wagering. The amount of purses to be paid from
 2144 funds so released and the meets eligible to receive such funds
 2145 for purses must be approved by the board of directors of the
 2146 Florida Standardbred Breeders and Owners Association.

Page 74 of 140

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

28-01067-22

2022854__

2147 (5) (a) Except as provided in subsections (7) and (8), each
 2148 permitholder conducting a quarter horse race meet under this
 2149 chapter shall pay a sum equal to the breaks plus a sum equal to
 2150 1 percent of all pari-mutuel pools conducted during that race
 2151 for supplementing and augmenting purses and prizes and for the
 2152 general promotion of owning and breeding of racing quarter
 2153 horses in this state as authorized in this section. The Florida
 2154 Quarter Horse Breeders and Owners Association is authorized to
 2155 receive these payments from the permitholders and make payments
 2156 as authorized in this subsection. The Florida Quarter Horse
 2157 Breeders and Owners Association, Inc., referred to in this
 2158 chapter as the Florida Quarter Horse Breeders and Owners
 2159 Association, has the right to withhold up to 10 percent of the
 2160 permitholder's payments under this section and under s. 550.2633
 2161 as a fee for administering these payments. The permitholder
 2162 shall remit these payments to the Florida Quarter Horse Breeders
 2163 and Owners Association by the 5th day of each calendar month for
 2164 such sums accruing during the preceding calendar month and shall
 2165 report such payments to the commission division as prescribed by
 2166 the commission division. With the exception of the 5-percent fee
 2167 for administering the payments, the moneys paid by the
 2168 permitholders shall be maintained in a separate, interest-
 2169 bearing account.

2170 (f) The Florida Quarter Horse Breeders and Owners
 2171 Association shall keep accurate records showing receipts and
 2172 disbursements of payments made under this section and shall
 2173 annually file a full and complete report to the commission
 2174 division showing such receipts and disbursements and the sums
 2175 withheld for administration. The commission division may audit

Page 75 of 140

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

28-01067-22

2022854__

2176 the records and accounts of the Florida Quarter Horse Breeders
 2177 and Owners Association to determine that payments have been made
 2178 in accordance with this section.

2179 (g) The Florida Quarter Horse Breeders and Owners
 2180 Association shall annually establish a plan for supplementing
 2181 and augmenting purses and prizes and for the general promotion
 2182 of owning and breeding Florida-bred racing quarter horses and
 2183 shall make award payments and allocations in strict compliance
 2184 with the annual plan. The annual plan must be approved by the
 2185 commission division before implementation. If the funds in the
 2186 account for payment of purses and prizes are not sufficient to
 2187 meet all purses and prizes to be awarded, those breeders and
 2188 owners not receiving payments have first call on any subsequent
 2189 receipts in that or any subsequent year.

2190 (h) If the commission division finds that the Florida
 2191 Quarter Horse Breeders and Owners Association has not complied
 2192 with any provision of this section, the commission division may
 2193 order the association to cease and desist from receiving funds
 2194 and administering funds received under this section and s.
 2195 550.2633. If the commission division enters such an order, the
 2196 permitholder shall make the payments authorized in this section
 2197 and s. 550.2633 to the commission division for deposit into the
 2198 Pari-mutuel Wagering Trust Fund, and any funds in the Florida
 2199 Quarter Horse Breeders and Owners Association account shall be
 2200 immediately paid to the commission division for deposit to the
 2201 Pari-mutuel Wagering Trust Fund. The commission division shall
 2202 authorize payment from these funds to any breeder or owner of a
 2203 quarter horse entitled to an award that has not been previously
 2204 paid by the Florida Quarter Horse Breeders and Owners

Page 76 of 140

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

28-01067-22

2022854__

2205 Association in accordance with this section.

2206 (6)

2207 (e) This subsection governs owners' awards paid on
2208 thoroughbred horse races only in this state, unless a written
2209 agreement is filed with the commission division establishing the
2210 rate, procedures, and eligibility requirements for owners'
2211 awards, including place of finish, class of race, maximum purse,
2212 and maximum award, and the agreement is entered into by the
2213 permitholder, the Florida Thoroughbred Breeders' Association,
2214 and the association representing a majority of the racehorse
2215 owners and trainers at the permitholder's location.

2216 (7) (a) Each permitholder that conducts race meets under
2217 this chapter and runs Appaloosa races shall pay to the
2218 commission division a sum equal to the breaks plus a sum equal
2219 to 1 percent of the total contributions to each pari-mutuel pool
2220 conducted on each Appaloosa race. The payments shall be remitted
2221 to the commission division by the 5th day of each calendar month
2222 for sums accruing during the preceding calendar month.

2223 (b) The commission division shall deposit these collections
2224 to the credit of the General Inspection Trust Fund in a special
2225 account to be known as the "Florida Appaloosa Racing Promotion
2226 Account." The Department of Agriculture and Consumer Services
2227 shall administer the funds and adopt suitable and reasonable
2228 rules for the administration thereof. The moneys in the Florida
2229 Appaloosa Racing Promotion Account shall be allocated solely for
2230 supplementing and augmenting purses and prizes and for the
2231 general promotion of owning and breeding of racing Appaloosas in
2232 this state; and the moneys may not be used to defray any expense
2233 of the Department of Agriculture and Consumer Services in the

Page 77 of 140

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

28-01067-22

2022854__

2234 administration of this chapter.

2235 (8) Each permitholder that conducts race meets under this
2236 chapter and runs Arabian horse races shall pay to the commission
2237 ~~division~~ a sum equal to the breaks plus a sum equal to 1 percent
2238 of the total contributions to each pari-mutuel pool conducted on
2239 each Arabian horse race. The payments shall be remitted to the
2240 commission division by the 5th day of each calendar month for
2241 sums accruing during the preceding calendar month.

2242 Section 31. Subsections (1), (3), (5), and (6), paragraph
2243 (a) of subsection (8), and subsections (9), (10), and (11) of
2244 section 550.26352, Florida Statutes, are amended to read:

2245 550.26352 Breeders' Cup Meet; pools authorized; conflicts;
2246 taxes; credits; transmission of races; rules; application.—

2247 (1) Notwithstanding any provision of this chapter to the
2248 contrary, there is hereby created a special thoroughbred race
2249 meet which shall be designated as the "Breeders' Cup Meet." The
2250 Breeders' Cup Meet shall be conducted at the facility of the
2251 Florida permitholder selected by Breeders' Cup Limited to
2252 conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall
2253 consist of 3 days: the day on which the Breeders' Cup races are
2254 conducted, the preceding day, and the subsequent day. Upon the
2255 selection of the Florida permitholder as host for the Breeders'
2256 Cup Meet and application by the selected permitholder, the
2257 commission division shall issue a license to the selected
2258 permitholder to operate the Breeders' Cup Meet. Notwithstanding
2259 s. 550.09515(2)(a), the Breeders' Cup Meet may be conducted on
2260 dates which the selected permitholder is not otherwise
2261 authorized to conduct a race meet.

2262 (3) If the permitholder conducting the Breeders' Cup Meet

Page 78 of 140

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

28-01067-22 2022854__

2263 is located within 35 miles of one or more permitholders
 2264 scheduled to conduct a thoroughbred race meet on any of the 3
 2265 days of the Breeders' Cup Meet, then operation on any of those 3
 2266 days by the other permitholders is prohibited. As compensation
 2267 for the loss of racing days caused thereby, such operating
 2268 permitholders shall receive a credit against the taxes otherwise
 2269 due and payable to the state under ss. 550.0951 and 550.09515.
 2270 This credit shall be in an amount equal to the operating loss
 2271 determined to have been suffered by the operating permitholders
 2272 as a result of not operating on the prohibited racing days, but
 2273 shall not exceed a total of \$950,000. The determination of the
 2274 amount to be credited shall be made by the commission ~~division~~
 2275 upon application by the operating permitholder. The tax credits
 2276 provided in this subsection shall not be available unless an
 2277 operating permitholder is required to close a bona fide meet
 2278 consisting in part of no fewer than 10 scheduled performances in
 2279 the 15 days immediately preceding or 10 scheduled performances
 2280 in the 15 days immediately following the Breeders' Cup Meet.
 2281 Such tax credit shall be in lieu of any other compensation or
 2282 consideration for the loss of racing days. There shall be no
 2283 replacement or makeup of any lost racing days.

2284 (5) The permitholder conducting the Breeders' Cup Meet
 2285 shall receive a credit against the taxes otherwise due and
 2286 payable to the state under ss. 550.0951 and 550.09515 generated
 2287 during said permitholder's next ensuing regular thoroughbred
 2288 race meet. This credit shall be in an amount not to exceed
 2289 \$950,000 and shall be utilized by the permitholder to pay the
 2290 purses offered by the permitholder during the Breeders' Cup Meet
 2291 in excess of the purses which the permitholder is otherwise

Page 79 of 140

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

28-01067-22 2022854__

2292 required by law to pay. The amount to be credited shall be
 2293 determined by the commission ~~division~~ upon application of the
 2294 permitholder which is subject to audit by the commission
 2295 ~~division~~.

2296 (6) The permitholder conducting the Breeders' Cup Meet
 2297 shall receive a credit against the taxes otherwise due and
 2298 payable to the state under ss. 550.0951 and 550.09515 generated
 2299 during said permitholder's next ensuing regular thoroughbred
 2300 race meet. This credit shall be in an amount not to exceed
 2301 \$950,000 and shall be utilized by the permitholder for such
 2302 capital improvements and extraordinary expenses as may be
 2303 necessary for operation of the Breeders' Cup Meet. The amount to
 2304 be credited shall be determined by the commission ~~division~~ upon
 2305 application of the permitholder which is subject to audit by the
 2306 commission ~~division~~.

2307 (8) (a) Pursuant to s. 550.3551(2), the permitholder
 2308 conducting the Breeders' Cup Meet is authorized to transmit
 2309 broadcasts of the races conducted during the Breeders' Cup Meet
 2310 to locations outside of this state for wagering purposes. The
 2311 commission ~~division~~ may approve broadcasts to pari-mutuel
 2312 permitholders and other betting systems authorized under the
 2313 laws of any other state or country. Wagers accepted by any out-
 2314 of-state pari-mutuel permitholder or betting system on any races
 2315 broadcast under this section may be, but are not required to be,
 2316 commingled with the pari-mutuel pools of the permitholder
 2317 conducting the Breeders' Cup Meet. The calculation of any payoff
 2318 on national pari-mutuel pools with commingled wagers may be
 2319 performed by the permitholder's totalisator contractor at a
 2320 location outside of this state. Pool amounts from wagers placed

Page 80 of 140

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

28-01067-22

2022854__

2321 at pari-mutuel facilities or other betting systems in foreign
 2322 countries before being commingled with the pari-mutuel pool of
 2323 the Florida permitholder conducting the Breeders' Cup Meet shall
 2324 be calculated by the totalisator contractor and transferred to
 2325 the commingled pool in United States currency in cycles
 2326 customarily used by the permitholder. Pool amounts from wagers
 2327 placed at any foreign pari-mutuel facility or other betting
 2328 system shall not be commingled with a Florida pool until a
 2329 determination is made by the commission ~~division~~ that the
 2330 technology utilized by the totalisator contractor is adequate to
 2331 assure commingled pools will result in the calculation of
 2332 accurate payoffs to Florida bettors. Any totalisator contractor
 2333 at a location outside of this state shall comply with the
 2334 provisions of s. 550.495 relating to totalisator licensing.

2335 (9) The exemption from the tax credits provided in
 2336 subsections (5) and (6) shall not be granted and shall not be
 2337 claimed by the permitholder until an audit is completed by the
 2338 commission ~~division~~. The commission ~~division~~ is required to
 2339 complete the audit within 30 days of receipt of the necessary
 2340 documentation from the permitholder to verify the permitholder's
 2341 claim for tax credits. If the documentation submitted by the
 2342 permitholder is incomplete or is insufficient to document the
 2343 permitholder's claim for tax credits, the commission ~~division~~
 2344 may request such additional documentation as is necessary to
 2345 complete the audit. Upon receipt of the commission's ~~division's~~
 2346 written request for additional documentation, the 30-day time
 2347 limitation will commence anew.

2348 (10) The commission ~~division~~ is authorized to adopt such
 2349 rules as are necessary to facilitate the conduct of the

Page 81 of 140

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

28-01067-22

2022854__

2350 Breeders' Cup Meet as authorized in this section. Included
 2351 within this grant of authority shall be the adoption or waiver
 2352 of rules regarding the overall conduct of racing during the
 2353 Breeders' Cup Meet so as to ensure the integrity of the races,
 2354 licensing for all participants, special stabling and training
 2355 requirements for foreign horses, commingling of pari-mutuel
 2356 pools, and audit requirements for tax credits and other
 2357 benefits.

2358 (11) Any dispute between the commission ~~division~~ and any
 2359 permitholder regarding the tax credits authorized under
 2360 subsection (3), subsection (5), or subsection (6) shall be
 2361 determined by a hearing officer of the Division of
 2362 Administrative Hearings under the provisions of s. 120.57(1).

2363 Section 32. Subsections (1), (5), (6), and (8) of section
 2364 550.2704, Florida Statutes, are amended to read:

2365 550.2704 Jai Alai Tournament of Champions Meet.-

2366 (1) Notwithstanding any provision of this chapter, there is
 2367 hereby created a special jai alai meet which shall be designated
 2368 as the "Jai Alai Tournament of Champions Meet" and which shall
 2369 be hosted by the Florida jai alai permitholders selected by the
 2370 National Association of Jai Alai Frontons, Inc., to conduct such
 2371 meet. The meet shall consist of three qualifying performances
 2372 and a final performance, each of which is to be conducted on
 2373 different days. Upon the selection of the Florida permitholders
 2374 for the meet, and upon application by the selected
 2375 permitholders, the commission ~~Division of Pari mutuel Wagering~~
 2376 shall issue a license to each of the selected permitholders to
 2377 operate the meet. The meet may be conducted during a season in
 2378 which the permitholders selected to conduct the meet are not

Page 82 of 140

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

28-01067-22 2022854__

2379 otherwise authorized to conduct a meet. Notwithstanding anything
2380 herein to the contrary, any Florida permitholder who is to
2381 conduct a performance which is a part of the Jai Alai Tournament
2382 of Champions Meet shall not be required to apply for the license
2383 for said meet if it is to be run during the regular season for
2384 which such permitholder has a license.

2385 (5) In addition to the credit authorized in subsection (4),
2386 the Jai Alai Tournament of Champions Meet permitholders shall
2387 receive a credit against the taxes, otherwise due and payable
2388 under s. 550.0951 or s. 550.09511, generated during said
2389 permitholders' current regular meet, in an amount not to exceed
2390 the aggregate amount of \$150,000, which shall be prorated
2391 equally between the permitholders, and shall be utilized by the
2392 permitholders for such capital improvements and extraordinary
2393 expenses, including marketing expenses, as may be necessary for
2394 the operation of the meet. The determination of the amount to be
2395 credited shall be made by the commission division upon
2396 application of said permitholders.

2397 (6) The permitholder shall be entitled to said
2398 permitholder's pro rata share of the \$150,000 tax credit
2399 provided in subsection (5) without having to make application,
2400 so long as appropriate documentation to substantiate said
2401 expenditures thereunder is provided to the commission division
2402 within 30 days following said Jai Alai Tournament of Champions
2403 Meet.

2404 (8) The commission division is authorized to adopt such
2405 rules as are necessary to facilitate the conduct of the Jai Alai
2406 Tournament of Champions Meet as authorized in this section.
2407 Included within this grant of authority shall be the adoption of

28-01067-22 2022854__

2408 rules regarding the overall conduct of the tournament so as to
2409 ensure the integrity of the event, licensing for participants,
2410 commingling of pari-mutuel pools, and audit requirements for tax
2411 credits and exemptions.

2412 Section 33. Subsections (3) and (5) of section 550.334,
2413 Florida Statutes, are amended to read:

2414 550.334 Quarter horse racing; substitutions.—

2415 (3) Quarter horses participating in such races must be duly
2416 registered by the American Quarter Horse Association, and before
2417 each race such horses must be examined and declared in fit
2418 condition by a qualified person designated by the commission
2419 ~~division~~.

2420 (5) Any quarter horse racing permitholder operating under a
2421 valid permit issued by the commission division is authorized to
2422 substitute races of other breeds of horses which are,
2423 respectively, registered with the American Paint Horse
2424 Association, Appaloosa Horse Club, Arabian Horse Registry of
2425 America, Palomino Horse Breeders of America, United States
2426 Trotting Association, Florida Cracker Horse Association, or
2427 Jockey Club for no more than 50 percent of the quarter horse
2428 races during its meet.

2429 Section 34. Subsection (2) of section 550.3345, Florida
2430 Statutes, is amended to read:

2431 550.3345 Conversion of quarter horse permit to a limited
2432 thoroughbred permit.—

2433 (2) Notwithstanding any other provision of law, the holder
2434 of a quarter horse racing permit issued under s. 550.334 may,
2435 within 1 year after the effective date of this section, apply to
2436 the commission division for a transfer of the quarter horse

28-01067-22 2022854__

2437 racing permit to a not-for-profit corporation formed under state
 2438 law to serve the purposes of the state as provided in subsection
 2439 (1). The board of directors of the not-for-profit corporation
 2440 must be comprised of 11 members, 4 of whom shall be designated
 2441 by the applicant, 4 of whom shall be designated by the Florida
 2442 Thoroughbred Breeders' Association, and 3 of whom shall be
 2443 designated by the other 8 directors, with at least 1 of these 3
 2444 members being an authorized representative of another
 2445 thoroughbred permitholder in this state. The not-for-profit
 2446 corporation shall submit an application to the commission
 2447 ~~division~~ for review and approval of the transfer in accordance
 2448 with s. 550.054. Upon approval of the transfer by the commission
 2449 ~~division~~, and notwithstanding any other provision of law to the
 2450 contrary, the not-for-profit corporation may, within 1 year
 2451 after its receipt of the permit, request that the commission
 2452 ~~division~~ convert the quarter horse racing permit to a permit
 2453 authorizing the holder to conduct pari-mutuel wagering meets of
 2454 thoroughbred racing. Neither the transfer of the quarter horse
 2455 racing permit nor its conversion to a limited thoroughbred
 2456 permit shall be subject to the mileage limitation or the
 2457 ratification election as set forth under s. 550.054(2) or s.
 2458 550.0651. Upon receipt of the request for such conversion, the
 2459 commission ~~division~~ shall timely issue a converted permit. The
 2460 converted permit and the not-for-profit corporation shall be
 2461 subject to the following requirements:

2462 (a) All net revenues derived by the not-for-profit
 2463 corporation under the thoroughbred horse racing permit and any
 2464 license issued to the not-for-profit corporation under chapter
 2465 849, after the funding of operating expenses and capital

Page 85 of 140

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

28-01067-22 2022854__

2466 improvements, shall be dedicated to the enhancement of
 2467 thoroughbred purses and breeders', stallion, and special racing
 2468 awards under this chapter; the general promotion of the
 2469 thoroughbred horse breeding industry; and the care in this state
 2470 of thoroughbred horses retired from racing.

2471 (b) From December 1 through April 30, no live thoroughbred
 2472 racing may be conducted under the permit on any day during which
 2473 another thoroughbred permitholder is conducting live
 2474 thoroughbred racing within 125 air miles of the not-for-profit
 2475 corporation's pari-mutuel facility unless the other thoroughbred
 2476 permitholder gives its written consent.

2477 (c) After the conversion of the quarter horse racing permit
 2478 and the issuance of its initial license to conduct pari-mutuel
 2479 wagering meets of thoroughbred racing, the not-for-profit
 2480 corporation shall annually apply to the commission ~~division~~ for
 2481 a license pursuant to s. 550.5251.

2482 (d) Racing under the permit may take place only at the
 2483 location for which the original quarter horse racing permit was
 2484 issued, which may be leased by the not-for-profit corporation
 2485 for that purpose; however, the not-for-profit corporation may,
 2486 without the conduct of any ratification election pursuant to s.
 2487 550.054(13) or s. 550.0651, move the location of the permit to
 2488 another location in the same county provided that such
 2489 relocation is approved under the zoning and land use regulations
 2490 of the applicable county or municipality.

2491 (e) A permit converted under this section and a license
 2492 issued to the not-for-profit corporation under chapter 849 are
 2493 not eligible for transfer to another person or entity.

2494 Section 35. Section 550.3355, Florida Statutes, is amended

Page 86 of 140

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

28-01067-22

2022854__

2495 to read:

2496 550.3355 Harness track licenses for summer quarter horse
 2497 racing.—Any harness track licensed to operate under the
 2498 provisions of s. 550.375 may make application for, and shall be
 2499 issued by the commission division, a license to operate not more
 2500 than 50 quarter horse racing days during the summer season,
 2501 which shall extend from July 1 until October 1 of each year.
 2502 However, this license to operate quarter horse racing for 50
 2503 days is in addition to the racing days and dates provided in s.
 2504 550.375 for harness racing during the winter seasons; and, it
 2505 does not affect the right of such licensee to operate harness
 2506 racing at the track as provided in s. 550.375 during the winter
 2507 season. All provisions of this chapter governing quarter horse
 2508 racing not in conflict herewith apply to the operation of
 2509 quarter horse meetings authorized hereunder, except that all
 2510 quarter horse racing permitted hereunder shall be conducted at
 2511 night.

2512 Section 36. Paragraph (a) of subsection (6) and subsections
 2513 (10) and (13) of section 550.3551, Florida Statutes, are amended
 2514 to read:

2515 550.3551 Transmission of racing and jai alai information;
 2516 commingling of pari-mutuel pools.—

2517 (6) (a) A permitholder conducting live races or games may
 2518 not conduct fewer than eight live races or games on any
 2519 authorized race day except as provided in this subsection. A
 2520 thoroughbred permitholder may not conduct fewer than eight live
 2521 races on any race day without the written approval of the
 2522 Florida Thoroughbred Breeders' Association and the Florida
 2523 Horsemen's Benevolent and Protective Association, Inc., unless

Page 87 of 140

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

28-01067-22

2022854__

2524 it is determined by the commission ~~department~~ that another
 2525 entity represents a majority of the thoroughbred racehorse
 2526 owners and trainers in the state. If conducting live racing, a
 2527 harness permitholder may conduct fewer than eight live races on
 2528 any authorized race day. Any harness horse permitholder may
 2529 receive full-card broadcasts of harness horse races conducted at
 2530 harness racetracks outside this state at the harness track of
 2531 the permitholder and accept wagers on such harness races.

2532 (10) The commission ~~division~~ may adopt rules necessary to
 2533 facilitate commingling of pari-mutuel pools, to ensure the
 2534 proper calculation of payoffs in circumstances in which
 2535 different commission percentages are applicable and to regulate
 2536 the distribution of net proceeds between the horse track and, in
 2537 this state, the horsemen's associations.

2538 (13) This section does not prohibit the commingling of
 2539 national pari-mutuel pools by a totalisator company that is
 2540 licensed under this chapter. Such commingling of national pools
 2541 is subject to commission ~~division~~ review and approval and must
 2542 be performed in accordance with rules adopted by the commission
 2543 ~~division~~ to ensure accurate calculation and distribution of the
 2544 pools.

2545 Section 37. Subsections (3), (4), and (5) of section
 2546 550.3615, Florida Statutes, are amended to read:

2547 550.3615 Bookmaking on the grounds of a permitholder;
 2548 penalties; reinstatement; duties of track employees; penalty;
 2549 exceptions.—

2550 (3) Any person who has been convicted of bookmaking in this
 2551 state or any other state of the United States or any foreign
 2552 country shall be denied admittance to and shall not attend any

Page 88 of 140

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

28-01067-22 2022854__
 2553 pari-mutuel facility in this state during its racing seasons or
 2554 operating dates, including any practice or preparational days,
 2555 for a period of 2 years after the date of conviction or the date
 2556 of final appeal. Following the conclusion of the period of
 2557 ineligibility, the director of the commission division may
 2558 authorize the reinstatement of an individual following a hearing
 2559 on readmittance. Any such person who knowingly violates this
 2560 subsection commits a misdemeanor of the first degree, punishable
 2561 as provided in s. 775.082 or s. 775.083.

2562 (4) If the activities of a person show that this law is
 2563 being violated, and such activities are either witnessed by or
 2564 are common knowledge of any pari-mutuel facility employee, it is
 2565 the duty of that employee to bring the matter to the immediate
 2566 attention of the permitholder, manager, or her or his designee,
 2567 who shall notify a law enforcement agency having jurisdiction.
 2568 Willful failure by the pari-mutuel facility employee to comply
 2569 with the provisions of this subsection is a ground for the
 2570 commission division to suspend or revoke that employee's license
 2571 for pari-mutuel facility employment.

2572 (5) Each permittee shall display, in conspicuous places at
 2573 a pari-mutuel facility and in all race and jai alai daily
 2574 programs, a warning to all patrons concerning the prohibition
 2575 and penalties of bookmaking contained in this section and s.
 2576 849.25. The commission division shall adopt rules concerning the
 2577 uniform size of all warnings and the number of placements
 2578 throughout a pari-mutuel facility. Failure on the part of the
 2579 permittee to display such warnings may result in the imposition
 2580 of a \$500 fine by the commission division for each offense.

2581 Section 38. Subsections (2) and (3) of section 550.375,

28-01067-22 2022854__
 2582 Florida Statutes, are amended to read:

2583 550.375 Operation of certain harness tracks.—

2584 (2) Any permittee or licensee authorized under this section
 2585 to transfer the location of its permit may conduct harness
 2586 racing only between the hours of 7 p.m. and 2 a.m. A permit so
 2587 transferred applies only to the locations provided in this
 2588 section. The provisions of this chapter which prohibit the
 2589 location and operation of a licensed harness track permittee and
 2590 licensee within 100 air miles of the location of a racetrack
 2591 authorized to conduct racing under this chapter and which
 2592 prohibit the commission division from granting any permit to a
 2593 harness track at a location in the area in which there are three
 2594 horse tracks located within 100 air miles thereof do not apply
 2595 to a licensed harness track that is required by the terms of
 2596 this section to race between the hours of 7 p.m. and 2 a.m.

2597 (3) A permit may not be issued by the commission division
 2598 for the operation of a harness track within 75 air miles of a
 2599 location of a harness track licensed and operating under this
 2600 chapter.

2601 Section 39. Subsection (1), paragraphs (a), (b), (c), (d),
 2602 (e), and (g) of subsection (2), and subsections (3), (4), and
 2603 (5) of section 550.495, Florida Statutes, are amended to read:

2604 550.495 Totalisator licensing.—

2605 (1) A totalisator may not be operated at a pari-mutuel
 2606 facility in this state, or at a facility located in or out of
 2607 this state which is used as the primary totalisator for a race
 2608 or game conducted in this state, unless the totalisator company
 2609 possesses a business license issued by the commission division.

2610 (2) (a) Each totalisator company must apply to the

28-01067-22

2022854__

2611 ~~commission division~~ for an annual business license. The
 2612 application must include such information as the commission
 2613 ~~division~~ by rule requires.

2614 (b) As a part of its license application, each totalisator
 2615 company must agree in writing to pay to the commission division
 2616 an amount equal to the loss of any state revenues from missed or
 2617 canceled races, games, or performances due to acts of the
 2618 totalisator company or its agents or employees or failures of
 2619 the totalisator system, except for circumstances beyond the
 2620 control of the totalisator company or agent or employee, as
 2621 determined by the commission division.

2622 (c) Each totalisator company must file with the commission
 2623 ~~division~~ a performance bond, acceptable to the commission
 2624 ~~division~~, in the sum of \$250,000 issued by a surety approved by
 2625 the commission division or must file proof of insurance,
 2626 acceptable to the commission division, against financial loss in
 2627 the amount of \$250,000, insuring the state against such a
 2628 revenue loss.

2629 (d) In the event of a loss of state tax revenues, the
 2630 commission division shall determine:

2631 1. The estimated revenue lost as a result of missed or
 2632 canceled races, games, or performances;

2633 2. The number of races, games, or performances which is
 2634 practicable for the permitholder to conduct in an attempt to
 2635 mitigate the revenue loss; and

2636 3. The amount of the revenue loss which the makeup races,
 2637 games, or performances will not recover and for which the
 2638 totalisator company is liable.

2639 (e) Upon the making of such determinations, the commission

Page 91 of 140

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

28-01067-22

2022854__

2640 ~~division~~ shall issue to the totalisator company and to the
 2641 affected permitholder an order setting forth the determinations
 2642 of the commission division.

2643 (g) Upon the failure of the totalisator company to make the
 2644 payment found to be due the state, the commission division may
 2645 cause the forfeiture of the bond or may proceed against the
 2646 insurance contract, and the proceeds of the bond or contract
 2647 shall be deposited into the Pari-mutuel Wagering Trust Fund. If
 2648 that bond was not posted or insurance obtained, the commission
 2649 ~~division~~ may proceed against any assets of the totalisator
 2650 company to collect the amounts due under this subsection.

2651 (3) If the applicant meets the requirements of this section
 2652 and commission division rules and pays the license fee, the
 2653 commission division shall issue the license.

2654 (4) Each totalisator company shall conduct operations in
 2655 accordance with rules adopted by the commission division, in
 2656 such form, content, and frequency as the commission division by
 2657 rule determines.

2658 (5) The commission division and its representatives may
 2659 enter and inspect any area of the premises of a licensed
 2660 totalisator company, and may examine totalisator records, during
 2661 the licensee's regular business or operating hours.

2662 Section 40. Paragraphs (a) and (b) of subsection (1) and
 2663 subsections (2), (3), (4), (5), and (6) of section 550.505,
 2664 Florida Statutes, are amended to read:

2665 550.505 Nonwagering permits.—

2666 (1) (a) Except as provided in this section, permits and
 2667 licenses issued by the commission division are intended to be
 2668 used for pari-mutuel wagering operations in conjunction with

Page 92 of 140

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

28-01067-22

2022854__

2669 horseraces, dograces, or jai alai performances.

2670 (b) Subject to the requirements of this section, the
 2671 commission division is authorized to issue permits for the
 2672 conduct of horseracing meets without pari-mutuel wagering or any
 2673 other form of wagering being conducted in conjunction therewith.
 2674 Such permits shall be known as nonwagering permits and may be
 2675 issued only for horseracing meets. A horseracing permit holder
 2676 need not obtain an additional permit from the commission
 2677 ~~division~~ for conducting nonwagering racing under this section,
 2678 but must apply to the commission division for the issuance of a
 2679 license under this section. The holder of a nonwagering permit
 2680 is prohibited from conducting pari-mutuel wagering or any other
 2681 form of wagering in conjunction with racing conducted under the
 2682 permit. Nothing in this subsection prohibits horseracing for any
 2683 stake, purse, prize, or premium.

2684 (2) (a) Any person not prohibited from holding any type of
 2685 pari-mutuel permit under s. 550.1815 shall be allowed to apply
 2686 to the commission division for a nonwagering permit. The
 2687 applicant must demonstrate that the location or locations where
 2688 the nonwagering permit will be used are available for such use
 2689 and that the applicant has the financial ability to satisfy the
 2690 reasonably anticipated operational expenses of the first racing
 2691 year following final issuance of the nonwagering permit. If the
 2692 racing facility is already built, the application must contain a
 2693 statement, with reasonable supporting evidence, that the
 2694 nonwagering permit will be used for horseracing within 1 year
 2695 after the date on which it is granted. If the facility is not
 2696 already built, the application must contain a statement, with
 2697 reasonable supporting evidence, that substantial construction

Page 93 of 140

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

28-01067-22

2022854__

2698 will be started within 1 year after the issuance of the
 2699 nonwagering permit.

2700 (b) The commission division may conduct an eligibility
 2701 investigation to determine if the applicant meets the
 2702 requirements of paragraph (a).

2703 (3) (a) Upon receipt of a nonwagering permit, the
 2704 permit holder must apply to the commission division before June 1
 2705 of each year for an annual nonwagering license for the next
 2706 succeeding calendar year. Such application must set forth the
 2707 days and locations at which the permit holder will conduct
 2708 nonwagering horseracing and must indicate any changes in
 2709 ownership or management of the permit holder occurring since the
 2710 date of application for the prior license.

2711 (b) On or before August 1 of each year, the commission
 2712 ~~division~~ shall issue a license authorizing the nonwagering
 2713 permit holder to conduct nonwagering horseracing during the
 2714 succeeding calendar year during the period and for the number of
 2715 days set forth in the application, subject to all other
 2716 provisions of this section.

2717 (c) The commission division may conduct an eligibility
 2718 investigation to determine the qualifications of any new
 2719 ownership or management interest in the permit.

2720 (4) Upon the approval of racing dates by the commission
 2721 ~~division~~, the commission division shall issue an annual
 2722 nonwagering license to the nonwagering permit holder.

2723 (5) Only horses registered with an established breed
 2724 registration organization, which organization shall be approved
 2725 by the commission division, shall be raced at any race meeting
 2726 authorized by this section.

Page 94 of 140

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

28-01067-22

2022854__

2727 (6) The commission ~~division~~ may order any person
 2728 participating in a nonwagering meet to cease and desist from
 2729 participating in such meet if the commission ~~division~~ determines
 2730 the person to be not of good moral character in accordance with
 2731 s. 550.1815. The commission ~~division~~ may order the operators of
 2732 a nonwagering meet to cease and desist from operating the meet
 2733 if the commission ~~division~~ determines the meet is being operated
 2734 for any illegal purpose.

2735 Section 41. Subsection (1) of section 550.5251, Florida
 2736 Statutes, is amended to read:

2737 550.5251 Florida thoroughbred racing; certain permits;
 2738 operating days.-

2739 (1) Each thoroughbred permitholder shall annually, during
 2740 the period commencing December 15 of each year and ending
 2741 January 4 of the following year, file in writing with the
 2742 commission ~~division~~ its application to conduct one or more
 2743 thoroughbred racing meetings during the thoroughbred racing
 2744 season commencing on the following July 1. Each application
 2745 shall specify the number and dates of all performances that the
 2746 permitholder intends to conduct during that thoroughbred racing
 2747 season. On or before March 15 of each year, the commission
 2748 ~~division~~ shall issue a license authorizing each permitholder to
 2749 conduct performances on the dates specified in its application.
 2750 Up to February 28 of each year, each permitholder may request
 2751 and shall be granted changes in its authorized performances; but
 2752 thereafter, as a condition precedent to the validity of its
 2753 license and its right to retain its permit, each permitholder
 2754 must operate the full number of days authorized on each of the
 2755 dates set forth in its license.

Page 95 of 140

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

28-01067-22

2022854__

2756 Section 42. Subsection (3) of section 550.625, Florida
 2757 Statutes, is amended to read:
 2758 550.625 Intertrack wagering; purses; breeders' awards.-If a
 2759 host track is a horse track:

2760 (3) The payment to a breeders' organization shall be
 2761 combined with any other amounts received by the respective
 2762 breeders' and owners' associations as so designated. Each
 2763 breeders' and owners' association receiving these funds shall be
 2764 allowed to withhold the same percentage as set forth in s.
 2765 550.2625 to be used for administering the payment of awards and
 2766 for the general promotion of their respective industries. If the
 2767 total combined amount received for thoroughbred breeders' awards
 2768 exceeds 15 percent of the purse required to be paid under
 2769 subsection (1), the breeders' and owners' association, as so
 2770 designated, notwithstanding any other provision of law, shall
 2771 submit a plan to the commission ~~division~~ for approval which
 2772 would use the excess funds in promoting the breeding industry by
 2773 increasing the purse structure for Florida-breds. Preference
 2774 shall be given to the track generating such excess.

2775 Section 43. Subsection (5) and paragraph (g) of subsection
 2776 (9) of section 550.6305, Florida Statutes, are amended to read:
 2777 550.6305 Intertrack wagering; guest track payments;
 2778 accounting rules.-

2779 (5) The commission ~~division~~ shall adopt rules providing an
 2780 expedient accounting procedure for the transfer of the pari-
 2781 mutuel pool in order to properly account for payment of state
 2782 taxes, payment to the guest track, payment to the host track,
 2783 payment of purses, payment to breeders' associations, payment to
 2784 horsemen's associations, and payment to the public.

Page 96 of 140

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

28-01067-22 2022854__

2785 (9) A host track that has contracted with an out-of-state
 2786 horse track to broadcast live races conducted at such out-of-
 2787 state horse track pursuant to s. 550.3551(5) may broadcast such
 2788 out-of-state races to any guest track and accept wagers thereon
 2789 in the same manner as is provided in s. 550.3551.

2790 (g)1. Any thoroughbred permitholder which accepts wagers on
 2791 a simulcast signal must make the signal available to any
 2792 permitholder that is eligible to conduct intertrack wagering
 2793 under the provisions of ss. 550.615-550.6345.

2794 2. Any thoroughbred permitholder which accepts wagers on a
 2795 simulcast signal received after 6 p.m. must make such signal
 2796 available to any permitholder that is eligible to conduct
 2797 intertrack wagering under the provisions of ss. 550.615-
 2798 550.6345, including any permitholder located as specified in s.
 2799 550.615(6). Such guest permitholders are authorized to accept
 2800 wagers on such simulcast signal, notwithstanding any other
 2801 provision of this chapter to the contrary.

2802 3. Any thoroughbred permitholder which accepts wagers on a
 2803 simulcast signal received after 6 p.m. must make such signal
 2804 available to any permitholder that is eligible to conduct
 2805 intertrack wagering under the provisions of ss. 550.615-
 2806 550.6345, including any permitholder located as specified in s.
 2807 550.615(9). Such guest permitholders are authorized to accept
 2808 wagers on such simulcast signals for a number of performances
 2809 not to exceed that which constitutes a full schedule of live
 2810 races for a quarter horse permitholder pursuant to s.
 2811 550.002(10) ~~550.002(11)~~, notwithstanding any other provision of
 2812 this chapter to the contrary, except that the restrictions
 2813 provided in s. 550.615(9) (a) apply to wagers on such simulcast

Page 97 of 140

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

28-01067-22 2022854__

2814 signals.

2815
 2816 No thoroughbred permitholder shall be required to continue to
 2817 rebroadcast a simulcast signal to any in-state permitholder if
 2818 the average per performance gross receipts returned to the host
 2819 permitholder over the preceding 30-day period were less than
 2820 \$100. Subject to the provisions of s. 550.615(4), as a condition
 2821 of receiving rebroadcasts of thoroughbred simulcast signals
 2822 under this paragraph, a guest permitholder must accept
 2823 intertrack wagers on all live races conducted by all then-
 2824 operating thoroughbred permitholders.

2825 Section 44. Subsections (1) and (2) of section 550.6308,
 2826 Florida Statutes, are amended to read:

2827 550.6308 Limited intertrack wagering license.—In
 2828 recognition of the economic importance of the thoroughbred
 2829 breeding industry to this state, its positive impact on tourism,
 2830 and of the importance of a permanent thoroughbred sales facility
 2831 as a key focal point for the activities of the industry, a
 2832 limited license to conduct intertrack wagering is established to
 2833 ensure the continued viability and public interest in
 2834 thoroughbred breeding in Florida.

2835 (1) Upon application to the commission ~~division~~ on or
 2836 before January 31 of each year, any person that is licensed to
 2837 conduct public sales of thoroughbred horses pursuant to s.
 2838 535.01 and that has conducted at least 8 days of thoroughbred
 2839 horse sales at a permanent sales facility in this state for at
 2840 least 3 consecutive years before such application shall be
 2841 issued a license, subject to the conditions set forth in this
 2842 section, to conduct intertrack wagering at such a permanent

Page 98 of 140

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

28-01067-22 2022854__

2843 sales facility. No more than one such license may be issued, and
 2844 no such license may be issued for a facility located within 50
 2845 miles of any thoroughbred permitholder's track.

2846 (2) If more than one application is submitted for such
 2847 license, the commission division shall determine which applicant
 2848 shall be granted the license. In making its determination, the
 2849 commission division shall grant the license to the applicant
 2850 demonstrating superior capabilities, as measured by the length
 2851 of time the applicant has been conducting thoroughbred sales
 2852 within this state or elsewhere, the applicant's total volume of
 2853 thoroughbred horse sales, within this state or elsewhere, the
 2854 length of time the applicant has maintained a permanent
 2855 thoroughbred sales facility in this state, and the quality of
 2856 the facility.

2857 Section 45. Subsection (2) of section 550.70, Florida
 2858 Statutes, is amended to read:

2859 550.70 Jai alai general provisions; chief court judges
 2860 required; extension of time to construct fronton; amateur jai
 2861 alai contests permitted under certain conditions; playing days'
 2862 limitations; locking of pari-mutuel machines.—

2863 (2) The time within which the holder of a ratified permit
 2864 for jai alai or pelota has to construct and complete a fronton
 2865 may be extended by the commission division for a period of 24
 2866 months after the date of the issuance of the permit, anything to
 2867 the contrary in any statute notwithstanding.

2868 Section 46. Subsection (3) of section 550.902, Florida
 2869 Statutes, is amended to read:

2870 550.902 Purposes.—The purposes of this compact are to:

2871 (3) Authorize the Florida Gaming Control Commission

28-01067-22 2022854__

2872 ~~Department of Business and Professional Regulation~~ to
 2873 participate in this compact.

2874 Section 47. Subsection (1) of section 551.102, Florida
 2875 Statutes, is redesignated as subsection (3), subsection (3) of
 2876 that section is redesignated as subsection (1) and amended, and
 2877 subsections (11) and (12) are amended to read:

2878 551.102 Definitions.—As used in this chapter, the term:

2879 ~~(1)(3)~~ "Commission Division" means the Florida Gaming
 2880 Control Commission Division of Pari-mutuel Wagering of the
 2881 ~~Department of Business and Professional Regulation.~~

2882 (11) "Slot machine license" means a license issued by the
 2883 commission division authorizing a pari-mutuel permitholder to
 2884 place and operate slot machines as provided by s. 23, Art. X of
 2885 the State Constitution, the provisions of this chapter, and
 2886 commission division rules.

2887 (12) "Slot machine licensee" means a pari-mutuel
 2888 permitholder who holds a license issued by the commission
 2889 division pursuant to this chapter that authorizes such person to
 2890 possess a slot machine within facilities specified in s. 23,
 2891 Art. X of the State Constitution and allows slot machine gaming.

2892 Section 48. Section 551.103, Florida Statutes, is amended
 2893 to read:

2894 551.103 Powers and duties of the commission division and
 2895 law enforcement.—

2896 (1) The commission division shall adopt, pursuant to the
 2897 provisions of ss. 120.536(1) and 120.54, all rules necessary to
 2898 implement, administer, and regulate slot machine gaming as
 2899 authorized in this chapter. Such rules must include:

2900 (a) Procedures for applying for a slot machine license and

28-01067-22

2022854__

2901 renewal of a slot machine license.

2902 (b) Technical requirements and the qualifications contained
2903 in this chapter that are necessary to receive a slot machine
2904 license or slot machine occupational license.

2905 (c) Procedures to scientifically test and technically
2906 evaluate slot machines for compliance with this chapter. The
2907 commission division may contract with an independent testing
2908 laboratory to conduct any necessary testing under this section.
2909 An independent testing laboratory shall not be owned or
2910 controlled by a licensee. The use of an independent testing
2911 laboratory for any purpose related to the conduct of slot
2912 machine gaming by a licensee under this chapter shall be made
2913 from a list of one or more laboratories approved by the
2914 commission division.

2915 (d) Procedures relating to slot machine revenues, including
2916 verifying and accounting for such revenues, auditing, and
2917 collecting taxes and fees consistent with this chapter.

2918 (e) Procedures for regulating, managing, and auditing the
2919 operation, financial data, and program information relating to
2920 slot machine gaming that allow the commission division and the
2921 Department of Law Enforcement to audit the operation, financial
2922 data, and program information of a slot machine licensee, as
2923 required by the commission division or the Department of Law
2924 Enforcement, and provide the commission division and the
2925 Department of Law Enforcement with the ability to monitor, at
2926 any time on a real-time basis, wagering patterns, payouts, tax
2927 collection, and compliance with any rules adopted by the
2928 commission division for the regulation and control of slot
2929 machines operated under this chapter. Such continuous and

Page 101 of 140

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

28-01067-22

2022854__

2930 complete access, at any time on a real-time basis, shall include
2931 the ability of either the commission division or the Department
2932 of Law Enforcement to suspend play immediately on particular
2933 slot machines if monitoring of the facilities-based computer
2934 system indicates possible tampering or manipulation of those
2935 slot machines or the ability to suspend play immediately of the
2936 entire operation if the tampering or manipulation is of the
2937 computer system itself. The commission division shall notify the
2938 Department of Law Enforcement or the Department of Law
2939 Enforcement shall notify the commission division, as
2940 appropriate, whenever there is a suspension of play under this
2941 paragraph. The commission division and the Department of Law
2942 Enforcement shall exchange such information necessary for and
2943 cooperate in the investigation of the circumstances requiring
2944 suspension of play under this paragraph.

2945 (f) Procedures for requiring each licensee at his or her
2946 own cost and expense to supply the commission division with a
2947 bond having the penal sum of \$2 million payable to the Governor
2948 and his or her successors in office for each year of the
2949 licensee's slot machine operations. Any bond shall be issued by
2950 a surety or sureties approved by the commission division and the
2951 Chief Financial Officer, conditioned to faithfully make the
2952 payments to the Chief Financial Officer in his or her capacity
2953 as treasurer of the commission division. The licensee shall be
2954 required to keep its books and records and make reports as
2955 provided in this chapter and to conduct its slot machine
2956 operations in conformity with this chapter and all other
2957 provisions of law. Such bond shall be separate and distinct from
2958 the bond required in s. 550.125.

Page 102 of 140

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

28-01067-22

2022854__

2959 (g) Procedures for requiring licensees to maintain
 2960 specified records and submit any data, information, record, or
 2961 report, including financial and income records, required by this
 2962 chapter or determined by the commission ~~division~~ to be necessary
 2963 to the proper implementation and enforcement of this chapter.

2964 (h) A requirement that the payout percentage of a slot
 2965 machine be no less than 85 percent.

2966 (i) Minimum standards for security of the facilities,
 2967 including floor plans, security cameras, and other security
 2968 equipment.

2969 (j) Procedures for requiring slot machine licensees to
 2970 implement and establish drug-testing programs for all slot
 2971 machine occupational licensees.

2972 (2) The commission ~~division~~ shall conduct such
 2973 investigations necessary to fulfill its responsibilities under
 2974 the provisions of this chapter.

2975 (3) The Department of Law Enforcement and local law
 2976 enforcement agencies shall have concurrent jurisdiction to
 2977 investigate criminal violations of this chapter and may
 2978 investigate any other criminal violation of law occurring at the
 2979 facilities of a slot machine licensee, and such investigations
 2980 may be conducted in conjunction with the appropriate state
 2981 attorney.

2982 (4) (a) The commission ~~division~~, the Department of Law
 2983 Enforcement, and local law enforcement agencies shall have
 2984 unrestricted access to the slot machine licensee's facility at
 2985 all times and shall require of each slot machine licensee strict
 2986 compliance with the laws of this state relating to the
 2987 transaction of such business. The commission ~~division~~, the

Page 103 of 140

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

28-01067-22

2022854__

2988 Department of Law Enforcement, and local law enforcement
 2989 agencies may:

2990 1. Inspect and examine premises where slot machines are
 2991 offered for play.

2992 2. Inspect slot machines and related equipment and
 2993 supplies.

2994 (b) In addition, the commission ~~division~~ may:

2995 1. Collect taxes, assessments, fees, and penalties.

2996 2. Deny, revoke, suspend, or place conditions on the
 2997 license of a person who violates any provision of this chapter
 2998 or rule adopted pursuant thereto.

2999 (5) The commission ~~division~~ shall revoke or suspend the
 3000 license of any person who is no longer qualified or who is
 3001 found, after receiving a license, to have been unqualified at
 3002 the time of application for the license.

3003 (6) This section does not:

3004 (a) Prohibit the Department of Law Enforcement or any law
 3005 enforcement authority whose jurisdiction includes a licensed
 3006 facility from conducting investigations of criminal activities
 3007 occurring at the facility of the slot machine licensee;

3008 (b) Restrict access to the slot machine licensee's facility
 3009 by the Department of Law Enforcement or any local law
 3010 enforcement authority whose jurisdiction includes the slot
 3011 machine licensee's facility; or

3012 (c) Restrict access by the Department of Law Enforcement or
 3013 local law enforcement authorities to information and records
 3014 necessary to the investigation of criminal activity that are
 3015 contained within the slot machine licensee's facility.

3016 Section 49. Subsections (1) and (2), paragraphs (b), (c),

Page 104 of 140

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

28-01067-22 2022854__

3017 (d), (e), (f), (g), (h), and (i) of subsection (4), subsections
 3018 (6), (7), (8), and (9), and paragraphs (a) and (b) of subsection
 3019 (10) of section 551.104, Florida Statutes, are amended to read:
 3020 551.104 License to conduct slot machine gaming.—
 3021 (1) Upon application and a finding by the commission
 3022 ~~division~~ after investigation that the application is complete
 3023 and the applicant is qualified and payment of the initial
 3024 license fee, the commission ~~division~~ may issue a license to
 3025 conduct slot machine gaming in the designated slot machine
 3026 gaming area of the eligible facility. Once licensed, slot
 3027 machine gaming may be conducted subject to the requirements of
 3028 this chapter and rules adopted pursuant thereto.
 3029 (2) An application may be approved by the commission
 3030 ~~division~~ only after the voters of the county where the
 3031 applicant's facility is located have authorized by referendum
 3032 slot machines within pari-mutuel facilities in that county as
 3033 specified in s. 23, Art. X of the State Constitution.
 3034 (4) As a condition of licensure and to maintain continued
 3035 authority for the conduct of slot machine gaming, the slot
 3036 machine licensee shall:
 3037 (b) Continue to be in compliance with chapter 550, where
 3038 applicable, and maintain the pari-mutuel permit and license in
 3039 good standing pursuant to the provisions of chapter 550.
 3040 Notwithstanding any contrary provision of law and in order to
 3041 expedite the operation of slot machines at eligible facilities,
 3042 any eligible facility shall be entitled within 60 days after the
 3043 effective date of this act to amend its 2006-2007 pari-mutuel
 3044 wagering operating license issued by the commission ~~division~~
 3045 under ss. 550.0115 and 550.01215. The commission ~~division~~ shall

28-01067-22 2022854__

3046 issue a new license to the eligible facility to effectuate any
 3047 approved change.
 3048 (c) If a thoroughbred permitholder, conduct no fewer than a
 3049 full schedule of live racing or games as defined in s.
 3050 550.002(10) ~~550.002(11)~~. A permitholder's responsibility to
 3051 conduct live races or games shall be reduced by the number of
 3052 races or games that could not be conducted due to the direct
 3053 result of fire, strike, war, hurricane, pandemic, or other
 3054 disaster or event beyond the control of the permitholder.
 3055 (d) Upon approval of any changes relating to the pari-
 3056 mutuel permit by the commission ~~division~~, be responsible for
 3057 providing appropriate current and accurate documentation on a
 3058 timely basis to the commission ~~division~~ in order to continue the
 3059 slot machine license in good standing. Changes in ownership or
 3060 interest of a slot machine license of 5 percent or more of the
 3061 stock or other evidence of ownership or equity in the slot
 3062 machine license or any parent corporation or other business
 3063 entity that in any way owns or controls the slot machine license
 3064 shall be approved by the commission ~~division~~ prior to such
 3065 change, unless the owner is an existing holder of that license
 3066 who was previously approved by the commission ~~division~~. Changes
 3067 in ownership or interest of a slot machine license of less than
 3068 5 percent, unless such change results in a cumulative total of 5
 3069 percent or more, shall be reported to the commission ~~division~~
 3070 within 20 days after the change. The commission ~~division~~ may
 3071 then conduct an investigation to ensure that the license is
 3072 properly updated to show the change in ownership or interest. No
 3073 reporting is required if the person is holding 5 percent or less
 3074 equity or securities of a corporate owner of the slot machine

28-01067-22 2022854__
 3075 licensee that has its securities registered pursuant to s. 12 of
 3076 the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and
 3077 if such corporation or entity files with the United States
 3078 Securities and Exchange Commission the reports required by s. 13
 3079 of that act or if the securities of the corporation or entity
 3080 are regularly traded on an established securities market in the
 3081 United States. A change in ownership or interest of less than 5
 3082 percent which results in a cumulative ownership or interest of 5
 3083 percent or more shall be approved by the commission ~~division~~
 3084 prior to such change unless the owner is an existing holder of
 3085 the license who was previously approved by the commission
 3086 ~~division~~.

3087 (e) Allow the commission ~~division~~ and the Department of Law
 3088 Enforcement unrestricted access to and right of inspection of
 3089 facilities of a slot machine licensee in which any activity
 3090 relative to the conduct of slot machine gaming is conducted.

3091 (f) Ensure that the facilities-based computer system that
 3092 the licensee will use for operational and accounting functions
 3093 of the slot machine facility is specifically structured to
 3094 facilitate regulatory oversight. The facilities-based computer
 3095 system shall be designed to provide the commission ~~division~~ and
 3096 the Department of Law Enforcement with the ability to monitor,
 3097 at any time on a real-time basis, the wagering patterns,
 3098 payouts, tax collection, and such other operations as necessary
 3099 to determine whether the facility is in compliance with
 3100 statutory provisions and rules adopted by the commission
 3101 ~~division~~ for the regulation and control of slot machine gaming.
 3102 The commission ~~division~~ and the Department of Law Enforcement
 3103 shall have complete and continuous access to this system. Such

28-01067-22 2022854__
 3104 access shall include the ability of either the commission
 3105 ~~division~~ or the Department of Law Enforcement to suspend play
 3106 immediately on particular slot machines if monitoring of the
 3107 system indicates possible tampering or manipulation of those
 3108 slot machines or the ability to suspend play immediately of the
 3109 entire operation if the tampering or manipulation is of the
 3110 computer system itself. The computer system shall be reviewed
 3111 and approved by the commission ~~division~~ to ensure necessary
 3112 access, security, and functionality. The commission ~~division~~ may
 3113 adopt rules to provide for the approval process.

3114 (g) Ensure that each slot machine is protected from
 3115 manipulation or tampering to affect the random probabilities of
 3116 winning plays. The commission ~~division~~ or the Department of Law
 3117 Enforcement shall have the authority to suspend play upon
 3118 reasonable suspicion of any manipulation or tampering. When play
 3119 has been suspended on any slot machine, the commission ~~division~~
 3120 or the Department of Law Enforcement may examine any slot
 3121 machine to determine whether the machine has been tampered with
 3122 or manipulated and whether the machine should be returned to
 3123 operation.

3124 (h) Submit a security plan, including the facilities' floor
 3125 plan, the locations of security cameras, and a listing of all
 3126 security equipment that is capable of observing and
 3127 electronically recording activities being conducted in the
 3128 facilities of the slot machine licensee. The security plan must
 3129 meet the minimum security requirements as determined by the
 3130 commission ~~division~~ under s. 551.103(1)(i) and be implemented
 3131 prior to operation of slot machine gaming. The slot machine
 3132 licensee's facilities must adhere to the security plan at all

28-01067-22 2022854__

3133 times. Any changes to the security plan must be submitted by the
3134 licensee to the ~~commission division~~ prior to implementation. The
3135 ~~commission division~~ shall furnish copies of the security plan
3136 and changes in the plan to the Department of Law Enforcement.

3137 (i) Create and file with the ~~commission division~~ a written
3138 policy for:

3139 1. Creating opportunities to purchase from vendors in this
3140 state, including minority vendors.

3141 2. Creating opportunities for employment of residents of
3142 this state, including minority residents.

3143 3. Ensuring opportunities for construction services from
3144 minority contractors.

3145 4. Ensuring that opportunities for employment are offered
3146 on an equal, nondiscriminatory basis.

3147 5. Training for employees on responsible gaming and working
3148 with a compulsive or addictive gambling prevention program to
3149 further its purposes as provided for in s. 551.118.

3150 6. The implementation of a drug-testing program that
3151 includes, but is not limited to, requiring each employee to sign
3152 an agreement that he or she understands that the slot machine
3153 facility is a drug-free workplace.

3154

3155 The slot machine licensee shall use the Internet-based job-
3156 listing system of the Department of Economic Opportunity in
3157 advertising employment opportunities. ~~Beginning in June 2007,~~
3158 Each slot machine licensee shall provide an annual report to the
3159 Florida Gaming Control Commission division containing
3160 information indicating compliance with this paragraph in regard
3161 to minority persons.

28-01067-22 2022854__

3162 (6) A slot machine licensee shall keep and maintain
3163 permanent daily records of its slot machine operation and shall
3164 maintain such records for a period of not less than 5 years.
3165 These records must include all financial transactions and
3166 contain sufficient detail to determine compliance with the
3167 requirements of this chapter. All records shall be available for
3168 audit and inspection by the ~~commission division~~, the Department
3169 of Law Enforcement, or other law enforcement agencies during the
3170 licensee's regular business hours.

3171 (7) A slot machine licensee shall file with the commission
3172 ~~division~~ a monthly report containing the required records of
3173 such slot machine operation. The required reports shall be
3174 submitted on forms prescribed by the ~~commission division~~ and
3175 shall be due at the same time as the monthly pari-mutuel reports
3176 are due to the ~~commission division~~, and the reports shall be
3177 deemed public records once filed.

3178 (8) A slot machine licensee shall file with the commission
3179 ~~division~~ an audit of the receipt and distribution of all slot
3180 machine revenues provided by an independent certified public
3181 accountant verifying compliance with all financial and auditing
3182 provisions of this chapter and the associated rules adopted
3183 under this chapter. The audit must include verification of
3184 compliance with all statutes and rules regarding all required
3185 records of slot machine operations. Such audit shall be filed
3186 within 60 days after the completion of the permitholder's pari-
3187 mutuel meet.

3188 (9) The ~~commission division~~ may share any information with
3189 the Department of Law Enforcement, any other law enforcement
3190 agency having jurisdiction over slot machine gaming or pari-

28-01067-22

2022854__

3191 mutuel activities, or any other state or federal law enforcement
 3192 agency the commission division or the Department of Law
 3193 Enforcement deems appropriate. Any law enforcement agency having
 3194 jurisdiction over slot machine gaming or pari-mutuel activities
 3195 may share any information obtained or developed by it with the
 3196 commission division.

3197 (10) (a)1. No slot machine license or renewal thereof shall
 3198 be issued to an applicant holding a permit under chapter 550 to
 3199 conduct pari-mutuel wagering meets of thoroughbred racing unless
 3200 the applicant has on file with the commission division a binding
 3201 written agreement between the applicant and the Florida
 3202 Horsemen's Benevolent and Protective Association, Inc.,
 3203 governing the payment of purses on live thoroughbred races
 3204 conducted at the licensee's pari-mutuel facility. In addition,
 3205 no slot machine license or renewal thereof shall be issued to
 3206 such an applicant unless the applicant has on file with the
 3207 commission division a binding written agreement between the
 3208 applicant and the Florida Thoroughbred Breeders' Association,
 3209 Inc., governing the payment of breeders', stallion, and special
 3210 racing awards on live thoroughbred races conducted at the
 3211 licensee's pari-mutuel facility. The agreement governing purses
 3212 and the agreement governing awards may direct the payment of
 3213 such purses and awards from revenues generated by any wagering
 3214 or gaming the applicant is authorized to conduct under Florida
 3215 law. All purses and awards shall be subject to the terms of
 3216 chapter 550. All sums for breeders', stallion, and special
 3217 racing awards shall be remitted monthly to the Florida
 3218 Thoroughbred Breeders' Association, Inc., for the payment of
 3219 awards subject to the administrative fee authorized in s.

Page 111 of 140

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

28-01067-22

2022854__

3220 550.2625(3).

3221 2. No slot machine license or renewal thereof shall be
 3222 issued to an applicant holding a permit under chapter 550 to
 3223 conduct pari-mutuel wagering meets of quarter horse racing
 3224 unless the applicant has on file with the commission division a
 3225 binding written agreement between the applicant and the Florida
 3226 Quarter Horse Racing Association or the association representing
 3227 a majority of the horse owners and trainers at the applicant's
 3228 eligible facility, governing the payment of purses on live
 3229 quarter horse races conducted at the licensee's pari-mutuel
 3230 facility. The agreement governing purses may direct the payment
 3231 of such purses from revenues generated by any wagering or gaming
 3232 the applicant is authorized to conduct under Florida law. All
 3233 purses shall be subject to the terms of chapter 550.

3234 (b) The commission division shall suspend a slot machine
 3235 license if one or more of the agreements required under
 3236 paragraph (a) are terminated or otherwise cease to operate or if
 3237 the commission division determines that the licensee is
 3238 materially failing to comply with the terms of such an
 3239 agreement. Any such suspension shall take place in accordance
 3240 with chapter 120.

3241 Section 50. Subsection (1) of section 551.1045, Florida
 3242 Statutes, is amended to read:

3243 551.1045 Temporary licenses.—

3244 (1) Notwithstanding any provision of s. 120.60 to the
 3245 contrary, the commission division may issue a temporary
 3246 occupational license upon the receipt of a complete application
 3247 from the applicant and a determination that the applicant has
 3248 not been convicted of or had adjudication withheld on any

Page 112 of 140

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

28-01067-22 2022854__

3249 disqualifying criminal offense. The temporary occupational
 3250 license remains valid until such time as the commission division
 3251 grants an occupational license or notifies the applicant of its
 3252 intended decision to deny the applicant a license pursuant to
 3253 the provisions of s. 120.60. The commission division shall adopt
 3254 rules to administer this subsection. However, not more than one
 3255 temporary license may be issued for any person in any year.

3256 Section 51. Subsection (3) of section 551.105, Florida
 3257 Statutes, is amended to read:

3258 551.105 Slot machine license renewal.—

3259 (3) Upon determination by the commission division that the
 3260 application for renewal is complete and qualifications have been
 3261 met, including payment of the renewal fee, the slot machine
 3262 license shall be renewed annually.

3263 Section 52. Paragraph (a) of subsection (1), paragraph (b)
 3264 of subsection (2), and subsections (3), (4), and (5) of section
 3265 551.106, Florida Statutes, are amended to read:

3266 551.106 License fee; tax rate; penalties.—

3267 (1) LICENSE FEE.—

3268 (a) Upon submission of the initial application for a slot
 3269 machine license and annually thereafter, on the anniversary date
 3270 of the issuance of the initial license, the licensee must pay to
 3271 the commission division a nonrefundable license fee of \$3
 3272 million for the succeeding 12 months of licensure. ~~In the 2010-~~
 3273 ~~2011 fiscal year, the licensee must pay the division a~~
 3274 ~~nonrefundable license fee of \$2.5 million for the succeeding 12~~
 3275 ~~months of licensure. In the 2011-2012 fiscal year and for every~~
 3276 ~~fiscal year thereafter, The licensee must pay the commission~~
 3277 ~~division a nonrefundable license fee of \$2 million for the~~

Page 113 of 140

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

28-01067-22 2022854__

3278 succeeding 12 months of licensure. The license fee shall be
 3279 deposited into the Pari-mutuel Wagering Trust Fund ~~of the~~
 3280 ~~Department of Business and Professional Regulation~~ to be used by
 3281 the commission division and the Department of Law Enforcement
 3282 for investigations, regulation of slot machine gaming, and
 3283 enforcement of slot machine gaming provisions under this
 3284 chapter. These payments shall be accounted for separately from
 3285 taxes or fees paid pursuant to the provisions of chapter 550.

3286 (2) TAX ON SLOT MACHINE REVENUES.—

3287 (b) The slot machine revenue tax imposed by this section
 3288 shall be paid to the commission division for deposit into the
 3289 Pari-mutuel Wagering Trust Fund for immediate transfer by the
 3290 Chief Financial Officer for deposit into the Educational
 3291 Enhancement Trust Fund of the Department of Education. Any
 3292 interest earnings on the tax revenues shall also be transferred
 3293 to the Educational Enhancement Trust Fund.

3294 (3) PAYMENT AND DISPOSITION OF TAXES.—Payment for the tax
 3295 on slot machine revenues imposed by this section shall be paid
 3296 to the commission division. The commission division shall
 3297 deposit these sums with the Chief Financial Officer, to the
 3298 credit of the Pari-mutuel Wagering Trust Fund. The slot machine
 3299 licensee shall remit to the commission division payment for the
 3300 tax on slot machine revenues. Such payments shall be remitted by
 3301 3 p.m. Wednesday of each week for taxes imposed and collected
 3302 for the preceding week ending on Sunday. Beginning on July 1,
 3303 2012, the slot machine licensee shall remit to the commission
 3304 division payment for the tax on slot machine revenues by 3 p.m.
 3305 on the 5th day of each calendar month for taxes imposed and
 3306 collected for the preceding calendar month. If the 5th day of

Page 114 of 140

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

28-01067-22 2022854__

3307 the calendar month falls on a weekend, payments shall be
 3308 remitted by 3 p.m. the first Monday following the weekend. The
 3309 slot machine licensee shall file a report under oath by the 5th
 3310 day of each calendar month for all taxes remitted during the
 3311 preceding calendar month. Such payments shall be accompanied by
 3312 a report under oath showing all slot machine gaming activities
 3313 for the preceding calendar month and such other information as
 3314 may be prescribed by the commission division.

3315 (4) TO PAY TAX; PENALTIES.—A slot machine licensee who
 3316 fails to make tax payments as required under this section is
 3317 subject to an administrative penalty of up to \$10,000 for each
 3318 day the tax payment is not remitted. All administrative
 3319 penalties imposed and collected shall be deposited into the
 3320 Pari-mutuel Wagering Trust Fund ~~of the Department of Business~~
 3321 ~~and Professional Regulation~~. If any slot machine licensee fails
 3322 to pay penalties imposed by order of the commission division
 3323 under this subsection, the commission division may suspend,
 3324 revoke, or refuse to renew the license of the slot machine
 3325 licensee.

3326 (5) SUBMISSION OF FUNDS.—The commission division may
 3327 require slot machine licensees to remit taxes, fees, fines, and
 3328 assessments by electronic funds transfer.

3329 Section 53. Paragraph (b) of subsection (2), paragraphs
 3330 (a), (c), and (d) of subsection (4), subsection (5), paragraphs
 3331 (a) and (b) of subsection (6), and subsections (7), (9), (10),
 3332 and (11) of section 551.107, Florida Statutes, are amended to
 3333 read:

3334 551.107 Slot machine occupational license; findings;
 3335 application; fee.—

Page 115 of 140

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

28-01067-22 2022854__

3336 (2)
 3337 (b) The commission division may issue one license to
 3338 combine licenses under this section with pari-mutuel
 3339 occupational licenses and cardroom licenses pursuant to s.
 3340 550.105(2)(b). The commission division shall adopt rules
 3341 pertaining to occupational licenses under this subsection. Such
 3342 rules may specify, but need not be limited to, requirements and
 3343 restrictions for licensed occupations and categories, procedures
 3344 to apply for any license or combination of licenses,
 3345 disqualifying criminal offenses for a licensed occupation or
 3346 categories of occupations, and which types of occupational
 3347 licenses may be combined into a single license under this
 3348 section. The fingerprinting requirements of subsection (7) apply
 3349 to any combination license that includes slot machine license
 3350 privileges under this section. The commission division may not
 3351 adopt a rule allowing the issuance of an occupational license to
 3352 any person who does not meet the minimum background
 3353 qualifications under this section.

3354 (4) (a) A person seeking a slot machine occupational license
 3355 or renewal thereof shall make application on forms prescribed by
 3356 the commission division and include payment of the appropriate
 3357 application fee. Initial and renewal applications for slot
 3358 machine occupational licenses must contain all information that
 3359 the commission division, by rule, determines is required to
 3360 ensure eligibility.

3361 (c) Pursuant to rules adopted by the commission division,
 3362 any person may apply for and, if qualified, be issued a slot
 3363 machine occupational license valid for a period of 3 years upon
 3364 payment of the full occupational license fee for each of the 3

Page 116 of 140

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

28-01067-22 2022854__

3365 years for which the license is issued. The slot machine
 3366 occupational license is valid during its specified term at any
 3367 licensed facility where slot machine gaming is authorized to be
 3368 conducted.

3369 (d) The slot machine occupational license fee for initial
 3370 application and annual renewal shall be determined by rule of
 3371 the commission division but may not exceed \$50 for a general or
 3372 professional occupational license for an employee of the slot
 3373 machine licensee or \$1,000 for a business occupational license
 3374 for nonemployees of the licensee providing goods or services to
 3375 the slot machine licensee. License fees for general occupational
 3376 licensees shall be paid by the slot machine licensee. Failure to
 3377 pay the required fee constitutes grounds for disciplinary action
 3378 by the commission division against the slot machine licensee,
 3379 but it is not a violation of this chapter or rules of the
 3380 commission division by the general occupational licensee and
 3381 does not prohibit the initial issuance or the renewal of the
 3382 general occupational license.

3383 (5) The commission division may:

3384 (a) Deny an application for, or revoke, suspend, or place
 3385 conditions or restrictions on, a license of a person or entity
 3386 that has been refused a license by any other state gaming
 3387 commission, governmental department, agency, or other authority
 3388 exercising regulatory jurisdiction over the gaming of another
 3389 state or jurisdiction; or

3390 (b) Deny an application for, or suspend or place conditions
 3391 on, a license of any person or entity that is under suspension
 3392 or has unpaid fines in another state or jurisdiction.

3393 (6) (a) The commission division may deny, suspend, revoke,

Page 117 of 140

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

28-01067-22 2022854__

3394 or refuse to renew any slot machine occupational license if the
 3395 applicant for such license or the licensee has violated the
 3396 provisions of this chapter or the rules of the commission
 3397 ~~division~~ governing the conduct of persons connected with slot
 3398 machine gaming. In addition, the commission division may deny,
 3399 suspend, revoke, or refuse to renew any slot machine
 3400 occupational license if the applicant for such license or the
 3401 licensee has been convicted in this state, in any other state,
 3402 or under the laws of the United States of a capital felony, a
 3403 felony, or an offense in any other state that would be a felony
 3404 under the laws of this state involving arson; trafficking in,
 3405 conspiracy to traffic in, smuggling, importing, conspiracy to
 3406 smuggle or import, or delivery, sale, or distribution of a
 3407 controlled substance; racketeering; or a crime involving a lack
 3408 of good moral character, or has had a gaming license revoked by
 3409 this state or any other jurisdiction for any gaming-related
 3410 offense.

3411 (b) The commission division may deny, revoke, or refuse to
 3412 renew any slot machine occupational license if the applicant for
 3413 such license or the licensee has been convicted of a felony or
 3414 misdemeanor in this state, in any other state, or under the laws
 3415 of the United States if such felony or misdemeanor is related to
 3416 gambling or bookmaking as described in s. 849.25.

3417 (7) Fingerprints for all slot machine occupational license
 3418 applications shall be taken in a manner approved by the
 3419 commission division and shall be submitted electronically to the
 3420 Department of Law Enforcement for state processing and the
 3421 Federal Bureau of Investigation for national processing for a
 3422 criminal history record check. All persons as specified in s.

Page 118 of 140

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

28-01067-22 2022854__

3423 550.1815(1) (a) employed by or working within a licensed premises
 3424 shall submit fingerprints for a criminal history record check
 3425 and may not have been convicted of any disqualifying criminal
 3426 offenses specified in subsection (6). Commission ~~Division~~
 3427 employees and law enforcement officers assigned by their
 3428 employing agencies to work within the premises as part of their
 3429 official duties are excluded from the criminal history record
 3430 check requirements under this subsection. For purposes of this
 3431 subsection, the term "convicted" means having been found guilty,
 3432 with or without adjudication of guilt, as a result of a jury
 3433 verdict, nonjury trial, or entry of a plea of guilty or nolo
 3434 contendere.

3435 (a) Fingerprints shall be taken in a manner approved by the
 3436 ~~commission division~~ upon initial application, or as required
 3437 thereafter by rule of the commission division, and shall be
 3438 submitted electronically to the Department of Law Enforcement
 3439 for state processing. The Department of Law Enforcement shall
 3440 forward the fingerprints to the Federal Bureau of Investigation
 3441 for national processing. The results of the criminal history
 3442 record check shall be returned to the ~~commission division~~ for
 3443 purposes of screening. Licensees shall provide necessary
 3444 equipment approved by the Department of Law Enforcement to
 3445 facilitate such electronic submission. The ~~commission division~~
 3446 requirements under this subsection shall be instituted in
 3447 consultation with the Department of Law Enforcement.

3448 (b) The cost of processing fingerprints and conducting a
 3449 criminal history record check for a general occupational license
 3450 shall be borne by the slot machine licensee. The cost of
 3451 processing fingerprints and conducting a criminal history record

Page 119 of 140

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

28-01067-22 2022854__

3452 check for a business or professional occupational license shall
 3453 be borne by the person being checked. The Department of Law
 3454 Enforcement may invoice the commission ~~division~~ for the
 3455 fingerprints submitted each month.

3456 (c) All fingerprints submitted to the Department of Law
 3457 Enforcement and required by this section shall be retained by
 3458 the Department of Law Enforcement and entered into the statewide
 3459 automated biometric identification system as authorized by s.
 3460 943.05(2) (b) and shall be available for all purposes and uses
 3461 authorized for arrest fingerprints entered into the statewide
 3462 automated biometric identification system pursuant to s.
 3463 943.051.

3464 (d) The Department of Law Enforcement shall search all
 3465 arrest fingerprints received pursuant to s. 943.051 against the
 3466 fingerprints retained in the statewide automated biometric
 3467 identification system under paragraph (c). Any arrest record
 3468 that is identified with the retained fingerprints of a person
 3469 subject to the criminal history screening requirements of this
 3470 section shall be reported to the commission division. Each
 3471 licensed facility shall pay a fee to the ~~commission division~~ for
 3472 the cost of retention of the fingerprints and the ongoing
 3473 searches under this paragraph. The ~~commission division~~ shall
 3474 forward the payment to the Department of Law Enforcement. The
 3475 amount of the fee to be imposed for performing these searches
 3476 and the procedures for the retention of licensee fingerprints
 3477 shall be as established by rule of the Department of Law
 3478 Enforcement. The ~~commission division~~ shall inform the Department
 3479 of Law Enforcement of any change in the license status of
 3480 licensees whose fingerprints are retained under paragraph (c).

Page 120 of 140

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

28-01067-22

2022854__

3481 (e) The commission ~~division~~ shall request the Department of
 3482 Law Enforcement to forward the fingerprints to the Federal
 3483 Bureau of Investigation for a national criminal history records
 3484 check every 3 years following issuance of a license. If the
 3485 fingerprints of a person who is licensed have not been retained
 3486 by the Department of Law Enforcement, the person must file a
 3487 complete set of fingerprints as provided for in paragraph (a).
 3488 The commission ~~division~~ shall collect the fees for the cost of
 3489 the national criminal history record check under this paragraph
 3490 and shall forward the payment to the Department of Law
 3491 Enforcement. The cost of processing fingerprints and conducting
 3492 a criminal history record check under this paragraph for a
 3493 general occupational license shall be borne by the slot machine
 3494 licensee. The cost of processing fingerprints and conducting a
 3495 criminal history record check under this paragraph for a
 3496 business or professional occupational license shall be borne by
 3497 the person being checked. The Department of Law Enforcement may
 3498 invoice the commission ~~division~~ for the fingerprints submitted
 3499 each month. Under penalty of perjury, each person who is
 3500 licensed or who is fingerprinted as required by this section
 3501 must agree to inform the commission ~~division~~ within 48 hours if
 3502 he or she is convicted of or has entered a plea of guilty or
 3503 nolo contendere to any disqualifying offense, regardless of
 3504 adjudication.

3505 (9) The commission ~~division~~ may deny, revoke, or suspend
 3506 any occupational license if the applicant or holder of the
 3507 license accumulates unpaid obligations, defaults in obligations,
 3508 or issues drafts or checks that are dishonored or for which
 3509 payment is refused without reasonable cause.

Page 121 of 140

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

28-01067-22

2022854__

3510 (10) The commission ~~division~~ may fine or suspend, revoke,
 3511 or place conditions upon the license of any licensee who
 3512 provides false information under oath regarding an application
 3513 for a license or an investigation by the commission ~~division~~.

3514 (11) The commission ~~division~~ may impose a civil fine of up
 3515 to \$5,000 for each violation of this chapter or the rules of the
 3516 commission ~~division~~ in addition to or in lieu of any other
 3517 penalty provided for in this section. The commission ~~division~~
 3518 may adopt a penalty schedule for violations of this chapter or
 3519 any rule adopted pursuant to this chapter for which it would
 3520 impose a fine in lieu of a suspension and adopt rules allowing
 3521 for the issuance of citations, including procedures to address
 3522 such citations, to persons who violate such rules. In addition
 3523 to any other penalty provided by law, the commission ~~division~~
 3524 may exclude from all licensed slot machine facilities in this
 3525 state, for a period not to exceed the period of suspension,
 3526 revocation, or ineligibility, any person whose occupational
 3527 license application has been declared ineligible to hold an
 3528 occupational license or whose occupational license has been
 3529 suspended or revoked by the commission ~~division~~.

3530 Section 54. Subsections (1) and (4) of section 551.108,
 3531 Florida Statutes, are amended to read:

3532 551.108 Prohibited relationships.—

3533 (1) A person employed by or performing any function on
 3534 behalf of the commission ~~division~~ may not:

3535 (a) Be an officer, director, owner, or employee of any
 3536 person or entity licensed by the commission ~~division~~.

3537 (b) Have or hold any interest, direct or indirect, in or
 3538 engage in any commerce or business relationship with any person

Page 122 of 140

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

28-01067-22

2022854__

3539 licensed by the commission division.

3540 (4) An employee of the commission division or relative
3541 living in the same household as such employee of the commission
3542 division may not wager at any time on a slot machine located at
3543 a facility licensed by the commission division.

3544 Section 55. Subsections (2) and (7) of section 551.109,
3545 Florida Statutes, are amended to read:

3546 551.109 Prohibited acts; penalties.—

3547 (2) Except as otherwise provided by law and in addition to
3548 any other penalty, any person who possesses a slot machine
3549 without the license required by this chapter or who possesses a
3550 slot machine at any location other than at the slot machine
3551 licensee's facility is subject to an administrative fine or
3552 civil penalty of up to \$10,000 per machine. The prohibition in
3553 this subsection does not apply to:

3554 (a) Slot machine manufacturers or slot machine distributors
3555 that hold appropriate licenses issued by the commission division
3556 who are authorized to maintain a slot machine storage and
3557 maintenance facility at any location in a county in which slot
3558 machine gaming is authorized by this chapter. The commission
3559 division may adopt rules regarding security and access to the
3560 storage facility and inspections by the commission division.

3561 (b) Certified educational facilities that are authorized to
3562 maintain slot machines for the sole purpose of education and
3563 licensure, if any, of slot machine technicians, inspectors, or
3564 investigators. The commission division and the Department of Law
3565 Enforcement may possess slot machines for training and testing
3566 purposes. The commission division may adopt rules regarding the
3567 regulation of any such slot machines used for educational,

Page 123 of 140

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

28-01067-22

2022854__

3568 training, or testing purposes.

3569 (7) All penalties imposed and collected under this section
3570 must be deposited into the Pari-mutuel Wagering Trust Fund ~~of~~
3571 ~~the Department of Business and Professional Regulation~~.

3572 Section 56. Section 551.112, Florida Statutes, is amended
3573 to read:

3574 551.112 Exclusions of certain persons.—In addition to the
3575 power to exclude certain persons from any facility of a slot
3576 machine licensee in this state, the commission division may
3577 exclude any person from any facility of a slot machine licensee
3578 in this state for conduct that would constitute, if the person
3579 were a licensee, a violation of this chapter or the rules of the
3580 commission division. The commission division may exclude from
3581 any facility of a slot machine licensee any person who has been
3582 ejected from a facility of a slot machine licensee in this state
3583 or who has been excluded from any facility of a slot machine
3584 licensee or gaming facility in another state by the governmental
3585 department, agency, commission, or authority exercising
3586 regulatory jurisdiction over the gaming in such other state.
3587 This section does not abrogate the common law right of a slot
3588 machine licensee to exclude a patron absolutely in this state.

3589 Section 57. Subsections (3) and (5) of section 551.114,
3590 Florida Statutes, are amended to read:

3591 551.114 Slot machine gaming areas.—

3592 (3) The commission division shall require the posting of
3593 signs warning of the risks and dangers of gambling, showing the
3594 odds of winning, and informing patrons of the toll-free
3595 telephone number available to provide information and referral
3596 services regarding compulsive or problem gambling.

Page 124 of 140

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

28-01067-22

2022854__

3597 (5) The permitholder shall provide adequate office space at
 3598 no cost to the commission division and the Department of Law
 3599 Enforcement for the oversight of slot machine operations. The
 3600 commission division shall adopt rules establishing the criteria
 3601 for adequate space, configuration, and location and needed
 3602 electronic and technological requirements for office space
 3603 required by this subsection.

3604 Section 58. Section 551.117, Florida Statutes, is amended
 3605 to read:

3606 551.117 Penalties.—The commission division may revoke or
 3607 suspend any slot machine license issued under this chapter upon
 3608 the willful violation by the slot machine licensee of any
 3609 provision of this chapter or of any rule adopted under this
 3610 chapter. In lieu of suspending or revoking a slot machine
 3611 license, the commission division may impose a civil penalty
 3612 against the slot machine licensee for a violation of this
 3613 chapter or any rule adopted by the commission division. Except
 3614 as otherwise provided in this chapter, the penalty so imposed
 3615 may not exceed \$100,000 for each count or separate offense. All
 3616 penalties imposed and collected must be deposited into the Pari-
 3617 mutuel Wagering Trust Fund of the Department of Business and
 3618 Professional Regulation.

3619 Section 59. Subsections (2) and (3) of section 551.118,
 3620 Florida Statutes, are amended to read:

3621 551.118 Compulsive or addictive gambling prevention
 3622 program.—

3623 (2) The commission division shall, subject to competitive
 3624 bidding, contract for provision of services related to the
 3625 prevention of compulsive and addictive gambling. The contract

Page 125 of 140

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

28-01067-22

2022854__

3626 shall provide for an advertising program to encourage
 3627 responsible gaming practices and to publicize a gambling
 3628 telephone help line. Such advertisements must be made both
 3629 publicly and inside the designated slot machine gaming areas of
 3630 the licensee's facilities. The terms of any contract for the
 3631 provision of such services shall include accountability
 3632 standards that must be met by any private provider. The failure
 3633 of any private provider to meet any material terms of the
 3634 contract, including the accountability standards, shall
 3635 constitute a breach of contract or grounds for nonrenewal. The
 3636 commission division may consult with the Department of the
 3637 Lottery in the development of the program and the development
 3638 and analysis of any procurement for contractual services for the
 3639 compulsive or addictive gambling prevention program.

3640 (3) The compulsive or addictive gambling prevention program
 3641 shall be funded from an annual nonrefundable regulatory fee of
 3642 \$250,000 paid by the licensee to the commission division.

3643 Section 60. Paragraph (c) of subsection (4) of section
 3644 551.121, Florida Statutes, is amended to read:

3645 551.121 Prohibited activities and devices; exceptions.—

3646 (4)

3647 (c) Outside the designated slot machine gaming areas, a
 3648 slot machine licensee or operator may accept or cash a check for
 3649 an employee of the facility who is prohibited from wagering on a
 3650 slot machine under s. 551.108(5), a check made directly payable
 3651 to a person licensed by the commission division, or a check made
 3652 directly payable to the slot machine licensee or operator from:

- 3653 1. A pari-mutuel patron; or
- 3654 2. A pari-mutuel facility in this state or in another

Page 126 of 140

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

28-01067-22 2022854__

3655 state.

3656 Section 61. Section 551.122, Florida Statutes, is amended
3657 to read:

3658 551.122 Rulemaking.—The commission ~~division~~ may adopt rules
3659 pursuant to ss. 120.536(1) and 120.54 to administer the
3660 provisions of this chapter.

3661 Section 62. Section 551.123, Florida Statutes, is amended
3662 to read:

3663 551.123 Legislative authority; administration of chapter.—
3664 The Legislature finds and declares that it has exclusive
3665 authority over the conduct of all wagering occurring at a slot
3666 machine facility in this state. As provided by law, only the
3667 Florida Gaming Control Commission ~~Division of Pari-mutuel~~
3668 ~~Wagering~~ and other authorized state agencies shall administer
3669 this chapter and regulate the slot machine gaming industry,
3670 including operation of slot machine facilities, games, slot
3671 machines, and facilities-based computer systems authorized in
3672 this chapter and the rules adopted by the commission ~~division~~.

3673 Section 63. Subsection (5) of section 565.02, Florida
3674 Statutes, is amended to read:

3675 565.02 License fees; vendors; clubs; caterers; and others.—

3676 (5) A caterer at a pari-mutuel facility licensed under
3677 chapter 550 may obtain a license upon the payment of an annual
3678 state license tax of \$675. Such caterer's license shall permit
3679 sales only within the enclosure in which pari-mutuel wagering is
3680 conducted under the authority of the Florida Gaming Control
3681 Commission ~~Division of Pari-mutuel Wagering of the Department of~~
3682 ~~Business and Professional Regulation~~. Except as otherwise
3683 provided in this subsection, caterers licensed hereunder shall

Page 127 of 140

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

28-01067-22 2022854__

3684 be treated as vendors licensed to sell by the drink the
3685 beverages mentioned herein and shall be subject to all the
3686 provisions hereof relating to such vendors.

3687 Section 64. Subsections (3) and (4) of section 817.37,
3688 Florida Statutes, are amended to read:

3689 817.37 Touting; defining; providing punishment; ejection
3690 from racetracks.—

3691 (3) Any person who in the commission of touting falsely
3692 uses the name of any official of the Florida Gaming Control
3693 Commission ~~Division of Pari-mutuel Wagering~~, its inspectors or
3694 attaches, or of any official of any racetrack association, or
3695 the names of any owner, trainer, jockey, or other person
3696 licensed by the Florida Gaming Control Commission ~~Division of~~
3697 ~~Pari-mutuel Wagering~~, as the source of any information or
3698 purported information shall be guilty of a felony of the third
3699 degree, punishable as provided in s. 775.082, s. 775.083, or s.
3700 775.084.

3701 (4) Any person who has been convicted of touting by any
3702 court, and the record of whose conviction on such charge is on
3703 file in the office of the Florida Gaming Control Commission
3704 ~~Division of Pari-mutuel Wagering~~, any court of this state, or of
3705 the Federal Bureau of Investigation, or any person who has been
3706 ejected from any racetrack of this or any other state for
3707 touting or practices inimical to the public interest shall be
3708 excluded from all racetracks in this state and if such person
3709 returns to a racetrack he or she shall be guilty of a
3710 misdemeanor of the second degree, punishable as provided in s.
3711 775.082 or s. 775.083. Any such person who refuses to leave such
3712 track when ordered to do so by inspectors of the Florida Gaming

Page 128 of 140

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

28-01067-22

2022854__

3713 ~~Control Commission Division of Pari-mutuel Wagering~~ or by any
3714 peace officer, or by an accredited attache of a racetrack or
3715 association shall be guilty of a separate offense which shall be
3716 a misdemeanor of the second degree, punishable as provided in s.
3717 775.083.

3718 Section 65. Paragraphs (f) and (g) of subsection (2),
3719 subsection (4), paragraphs (a), (d), and (e) of subsection (5),
3720 paragraphs (a), (b), (d), (e), (f), (g), and (h) of subsection
3721 (6), paragraphs (a), (f), and (h) of subsection (7), subsection
3722 (11), paragraphs (b), (c), (d), (e), and (h) of subsection (13),
3723 subsection (14), paragraph (b) of subsection (15), paragraph (a)
3724 of subsection (16), and paragraph (a) of subsection (17) of
3725 section 849.086, Florida Statutes, are amended to read:

3726 849.086 Cardrooms authorized.—

3727 (2) DEFINITIONS.—As used in this section:

3728 (f) "Cardroom operator" means a licensed pari-mutuel
3729 permitholder which holds a valid permit and license issued by
3730 the Florida Gaming Control Commission division pursuant to
3731 chapter 550 and which also holds a valid cardroom license issued
3732 by the commission division pursuant to this section which
3733 authorizes such person to operate a cardroom and to conduct
3734 authorized games in such cardroom.

3735 (g) "Commission Division" means the Florida Gaming Control
3736 Commission Division of Pari-mutuel Wagering of the Department of
3737 Business and Professional Regulation.

3738 (4) AUTHORITY OF COMMISSION DIVISION.—The commission
3739 Division of Pari-mutuel Wagering of the Department of Business
3740 and Professional Regulation shall administer this section and
3741 regulate the operation of cardrooms under this section and the

Page 129 of 140

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

28-01067-22

2022854__

3742 rules adopted pursuant thereto, and is hereby authorized to:

3743 (a) Adopt rules, including, but not limited to: the
3744 issuance of cardroom and employee licenses for cardroom
3745 operations; the operation of a cardroom; recordkeeping and
3746 reporting requirements; and the collection of all fees and taxes
3747 imposed by this section.

3748 (b) Conduct investigations and monitor the operation of
3749 cardrooms and the playing of authorized games therein.

3750 (c) Review the books, accounts, and records of any current
3751 or former cardroom operator.

3752 (d) Suspend or revoke any license or permit, after hearing,
3753 for any violation of the provisions of this section or the
3754 administrative rules adopted pursuant thereto.

3755 (e) Take testimony, issue summons and subpoenas for any
3756 witness, and issue subpoenas duces tecum in connection with any
3757 matter within its jurisdiction.

3758 (f) Monitor and ensure the proper collection of taxes and
3759 fees imposed by this section. Permitholder internal controls are
3760 mandated to ensure no compromise of state funds. To that end, a
3761 roaming commission division auditor will monitor and verify the
3762 cash flow and accounting of cardroom revenue for any given
3763 operating day.

3764 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may
3765 operate a cardroom in this state unless such person holds a
3766 valid cardroom license issued pursuant to this section.

3767 (a) Only those persons holding a valid cardroom license
3768 issued by the commission division may operate a cardroom. A
3769 cardroom license may only be issued to a licensed pari-mutuel
3770 permitholder, and an authorized cardroom may only be operated at

Page 130 of 140

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

28-01067-22

2022854__

3771 the same facility at which the permitholder is authorized under
 3772 its valid pari-mutuel wagering permit to conduct pari-mutuel
 3773 wagering activities. An initial cardroom license shall be issued
 3774 to a pari-mutuel permitholder only after its facilities are in
 3775 place and after it conducts its first day of pari-mutuel
 3776 activities on racing or games.

3777 (d) Persons seeking a license or a renewal thereof to
 3778 operate a cardroom shall make application on forms prescribed by
 3779 the commission division. Applications for cardroom licenses
 3780 shall contain all of the information the commission division, by
 3781 rule, may determine is required to ensure eligibility.

3782 (e) The annual cardroom license fee for each facility shall
 3783 be \$1,000 for each table to be operated at the cardroom. The
 3784 license fee shall be deposited by the commission division with
 3785 the Chief Financial Officer to the credit of the Pari-mutuel
 3786 Wagering Trust Fund.

3787 (6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED;
 3788 APPLICATION; FEES.-

3789 (a) A person employed or otherwise working in a cardroom as
 3790 a cardroom manager, floor supervisor, pit boss, dealer, or any
 3791 other activity related to cardroom operations while the facility
 3792 is conducting card playing or games of dominoes must hold a
 3793 valid cardroom employee occupational license issued by the
 3794 commission division. Food service, maintenance, and security
 3795 employees with a current pari-mutuel occupational license and a
 3796 current background check will not be required to have a cardroom
 3797 employee occupational license.

3798 (b) Any cardroom management company or cardroom distributor
 3799 associated with cardroom operations must hold a valid cardroom

Page 131 of 140

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

28-01067-22

2022854__

3800 business occupational license issued by the commission division.

3801 (d) The commission division shall establish, by rule, a
 3802 schedule for the renewal of cardroom occupational licenses.
 3803 Cardroom occupational licenses are not transferable.

3804 (e) Persons seeking cardroom occupational licenses, or
 3805 renewal thereof, shall make application on forms prescribed by
 3806 the commission division. Applications for cardroom occupational
 3807 licenses shall contain all of the information the commission
 3808 division, by rule, may determine is required to ensure
 3809 eligibility.

3810 (f) The commission division shall adopt rules regarding
 3811 cardroom occupational licenses. The provisions specified in s.
 3812 550.105(4), (5), (6), (7), (8), and (10) relating to licensure
 3813 shall be applicable to cardroom occupational licenses.

3814 (g) The commission division may deny, declare ineligible,
 3815 or revoke any cardroom occupational license if the applicant or
 3816 holder thereof has been found guilty or had adjudication
 3817 withheld in this state or any other state, or under the laws of
 3818 the United States of a felony or misdemeanor involving forgery,
 3819 larceny, extortion, conspiracy to defraud, or filing false
 3820 reports to a government agency, racing or gaming commission or
 3821 authority.

3822 (h) Fingerprints for all cardroom occupational license
 3823 applications shall be taken in a manner approved by the
 3824 commission division and then shall be submitted to the Florida
 3825 Department of Law Enforcement and the Federal Bureau of
 3826 Investigation for a criminal records check upon initial
 3827 application and at least every 5 years thereafter. The
 3828 commission division may by rule require an annual record check

Page 132 of 140

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

28-01067-22 2022854__

3829 of all renewal applications for a cardroom occupational license.
 3830 The cost of processing fingerprints and conducting a record
 3831 check shall be borne by the applicant.
 3832 (7) CONDITIONS FOR OPERATING A CARDROOM.—
 3833 (a) A cardroom may be operated only at the location
 3834 specified on the cardroom license issued by the commission
 3835 ~~division~~, and such location may only be the location at which
 3836 the pari-mutuel permitholder is authorized to conduct pari-
 3837 mutuel wagering activities pursuant to such permitholder's valid
 3838 pari-mutuel permit or as otherwise authorized by law.
 3839 (f) The cardroom facility is subject to inspection by the
 3840 commission division or any law enforcement agency during the
 3841 licensee's regular business hours. The inspection must
 3842 specifically include the permitholder internal control
 3843 procedures approved by the commission division.
 3844 (h) Poker games played in a designated player manner in
 3845 which one player is permitted, but not required, to cover other
 3846 players' wagers must comply with the following restrictions:
 3847 1. Poker games to be played in a designated player manner
 3848 must have been identified in cardroom license applications
 3849 approved by the former Division of Pari-mutuel Wagering division
 3850 on or before March 15, 2018, or, if a substantially similar
 3851 poker game, identified in cardroom license applications approved
 3852 by the former Division of Pari-mutuel Wagering division on or
 3853 before April 1, 2021.
 3854 2. If the cardroom is located in a county where slot
 3855 machine gaming is authorized under chapter 285 or chapter 551,
 3856 the cardroom operator is limited to offering no more than 10
 3857 tables for the play of poker games in a designated player

Page 133 of 140

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

28-01067-22 2022854__

3858 manner.
 3859 3. If the cardroom is located in a county where slot
 3860 machine gaming is not authorized under chapter 285 or chapter
 3861 551, the cardroom operator is limited to offering no more than
 3862 30 tables for the play of poker games in a designated player
 3863 manner.
 3864 4. There may not be more than nine players and the
 3865 nonplayer dealer at each table.
 3866 (11) RECORDS AND REPORTS.—
 3867 (a) Each licensee operating a cardroom shall keep and
 3868 maintain permanent daily records of its cardroom operation and
 3869 shall maintain such records for a period of not less than 3
 3870 years. These records shall include all financial transactions
 3871 and contain sufficient detail to determine compliance with the
 3872 requirements of this section. All records shall be available for
 3873 audit and inspection by the commission division or other law
 3874 enforcement agencies during the licensee's regular business
 3875 hours. The information required in such records shall be
 3876 determined by commission division rule.
 3877 (b) Each licensee operating a cardroom shall file with the
 3878 commission division a report containing the required records of
 3879 such cardroom operation. Such report shall be filed monthly by
 3880 licensees. The required reports shall be submitted on forms
 3881 prescribed by the commission division and shall be due at the
 3882 same time as the monthly pari-mutuel reports are due to the
 3883 commission division, and such reports shall contain any
 3884 additional information deemed necessary by the commission
 3885 ~~division~~, and the reports shall be deemed public records once
 3886 filed.

Page 134 of 140

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

28-01067-22

2022854__

3887 (13) TAXES AND OTHER PAYMENTS.-

3888 (b) An admission tax equal to 15 percent of the admission
 3889 charge for entrance to the licensee's cardroom facility, or 10
 3890 cents, whichever is greater, is imposed on each person entering
 3891 the cardroom. This admission tax shall apply only if a separate
 3892 admission fee is charged for entry to the cardroom facility. If
 3893 a single admission fee is charged which authorizes entry to both
 3894 or either the pari-mutuel facility and the cardroom facility,
 3895 the admission tax shall be payable only once and shall be
 3896 payable pursuant to chapter 550. The cardroom licensee shall be
 3897 responsible for collecting the admission tax. An admission tax
 3898 is imposed on any free passes or complimentary cards issued to
 3899 guests by licensees in an amount equal to the tax imposed on the
 3900 regular and usual admission charge for entrance to the
 3901 licensee's cardroom facility. A cardroom licensee may issue tax-
 3902 free passes to its officers, officials, and employees or other
 3903 persons actually engaged in working at the cardroom, including
 3904 accredited press representatives such as reporters and editors,
 3905 and may also issue tax-free passes to other cardroom licensees
 3906 for the use of their officers and officials. The licensee shall
 3907 file with the commission division a list of all persons to whom
 3908 tax-free passes are issued.

3909 (c) Payment of the admission tax and gross receipts tax
 3910 imposed by this section shall be paid to the commission
 3911 ~~division~~. The commission division shall deposit these sums with
 3912 the Chief Financial Officer, one-half being credited to the
 3913 Pari-mutuel Wagering Trust Fund and one-half being credited to
 3914 the General Revenue Fund. The cardroom licensee shall remit to
 3915 the commission division payment for the admission tax, the gross

Page 135 of 140

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

28-01067-22

2022854__

3916 receipts tax, and the licensee fees. Such payments shall be
 3917 remitted to the commission division on the fifth day of each
 3918 calendar month for taxes and fees imposed for the preceding
 3919 month's cardroom activities. Licensees shall file a report under
 3920 oath by the fifth day of each calendar month for all taxes
 3921 remitted during the preceding calendar month. Such report shall,
 3922 under oath, indicate the total of all admissions, the cardroom
 3923 activities for the preceding calendar month, and such other
 3924 information as may be prescribed by the commission division.

3925 (d)1. Each jai alai permitholder that conducts live
 3926 performances and operates a cardroom facility shall use at least
 3927 4 percent of such permitholder's cardroom monthly gross receipts
 3928 to supplement jai alai prize money during the permitholder's
 3929 next ensuing pari-mutuel meet.

3930 2. Each thoroughbred permitholder or harness horse racing
 3931 permitholder that conducts live performances and operates a
 3932 cardroom facility shall use at least 50 percent of such
 3933 permitholder's cardroom monthly net proceeds as follows: 47
 3934 percent to supplement purses and 3 percent to supplement
 3935 breeders' awards during the permitholder's next ensuing racing
 3936 meet.

3937 3. No cardroom license or renewal thereof shall be issued
 3938 to an applicant holding a permit under chapter 550 to conduct
 3939 pari-mutuel wagering meets of quarter horse racing and
 3940 conducting live performances unless the applicant has on file
 3941 with the commission division a binding written agreement between
 3942 the applicant and the Florida Quarter Horse Racing Association
 3943 or the association representing a majority of the horse owners
 3944 and trainers at the applicant's eligible facility, governing the

Page 136 of 140

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

28-01067-22 2022854__

3945 payment of purses on live quarter horse races conducted at the
 3946 licensee's pari-mutuel facility. The agreement governing purses
 3947 may direct the payment of such purses from revenues generated by
 3948 any wagering or gaming the applicant is authorized to conduct
 3949 under Florida law. All purses shall be subject to the terms of
 3950 chapter 550.

3951 (e) The failure of any licensee to make payments as
 3952 prescribed in paragraph (c) is a violation of this section, and
 3953 the licensee may be subjected by the commission division to a
 3954 civil penalty of up to \$1,000 for each day the tax payment is
 3955 not remitted. All penalties imposed and collected shall be
 3956 deposited in the General Revenue Fund. If a licensee fails to
 3957 pay penalties imposed by order of the commission division under
 3958 this subsection, the commission division may suspend or revoke
 3959 the license of the cardroom operator or deny issuance of any
 3960 further license to the cardroom operator.

3961 (h) One-quarter of the moneys deposited into the Pari-
 3962 mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by
 3963 October 1 of each year, be distributed to the local government
 3964 that approved the cardroom under subsection (16); however, if
 3965 two or more pari-mutuel racetracks are located within the same
 3966 incorporated municipality, the cardroom funds shall be
 3967 distributed to the municipality. If a pari-mutuel facility is
 3968 situated in such a manner that it is located in more than one
 3969 county, the site of the cardroom facility shall determine the
 3970 location for purposes of disbursement of tax revenues under this
 3971 paragraph. The commission division shall, by September 1 of each
 3972 year, determine: the amount of taxes deposited into the Pari-
 3973 mutuel Wagering Trust Fund pursuant to this section from each

Page 137 of 140

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

28-01067-22 2022854__

3974 cardroom licensee; the location by county of each cardroom;
 3975 whether the cardroom is located in the unincorporated area of
 3976 the county or within an incorporated municipality; and, the
 3977 total amount to be distributed to each eligible county and
 3978 municipality.

3979 (14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

3980 (a) The commission division may deny a license or the
 3981 renewal thereof, or may suspend or revoke any license, when the
 3982 applicant has: violated or failed to comply with the provisions
 3983 of this section or any rules adopted pursuant thereto; knowingly
 3984 caused, aided, abetted, or conspired with another to cause any
 3985 person to violate this section or any rules adopted pursuant
 3986 thereto; or obtained a license or permit by fraud,
 3987 misrepresentation, or concealment; or if the holder of such
 3988 license or permit is no longer eligible under this section.

3989 (b) If a pari-mutuel permitholder's pari-mutuel permit or
 3990 license is suspended or revoked by the commission division
 3991 pursuant to chapter 550, the commission division may, but is not
 3992 required to, suspend or revoke such permitholder's cardroom
 3993 license. If a cardroom operator's license is suspended or
 3994 revoked pursuant to this section, the commission division may,
 3995 but is not required to, suspend or revoke such licensee's pari-
 3996 mutuel permit or license.

3997 (c) Notwithstanding any other provision of this section,
 3998 the commission division may impose an administrative fine not to
 3999 exceed \$1,000 for each violation against any person who has
 4000 violated or failed to comply with the provisions of this section
 4001 or any rules adopted pursuant thereto.

4002 (15) CRIMINAL PENALTY; INJUNCTION.—

Page 138 of 140

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

28-01067-22

2022854__

4003 (b) The commission ~~division~~, any state attorney, the
 4004 statewide prosecutor, or the Attorney General may apply for a
 4005 temporary or permanent injunction restraining further violation
 4006 of this section, and such injunction shall issue without bond.

4007 (16) LOCAL GOVERNMENT APPROVAL.—

4008 (a) The commission ~~Division of Pari-mutuel Wagering~~ shall
 4009 not issue any initial license under this section except upon
 4010 proof in such form as the commission ~~division~~ may prescribe that
 4011 the local government where the applicant for such license
 4012 desires to conduct cardroom gaming has voted to approve such
 4013 activity by a majority vote of the governing body of the
 4014 municipality or the governing body of the county if the facility
 4015 is not located in a municipality.

4016 (17) CHANGE OF LOCATION; REFERENDUM.—

4017 (a) Notwithstanding any provisions of this section, no
 4018 cardroom gaming license issued under this section shall be
 4019 transferred, or reissued when such reissuance is in the nature
 4020 of a transfer, so as to permit or authorize a licensee to change
 4021 the location of the cardroom except upon proof in such form as
 4022 the commission ~~division~~ may prescribe that a referendum election
 4023 has been held:

4024 1. If the proposed new location is within the same county
 4025 as the already licensed location, in the county where the
 4026 licensee desires to conduct cardroom gaming and that a majority
 4027 of the electors voting on the question in such election voted in
 4028 favor of the transfer of such license. However, the commission
 4029 ~~division~~ shall transfer, without requirement of a referendum
 4030 election, the cardroom license of any permit holder that
 4031 relocated its permit pursuant to s. 550.0555.

Page 139 of 140

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

28-01067-22

2022854__

4032 2. If the proposed new location is not within the same
 4033 county as the already licensed location, in the county where the
 4034 licensee desires to conduct cardroom gaming and that a majority
 4035 of the electors voting on that question in each such election
 4036 voted in favor of the transfer of such license.

4037 Reviser's Note.—Amended pursuant to the directive of the

4038 Legislature to the Division of Law Revision in s. 13, ch.
 4039 2021-269, Laws of Florida, to replace references to the
 4040 Division of Pari-mutuel Wagering and references to the
 4041 Department of Business and Professional Regulation relating
 4042 to gaming with references to the Florida Gaming Control
 4043 Commission to conform the Florida Statutes to the transfer
 4044 of duties in s. 11, ch. 2021-269.
 4045 Section 66. This act shall take effect July 1, 2022.

Page 140 of 140

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7000

INTRODUCER: Health Policy Committee

SUBJECT: OGSR/Nonviable Birth Certificates

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Smith</u>	<u>Brown</u>		HP Submitted as Comm. Bill/Fav
1. <u>Smith</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7000 amends s. 382.008(8), F.S., to save from repeal the public record exemption for certain information that may be collected by the Department of Health when issuing a nonviable birth certificate. Specifically, the cause of death and parentage of the fetus, marital status of the parents, and any medical information included in nonviable birth records are confidential and exempt from public disclosure.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. This bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information.

The bill provides an effective date of October 1, 2022.

II. Present Situation:

Access to Public Records – Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the Legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2010-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

Open Government Sunset Review Act

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

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

- The exemption allows the state or its political subdivisions to effectively and efficiently administer a governmental program and such administration would be significantly impaired without the exemption;²¹
- The exemption 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

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

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

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

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

¹⁶ Section 119.15, F.S.

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

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Courts System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

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 carefully the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, then records created before the sunset date may not be made public unless otherwise provided by law.²⁶

Vital Statistics

The Office of Vital Statistics,²⁷ housed within the Department of Health (DOH), is responsible for compiling, storing, and preserving the vital records of the state.²⁸ Vital records are the official certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, certain name changes, and data related to these records.²⁹

Florida officially began collecting birth and death records in 1917. Two years later, in 1919, the state became a nationally recognized death registration jurisdiction. In 1924, the state became a nationally recognized birth registration jurisdiction. Since 1927, marriage and dissolution records have been filed with the Office of Vital Statistics.³⁰ In addition to the state office, which operates under the direction of the state registrar, district offices operate under the direction of local registrars.

Birth Registration

A certificate for each live birth that occurs in this state must be filed within five days after the birth. The certificate may be filed with the local registrar of the district where the birth occurred or submitted electronically to the state registrar. Responsibility for filing the certificate is assigned to various persons depending upon where the birth occurs. For example, if the birth

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ The statutes consistently refer to the “Office” of Vital Statistics and not the “Bureau” of Vital Statistics. For example, see s. 382.003, F.S. While the statutes refer to an Office of Vital Statistics, the DOH has established this responsibility at the bureau level. See the DOH’s organizational chart available at: <http://www.floridahealth.gov/about/documents/orgchart.pdf> (last visited Oct. 26, 2021).

²⁸ Section 382.003, F.S.

²⁹ Section 382.002(18), F.S.

³⁰ Department of Health, Florida Vital Statistics Annual Report, August 2016, Page *vii*, <http://www.flpublichealth.com/VSBOOK/pdf/2015/Intro.pdf> (last visited Oct. 21, 2021).

occurs in a hospital, birth center, or other health care facility, or in route thereto, the person in charge of the facility is responsible for filing the certificate. The health care practitioner in attendance is responsible for providing the facility with the information required by the birth certificate. If the birth occurs outside a facility and a physician, certified nurse midwife, midwife, or a public health nurse was in attendance, then that person must file the certificate.³¹

Death and Fetal Death Registration

A certificate for each death or fetal death³² that occurs in this state must be filed within five days after the death. The certificate may be filed with the local registrar of the district in which the death or fetal death occurred or submitted electronically to the state registrar.³³

Katherine's Law - Certificate of Birth Resulting in Stillbirth

In 2006, Governor Jeb Bush signed into law legislation that allows for the creation and issuance of a certificate of birth resulting in stillbirth.³⁴ This law is known as Katherine's Law.³⁵

The certificate of birth resulting in stillbirth is not proof of live birth³⁶ and may not be used to establish identity.³⁷ Gestation must be 20 weeks or more,³⁸ and there must be a fetal death certificate on file with the Office of Vital Statistics in order for a certificate to be prepared. The information included on the certificate comes from the fetal death certificate.

Miscarriage

Miscarriage is often described as the spontaneous loss of a pregnancy that occurs before the 20th week of gestation. Approximately 10 to 20 percent of all known pregnancies end in miscarriage. The number of miscarriages might actually be higher because some occur before a woman is aware that she is pregnant.³⁹

Stephanie Saboor Grieving Parents Act

In 2003, the Legislature enacted the Stephanie Saboor Grieving Parents Act.⁴⁰ This law applies to a physician, physician assistant, nurse, or midwife⁴¹ or a hospital, ambulatory surgical center,

³¹ Section 382.013, F.S.

³² Section 382.002(8), F.S., defines "fetal death" as death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

³³ Section 382.008(1), F.S.

³⁴ Section 382.002(17), F.S., defines "stillbirth" as an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.

³⁵ Chapter 2006-118, L.O.F.

³⁶ Section 382.0085(4)(e), F.S.

³⁷ See <http://www.floridahealth.gov/certificates/certificates/birth/Stillbirth/index.html> (last visited March 16, 2017).

³⁸ Section 382.002(17), F.S.

³⁹ See for example, The Mayo Clinic, Miscarriage website at: <http://www.mayoclinic.org/diseases-conditions/pregnancy-loss-miscarriage/home/ovc-20213664>, (last visited on Oct. 25, 2021).

⁴⁰ Chapter 2003-52, L.O.F., codified at s. 383.33625, F.S.

⁴¹ See s. 383.33625(2), F.S., which requires a health care practitioner licensed pursuant to chapter 458, 459, 464, or 467, F.S., to provide the notification.

or birth center⁴² with custody of fetal remains following a spontaneous fetal demise that occurs after a gestation period of less than 20 completed weeks. Those persons or facilities are required to notify the mother of her option to arrange for the burial or cremation of the fetal remains, as well as the procedures provided by general law.^{43,44}

Grieving Families Act

In 2017, the Legislature enacted the Grieving Families Act, which enables a parent to obtain, in certain situations, a certificate of nonviable birth following a miscarriage.⁴⁵ The Grieving Families Act defines “nonviable birth” as “an unintentional, spontaneous fetal demise occurring after the completion of the 9th week of gestation but prior to the 20th week of gestation of a pregnancy that has been verified by a health care practitioner.”⁴⁶

A health care practitioner who attends or diagnoses a nonviable birth, or a facility at which the nonviable birth occurs, must advise a parent of a nonviable birth that they may request the preparation of a certificate of nonviable birth.⁴⁷ Upon the request of a parent of a nonviable birth, such practitioner or facility, must electronically file a registration of nonviable birth on the DOH’s electronic death registration system or on a certain form with the DOH or the local registrar within 30 days after receiving the parent’s request.⁴⁸ The practitioner or facility must also advise a parent how to contact the Office of Vital Statistics to request a certificate of nonviable birth.⁴⁹ After the health care practitioner has filed the nonviable birth registration, the parents may request the Office to issue a certificate of nonviable birth. The Office must issue a certificate of nonviable birth within 60 days after receiving a parent’s request.⁵⁰

A certificate of nonviable birth must contain:

- The date of the nonviable birth.
- The county in which the nonviable birth occurred.
- The name of the fetus, as provided on the registration of nonviable birth. If a name does not appear on the original or amended registration of nonviable birth and the requesting parent does not wish to provide a name, the Office of Vital Statistics must fill in the certificate of nonviable birth with the name “baby boy” or “baby girl” and the last name of the parent. If the sex of the child is unknown, the Office must fill in the certificate of nonviable birth with the name “baby” and the last name of the parent.
- The statement: “This certificate is not proof of a live birth.”⁵¹

⁴² Section 383.33625(4), F.S., requires a facility licensed pursuant to chapter 383 or chapter 395, F.S., to provide the notification.

⁴³ Section 383.33625(4), F.S.

⁴⁴ Fetal remains of less than 20 completed weeks of gestation would be considered biomedical waste, which is governed by s. 381.0098, F.S.

⁴⁵ Chapter 2017-38, L.O.F.

⁴⁶ Section 382.002(14), F.S.

⁴⁷ Section 382.0086(2)(a), F.S.

⁴⁸ Section 382.008(7), F.S.

⁴⁹ Section 382.0086(2), F.S.

⁵⁰ Section 382.0086(1), F.S.

⁵¹ Section 382.0086(4)-(5), F.S.

The Office of Vital Statistics may not use a certificate of nonviable birth to calculate live birth statistics.⁵² Because not all parents of nonviable births would seek to obtain a certificate, there would be limited value in collecting or analyzing nonviable birth certificate data for research purposes.

Nonviable Birth Registrations Filed by Year ⁵³	
2017	93
2018	156
2019	145
2020	121
2021 (Jan. 1 - Sept. 21)	86 to date

Exemption under Review

According to the statement of public necessity included in the original public records exemption,⁵⁴ medical information, including the cause of death of a nonviable fetus, and any medical information pertaining thereto, is sensitive and personal in nature and disclosure of such information may lead to an invasion of privacy of a parent experiencing a nonviable birth. Disclosure of information regarding the parentage of a nonviable fetus and the marital status of such fetus’ parent may discourage an individual who would otherwise request a nonviable birth certificate from doing so due to real or perceived stigma regarding the nonviability of the fetus, the fetus’ parentage, or the marital status of the fetus' parent.

All information relating to the cause of death and parentage of a nonviable fetus, the marital status of such fetus’ parent, and any medical information included in nonviable birth records held by a state agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, but may be released for health research purposes as approved by the DOH.⁵⁵ There have been no such health research requests and no request has been denied by the DOH.⁵⁶

The DOH may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information: to the fetus’ parent; to any local, state, or federal agency for official purposes upon approval by the DOH; or upon the order of any court of competent jurisdiction.⁵⁷ Parents who do not provide identification may be issued a nonviable birth certificate as a public document, with confidential and exempt information redacted. To date, no entity other than a parent has requested a certified copy of a nonviable birth registration.⁵⁸

⁵² Section 382.0086(8), F.S.

⁵³ Email from Legislative Affairs Director, Department of Health, to Government Operations Subcommittee, Florida House of Representatives (Sept. 21, 2021) (on file with the Senate Committee on Health Policy).

⁵⁴ Chapter 2017-39, L.O.F.

⁵⁵ Section 382.008(8)(b), F.S.

⁵⁶ *Id.* at 53.

⁵⁷ Section 382.008(8)(a), F.S.

⁵⁸ *Id.* at 53.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The DOH recommends retaining the exemption in its current form.⁵⁹

III. Effect of Proposed Changes:

The bill saves from repeal a public record exemption in s. 382.008(8), F.S., for certain information that may be collected when issuing a nonviable birth certificate. Specifically, the cause of death and parentage of the fetus, marital status of the parents, and any medical information included in nonviable birth records will continue to be confidential and exempt from public disclosure beyond October 2, 2022.

The bill provides an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Voting Requirement

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Therefore, a two-thirds vote of the members present and voting for final passage of the bill is not required.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Thus, the bill does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. It does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

⁵⁹ Conversation with Ken Jones, State Registrar and Bureau Chief, Bureau of Vital Statistics, Department of Health (Aug. 31, 2021).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 382.008 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 the Committee on Health Policy

588-01044-22

20227000__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 382.008, F.S., which provides an exemption from public records requirements for certain information included in nonviable birth certificates; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (8) of section 382.008, Florida Statutes, is amended to read:

382.008 Death, fetal death, and nonviable birth registration.—

(8) (a) The original nonviable birth certificate shall contain all of the information required by the department for legal, social, and health research purposes. The department may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information:

1. To the fetus' parent;
2. To any local, state, or federal agency for official purposes upon approval by the department; or
3. Upon the order of any court of competent jurisdiction.

(b) All information relating to the cause of death and parentage of a nonviable fetus, the marital status of such fetus' parent, and any medical information included in nonviable birth records held by a state agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State

Page 1 of 2

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

588-01044-22

20227000__

Constitution, but may be released for health research purposes as approved by the department.

(c) The department shall authorize the issuance of a certified copy of all or part of an original nonviable birth certificate, excluding any information that is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, to any person requesting such copy, pursuant to paragraph (b), upon receipt of a request and payment of the fee prescribed in s. 382.0255.

~~(d) This subsection is subject to the Open Government Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2022.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7002

INTRODUCER: Health Policy Committee

SUBJECT: OGSR/Information Relating to Medical Marijuana Held by the Department of Health

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>RC</u>	HP Submitted as Comm. Bill/Fav
	<u>Looke</u>	<u>Phelps</u>		Favorable

I. Summary:

SB 7002 amends s. 381.987, F.S., to save from repeal the public records exemption for certain personal identifying information of patients, caregivers, and physicians held by the Department of Health (DOH) and relating to Florida's medical marijuana program. Specifically, the section makes confidential and exempt from public records requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution:

- A patient's or caregiver's personal identifying information held in the DOH's medical marijuana use registry (MMUR);
- All personal identifying information collected for the purpose of issuing MMUR identification cards;
- All personal identifying information pertaining to a physician certification for medical marijuana; and
- A qualified physician's Drug Enforcement Administration (DEA) number, residential address, and government-issued identification card.

The section requires the DOH to allow access to confidential and exempt information under specified circumstances and specifies that any information released by the DOH remains confidential and exempt and that the person who receives the information must maintain the information's confidential and exempt status.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. This bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information.

The bill provides an effective date of October 1, 2022.

II. Present Situation:

Access to Public Records – Generally

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

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

Executive Agency Records – The Public Records Act

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

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

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

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2010-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

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

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

Open Government Sunset Review Act

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

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

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

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

¹⁶ Section 119.15, F.S.

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

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Courts System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

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

- The exemption allows the state or its political subdivisions to effectively and efficiently administer a governmental program and such administration would be significantly impaired without the exemption;²¹
- The exemption 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 carefully the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, then records created before the sunset date may not be made public unless otherwise provided by law.²⁶

Public Records Exemption for Personal Identifying Information Relating to Medical Marijuana Held by the DOH

Section 381.987, F.S., establishes that the following information is confidential and exempt from public records:

- A patient's or caregiver's personal identifying information held by the DOH in the MMUR established under s. 381.986, F.S., including, but not limited to, the patient's or caregiver's name, address, date of birth, photograph, and telephone number.
- All personal identifying information collected for the purpose of issuing a patient's or caregiver's MMUR identification card described in s. 381.986, 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.

- All personal identifying information pertaining to the physician certification for marijuana and the dispensing thereof held by the DOH, including, but not limited to, information related to the patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana.
- A qualified physician's DEA number, residential address, and government-issued identification card.

The section allows the release of confidential and exempt information to specified persons or entities and also specifies that all information released remains confidential and exempt and that the person who receives the information must maintain such status. Any person who willfully and knowingly violates this provision, or any other provision in the section, commits a felony of the third degree. The section requires the DOH to allow access to the confidential and exempt information the following persons or entities:

- A law enforcement agency that is investigating a violation of law regarding marijuana in which the subject of the investigation claims an exception established under s. 381.986, F.S., except for information related to the patient's diagnosis.
- A medical marijuana treatment center approved by the DOH pursuant to s. 381.986, F.S., which is attempting to verify the authenticity of a physician certification for marijuana, including whether the certification had been previously filled and whether the certification was issued for the person attempting to have it filled, except for information related to the patient's diagnosis.
- A physician who has issued a certification for marijuana for the purpose of monitoring the patient's use of such marijuana or for the purpose of determining, before issuing a certification for marijuana, whether another physician has issued a certification for the patient's use of marijuana. The physician may access the confidential and exempt information only for the patient for whom he or she has issued a certification or is determining whether to issue a certification for the use of marijuana pursuant to s. 381.986, F.S.
- A practitioner licensed to prescribe prescription medications to ensure proper care of a patient before prescribing medication to that patient which may interact with marijuana.
- An employee of the DOH for the purposes of maintaining the MMUR and periodic reporting or disclosure of information that has been redacted to exclude personal identifying information.
- An employee of the DOH for the purposes of reviewing physician registration and the issuance of physician certifications to monitor practices that could facilitate unlawful diversion or the misuse of marijuana or a marijuana delivery device.
- The DOH's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a physician if he or she is involved in a specific investigation of a violation of s. 381.986, F.S. If a health care regulatory board's investigation reveals potential criminal activity, the board may provide any relevant information to the appropriate law enforcement agency.
- The Consortium for Medical Marijuana Clinical Outcomes Research established in s. 1004.4351(4), F.S.
- A person engaged in bona fide research if the person agrees:
 - To submit a research plan to the DOH which specifies the exact nature of the information requested and the intended use of the information;

- To maintain the confidentiality of the records or information if personal identifying information is made available to the researcher;
- To destroy any confidential and exempt records or information obtained after the research is concluded; and
- Not to contact, directly or indirectly, for any purpose, a patient or physician whose information is in the MMUR.

According to the statement of public necessity included in SB 6-A (2017), which established the public records exemption, the Legislature found that it was necessary to protect the personal identifying information of patients, caregivers, and physicians as such information could make the public aware of the patient's medical conditions, as well as be used to embarrass, humiliate, harass, or discriminate against the patient, caregiver, or physician over his or her decision to use, assist with the use of, or certify a patient for medical marijuana. As of October 22, 2021, there were 628,277 active, qualified patients in the MMUR and 2,765 physicians who qualify to issue certifications for medical marijuana.²⁷

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. In a phone interview that Senate Health Policy Committee staff conducted with the DOH on August 31, 2021, the DOH recommended that the public records exemption be reenacted as is.²⁸

III. Effect of Proposed Changes:

SB 7002 amends s. 381.987, F.S., to save from repeal the public records exemption for certain personal identifying information of patients, caregivers, and physicians held by the DOH and relating to Florida's medical marijuana program. For specific information on the public records exemption please see Section II of this analysis.

The bill provides an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁷ See Office of Medical Marijuana Use (OMMU) information sheet, October 22, 2021, available at https://knowthefactsmmj.com/wp-content/uploads/ommu_updates/2021/102221-OMMU-Update.pdf, (last visited Nov. 28, 2021). Note: the number of caregivers is not listed on the OMMU's webpage, nor is it specified on OMMU's annual report for 2020, which can be found at <https://knowthefactsmmj.com/wp-content/uploads/2020/02/2020-Annual-Report.pdf> (last visited Nov. 28, 2021).

²⁸ Conversation with Ken Jones, State Registrar and Bureau Chief, Bureau of Vital Statistics, Department of Health (Aug. 31, 2021).

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

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Therefore, a two-thirds vote of the members present and voting for final passage of the bill is not required.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Thus, the bill does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. It does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.987 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Health Policy

588-01045-22

20227002__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 381.987, F.S., which provides an exemption from public records requirements for personal identifying information relating to medical marijuana held by the Department of Health; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 381.987, Florida Statutes, is amended to read:

381.987 Public records exemption for personal identifying information relating to medical marijuana held by the department.—

(1) The following information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) A patient's or caregiver's personal identifying information held by the department in the medical marijuana use registry established under s. 381.986, including, but not limited to, the patient's or caregiver's name, address, date of birth, photograph, and telephone number.

(b) All personal identifying information collected for the purpose of issuing a patient's or caregiver's medical marijuana use registry identification card described in s. 381.986.

(c) All personal identifying information pertaining to the physician certification for marijuana and the dispensing thereof

Page 1 of 4

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

588-01045-22

20227002__

held by the department, including, but not limited to, information related to the patient's diagnosis, exception requests to the daily dose amount limit, and the qualified patient's experience related to the medical use of marijuana.

(d) A qualified physician's Drug Enforcement Administration number, residential address, and government-issued identification card.

(2) The department shall allow access to the confidential and exempt information in the medical marijuana use registry to:

(a) A law enforcement agency that is investigating a violation of law regarding marijuana in which the subject of the investigation claims an exception established under s. 381.986, except for information related to the patient's diagnosis.

(b) A medical marijuana treatment center approved by the department pursuant to s. 381.986 which is attempting to verify the authenticity of a physician certification for marijuana, including whether the certification had been previously filled and whether the certification was issued for the person attempting to have it filled, except for information related to the patient's diagnosis.

(c) A physician who has issued a certification for marijuana for the purpose of monitoring the patient's use of such marijuana or for the purpose of determining, before issuing a certification for marijuana, whether another physician has issued a certification for the patient's use of marijuana. The physician may access the confidential and exempt information only for the patient for whom he or she has issued a certification or is determining whether to issue a certification for the use of marijuana pursuant to s. 381.986.

Page 2 of 4

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

588-01045-22

20227002__

59 (d) A practitioner licensed to prescribe prescription
60 medications to ensure proper care of a patient before
61 prescribing medication to that patient which may interact with
62 marijuana.

63 (e) An employee of the department for the purposes of
64 maintaining the registry and periodic reporting or disclosure of
65 information that has been redacted to exclude personal
66 identifying information.

67 (f) An employee of the department for the purposes of
68 reviewing physician registration and the issuance of physician
69 certifications to monitor practices that could facilitate
70 unlawful diversion or the misuse of marijuana or a marijuana
71 delivery device.

72 (g) The department's relevant health care regulatory boards
73 responsible for the licensure, regulation, or discipline of a
74 physician if he or she is involved in a specific investigation
75 of a violation of s. 381.986. If a health care regulatory
76 board's investigation reveals potential criminal activity, the
77 board may provide any relevant information to the appropriate
78 law enforcement agency.

79 (h) The Consortium for Medical Marijuana Clinical Outcomes
80 Research established in s. 1004.4351(4).

81 (i) A person engaged in bona fide research if the person
82 agrees:

83 1. To submit a research plan to the department which
84 specifies the exact nature of the information requested and the
85 intended use of the information;

86 2. To maintain the confidentiality of the records or
87 information if personal identifying information is made

Page 3 of 4

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

588-01045-22

20227002__

88 available to the researcher;

89 3. To destroy any confidential and exempt records or
90 information obtained after the research is concluded; and

91 4. Not to contact, directly or indirectly, for any purpose,
92 a patient or physician whose information is in the registry.

93 (3) The department shall allow access to the confidential
94 and exempt information pertaining to the physician certification
95 for marijuana and the dispensing thereof, whether in the
96 registry or otherwise held by the department, to:

97 (a) An employee of the department for the purpose of
98 approving or disapproving a request for an exception to the
99 daily dose amount limit for a qualified patient; and

100 (b) The Consortium for Medical Marijuana Clinical Outcomes
101 Research pursuant to s. 381.986 for the purpose of conducting
102 research regarding the medical use of marijuana.

103 (4) All information released by the department under
104 subsections (2) and (3) remains confidential and exempt, and a
105 person who receives access to such information must maintain the
106 confidential and exempt status of the information received.

107 (5) A person who willfully and knowingly violates this
108 section commits a felony of the third degree, punishable as
109 provided in s. 775.082 or s. 775.083.

110 ~~(6) This section is subject to the Open Government Sunset~~
111 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
112 ~~on October 2, 2022, unless reviewed and saved from repeal~~
113 ~~through reenactment by the Legislature.~~

114 Section 2. This act shall take effect October 1, 2022.

Page 4 of 4

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7004

INTRODUCER: Education Committee

SUBJECT: OGSR/Technology Systems/State University or a Florida College System Institution

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Jahnke</u>	<u>Bouck</u>		ED Submitted as Comm. Bill/Fav
1. <u>Jahnke</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7004 saves from repeal the public records and public meetings exemption for certain information held by a state university or Florida College System institution related to information technology (IT) security or potential breaches of security, as well as IT security program risk assessments, evaluations, and audits held by the institution.

The exemption from public records and public meetings requirements stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.

This bill is effective October 1, 2022.

II. Present Situation:

Access to Public Records - Generally

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

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

¹ Art. I, s. 24(a), Fla. Const.

² *Id.*

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

Executive Agency Records – The Public Records Act

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

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

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

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ Art. I, s. 24(c), Fla. Const.

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

Open Government Sunset Review Act

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

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

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

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

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

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

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

¹⁶ Section 119.15, F.S.

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

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

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

State Universities and Florida College System Institutions

In 2017, the Legislature approved an exemption from public records and public meetings requirements for the security of data and information technology (IT) in state postsecondary education institutions.²⁷

The law makes confidential and exempt from public disclosure data or information from technology systems owned by, under contract, or maintained by a state university or Florida College System (FCS) institution. Such data and information includes the following types of records and portions of documents:

- Records held by the university or college which identify detection, investigation, or response practices for suspected or confirmed IT security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of data or information, whether physical or virtual, or IT resources; and
- Those portions of risk assessments, evaluations, and other reports of the institution's IT security program for its data, information, and IT resources which are held by the university or college. These records would be confidential and exempt if disclosure of such records would lead to the unauthorized access to or unauthorized modification, disclosure, or destruction of the data, information, or IT resources.²⁸

The law closes portions of public meetings in which confidential and exempt information is discussed. Closed portions of meetings must be recorded and transcribed. However, the law specifies that the recording and transcript of the meeting must remain confidential and exempt from disclosure unless a court with competent jurisdiction determines the meeting was not

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 1004.055, F.S.

²⁸ Section 1004.055(1), F.S.

restricted to confidential and exempt data and information. If this occurs, then the court may disclose the recordings and transcripts that do not contain confidential and exempt information.²⁹

The records and portions of public meeting recordings and transcripts made confidential and exempt must be available to the Auditor General; the Cybercrime Office of the Department of Law Enforcement; for a state university, the Board of Governors; and for a Florida College System institution, the State Board of Education. Such records and portions of meetings, recordings, and transcripts may be made available to a state or federal agency for security purposes or in furtherance of the agency's official duties.³⁰

The exemption from public records and public meetings requirements is subject to the requirements of the Act and is repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.³¹

Chapter 2017-109, L.O.F., which established the exemption from public records disclosure requirements for certain data or information from technology systems owned by, under contract, or maintained by a state university or FCS institution, included a public necessity statement that provided a rationale for the exemption. This rationale recognized that:

- Records held by a state university or FCS institution that identify IT detection, investigation, or response practice for suspected or confirmed IT security incidents, including breaches, may be used in the investigation of the incident or breach. The release of such information may interfere with and jeopardize the ongoing investigation.
- An investigation into an IT security incident, including a breach, may result in the gathering of sensitive personal information exempt from disclosure under state and federal law. Release of such information may be used to commit identity theft or other crimes and subject potential victims of the security incident to further harm.
- Disclosure of records such as an audit or forensic analysis of a state university or FCS institution may reveal weaknesses in the institution's IT security system.
- Records held by a state university or FCS institution may contain proprietary information, the release of which would provide an unfair advantage for business competitors in the marketplace.
- Disclosure of records may compromise and interfere with the administration of ongoing education programs.³²

Open Government Sunset Review Findings

In August 2021, the Senate Education Committee and the House Government Operations Subcommittee jointly sent an Open Government Sunset Review Questionnaire to each state university and FCS institution regarding the need to maintain the public records and public meetings exemption for certain data and information held by a state university or FCS institution related to IT security or potential breaches of security, as well as, IT security program risk assessments, evaluations, and audits held by the institution.

²⁹ Section 1004.055(2), F.S.

³⁰ Section 1004.055(3), F.S.

³¹ Section 1004.055(5), F.S.

³² Ch. 2017-109, L.O.F.

All 12 state universities and 16 of the 28 FCS institutions responded to the questionnaire. All institutions requested that the exemption be retained, with an overwhelming majority requesting to reenact the exemption as is.

III. **Effect of Proposed Changes:**

The bill saves from repeal the public records and public meetings exemption in s. 1004.055, F.S., for certain information held by a state university or FCS institution related to IT security or potential breaches of security, as well as IT security program risk assessments, evaluations, and audits held by the institution.

This bill is effective October 1, 2022.

IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

None.

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

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a creating or expanded public records exemption. If an exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. The bill does not create or expand a public records exemption, therefore it does not require a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues the current public records exemptions under sunset review; it does not expand this exemption or create a new exemption. Therefore, the bill does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the exemptions is to protect the records of state university and FCS institutions pertaining to IT security systems if the disclosure of such records would facilitate the unauthorized access to, or unauthorized modification, disclosure, or destruction of data, information, or IT resources. 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1004.055 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.

By the Committee on Education

581-01010-22

20227004__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 1004.055, F.S., which
 4 provides exemptions from public records and public
 5 meetings requirements for specified data or
 6 information from technology systems owned, under
 7 contract, or maintained by a state university or a
 8 Florida College System institution and portions of
 9 meetings which would reveal such data and information;
 10 removing the scheduled repeal of the exemptions;
 11 providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Section 1004.055, Florida Statutes, is amended
 16 to read:
 17 1004.055 Security of data and information technology in
 18 state postsecondary education institutions.—
 19 (1) All of the following data or information from
 20 technology systems owned, under contract, or maintained by a
 21 state university or a Florida College System institution is
 22 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 23 of the State Constitution:
 24 (a) Records held by the university or institution which
 25 identify detection, investigation, or response practices for
 26 suspected or confirmed information technology security
 27 incidents, including suspected or confirmed breaches, if the
 28 disclosure of such records would facilitate unauthorized access
 29 to or unauthorized modification, disclosure, or destruction of:

Page 1 of 3

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

581-01010-22

20227004__

30 1. Data or information, whether physical or virtual; or
 31 2. Information technology resources, which include:
 32 a. Information relating to the security of the university's
 33 or institution's technologies, processes, and practices designed
 34 to protect networks, computers, data processing software, and
 35 data from attack, damage, or unauthorized access; or
 36 b. Security information, whether physical or virtual, which
 37 relates to the university's or institution's existing or
 38 proposed information technology systems.
 39 (b) Those portions of risk assessments, evaluations,
 40 audits, and other reports of the university's or institution's
 41 information technology security program for its data,
 42 information, and information technology resources which are held
 43 by the university or institution, if the disclosure of such
 44 records would facilitate unauthorized access to or the
 45 unauthorized modification, disclosure, or destruction of:
 46 1. Data or information, whether physical or virtual; or
 47 2. Information technology resources, which include:
 48 a. Information relating to the security of the university's
 49 or institution's technologies, processes, and practices designed
 50 to protect networks, computers, data processing software, and
 51 data from attack, damage, or unauthorized access; or
 52 b. Security information, whether physical or virtual, which
 53 relates to the university's or institution's existing or
 54 proposed information technology systems.
 55 (2) Those portions of a public meeting as specified in s.
 56 286.011 which would reveal data and information described in
 57 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I
 58 of the State Constitution. No exempt portion of an exempt

Page 2 of 3

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

581-01010-22

20227004

59 meeting may be off the record. All exempt portions of such a
60 meeting must be recorded and transcribed. The recording and
61 transcript of the meeting must remain confidential and exempt
62 from disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the
63 State Constitution unless a court of competent jurisdiction,
64 following an in camera review, determines that the meeting was
65 not restricted to the discussion of data and information made
66 confidential and exempt by this section. In the event of such a
67 judicial determination, only that portion of the transcript
68 which reveals nonexempt data and information may be disclosed to
69 a third party.

70 (3) The records and portions of public meeting recordings
71 and transcripts described in subsection (1) must be available to
72 the Auditor General; the Cybercrime Office of the Department of
73 Law Enforcement; for a state university, the Board of Governors;
74 and for a Florida College System institution, the State Board of
75 Education. Such records and portions of meetings, recordings,
76 and transcripts may be made available to a state or federal
77 agency for security purposes or in furtherance of the agency's
78 official duties.

79 (4) The exemptions listed in this section apply to such
80 records or portions of public meetings, recordings, and
81 transcripts held by the university or institution before, on, or
82 after June 14, 2017.

83 ~~(5) This section is subject to the Open Government Sunset~~
84 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
85 ~~on October 2, 2022, unless reviewed and saved from repeal~~
86 ~~through reenactment by the Legislature.~~

87 Section 2. This act shall take effect October 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7006

INTRODUCER: Education Committee

SUBJECT: OGSR/Campus Emergency Response

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>RC</u>	ED Submitted as Comm. Bill/Fav
	<u>Brick</u>	<u>Phelps</u>		Favorable

I. Summary:

SB 7006 saves from repeal the public records exemption relating to any portion of a campus emergency response held by a public postsecondary institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management, as well as that portion of a public meeting which would reveal information related to a campus emergency response.

The exemption from public records and public meetings requirements stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.

The bill takes effect October 1, 2022.

II. Present Situation:

Access to Public Records – Generally

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

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

¹ Art. I, s. 24(a), Fla. Const.

² *Id.*

rules of each house of the Legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

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

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

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

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

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (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 Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

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

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ Art. I, s. 24(c), Fla. Const.

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

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

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

Open Government Sunset Review Act

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

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

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

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

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

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

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

¹⁶ Section 119.15, F.S.

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

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

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

Comprehensive Emergency Management Plans

The Florida Division of Emergency Management (DEM) is required to prepare a state comprehensive emergency management plan (CEMP).²⁷ The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters.²⁸ The CEMP requires the Department of Education (DOE) and the Board of Governors of the State University System (BOG) to coordinate emergency response procedures at state colleges and universities, respectively.²⁹

Campus Emergency Response

The exemption from public records and public meetings requirements for the campus emergency response of a public postsecondary educational institution was enacted in 2017.³⁰ The law provides a public records exemption for any portion of a campus emergency response held by a public postsecondary educational institution, state or local law enforcement agency, county or municipal emergency management agency, the Executive Office of the Governor (EOG), the DOE, the BOG, or the DEM.³¹ The law also provides a public meetings exemption for any portion of a public meeting which would reveal information related to a campus emergency response.³²

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ Section 252.35(2), F.S.

²⁸ *Id.*

²⁹ Florida Division of Emergency Management, *2020 Comprehensive Emergency Management Plan*, available at <https://www.floridadisaster.org/globalassets/cemp/2020-cemp/2020-state-cemp.pdf>, at 10, 13. The BOG requires each state university to implement a CEMP. Fla. Board of Governors Regulation 3.001.

³⁰ Chapter 2017-184, L.O.F.

³¹ Section 1004.0962(2), F.S.

³² Section 1004.0962(5), F.S.

A campus emergency response is a public postsecondary educational institution's response to or plan for responding to an act of terrorism³³ or other public safety crisis or emergency.³⁴ The law provides that a campus emergency response includes information relating to:³⁵

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.
- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Sheltering arrangements.
- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Postdisaster activities, including provisions for emergency power, communications, food, and water.
- Postdisaster transportation.
- Supplies, including drug caches.
- Staffing.
- Emergency equipment.
- Individual identification of students, faculty, and staff; the transfer of records; and methods of responding to family inquiries.

A public postsecondary educational institution, state or local law enforcement agency, county or municipal emergency management agency, EOG, DOE, BOG, or DEM may disclose information made exempt to another governmental entity if disclosure is necessary for the receiving entity to perform its duties or responsibilities, or upon a showing of good cause before a court of competent jurisdiction.³⁶

The exemption from public records and public meetings requirements is subject to the requirements of the Act and is repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.³⁷

Chapter 2017-184, L.O.F., which established the exemption from public records disclosure requirements for specified portions of campus emergency responses for public postsecondary educational institutions, included a public necessity statement that provided a rationale for the exemption. This rationale recognized that if campus emergency responses were made publicly available for inspection or copying, they could be used to hamper or disable a public postsecondary education institution's response to an act of terrorism or other crisis or emergency. Furthermore, providing terrorists and other criminals the capabilities to plot, plan, and coordinate

³³ "Terrorism" means an activity that involves a "violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States;" or a violation of s. 815.06, F.S., intended to "intimidate, injure, or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy." Section 775.30(1), F.S.

³⁴ Section 1004.0962(1), F.S.

³⁵ *Id.*

³⁶ Section 1004.0962(4), F.S.

³⁷ Section 1004.0962(6), F.S.

complicated acts of terror and violence on university and college campuses would lead to an increase in the number of Floridians subjected to fatal injury if a public postsecondary educational institution's response to these events were hampered or disabled.³⁸

Open Government Sunset Review Findings and Recommendations

In August 2021, the Senate Education Committee and the House Government Operations Subcommittee jointly sent an Open Government Sunset Review Questionnaire to the 12 institutions of the State University System (SUS) and the 28 institutions of the Florida College System (FCS). The survey sought information regarding the need to maintain the exemption related to a campus emergency response of a public postsecondary institution for responding to an act of terrorism or other public safety crisis or emergency.

All 12 state universities and 17 of the 28 FCS institutions responded to the questionnaire, and all recommended that the exemption remain in effect to ensure institutional security in the case of an emergency and to protect the safety of institutional constituents. Several institutions identified some overlap with other exemptions provided in law, particularly more general exemptions from inspection or copying of public records³⁹ and exemptions from public access or disclosure of security and firesafety systems;⁴⁰ however, none of the institutions that identified overlap recommended merging the exemptions, given the specific and heightened protection for critical security and emergency response information provided in s. 1004.0962, F.S.

III. Effect of Proposed Changes:

The bill saves from repeal the current public records exemption relating to any portion of a campus emergency response held by a public postsecondary institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management, as well as that portion of a public meeting which would reveal information related to a campus emergency response.

The exemption from public records and public meetings requirements stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.

The bill takes effect October 1, 2022.

³⁸ Ch. 2017-184, L.O.F.

³⁹ Section 119.071, F.S., provides for general exemptions from inspection or copying of public records regarding agency administration, criminal intelligence and criminal investigation, and specified personal information. Section 252.905, F.S., provides that information furnished to DEM for the purpose of being provided assistance with emergency planning is exempt.

⁴⁰ Sections 119.071(3)(a), F.S., provides that security or firesafety system plans held by an agency are confidential and exempt. Section 281.301, F.S., provides that information relating to the security or firesafety systems for specified property is confidential and exempt. Section 286.0113, F.S., provides that a specified portion of a meeting that would reveal a security or firesafety system plan is exempt. Section 1004.055, F.S., provides that specified security data or information from technology systems owned, under contract, or maintained by a state university or a FCS institution is confidential and exempt.

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

Not applicable.

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

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect portions of a public postsecondary educational institution's campus emergency response to protect the health and safety of students, faculty, staff, and the public at large. The bill exempts only information relating to a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency, and allows that such information may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities, or upon a showing of good cause before a court of competent jurisdiction. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1004.0962 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Education

581-01011-22

20227006__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 1004.0962, F.S., which provides an exemption from public records requirements for any portion of a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management, and for any portion of a public meeting which would reveal information related to a campus emergency response; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 1004.0962, Florida Statutes, is amended to read:

1004.0962 Campus emergency response of a public postsecondary educational institution; public records exemption; public meetings exemption.—

(1) As used in this section, the term "campus emergency response" means a public postsecondary educational institution's response to or plan for responding to an act of terrorism, as defined by s. 775.30, or other public safety crisis or emergency, and includes information relating to:

(a) Records, information, photographs, audio and visual

Page 1 of 3

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

581-01011-22

20227006__

presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.

(b) Threat assessments conducted by any agency or private entity.

(c) Threat response plans.

(d) Emergency evacuation plans.

(e) Sheltering arrangements.

(f) Manuals for security personnel, emergency equipment, or security training.

(g) Security systems or plans.

(h) Vulnerability analyses.

(i) Postdisaster activities, including provisions for emergency power, communications, food, and water.

(j) Postdisaster transportation.

(k) Supplies, including drug caches.

(l) Staffing.

(m) Emergency equipment.

(n) Individual identification of students, faculty, and staff; the transfer of records; and methods of responding to family inquiries.

(2) (a) Any portion of a campus emergency response held by a public postsecondary educational institution is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Any portion of a campus emergency response held by a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt from s. 119.07(1) and s. 24(a), Art. I of

Page 2 of 3

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

581-01011-22

20227006__

59 the State Constitution.

60 (3) The public records exemptions provided by this section
61 are remedial in nature, and it is the intent of the Legislature
62 that the exemptions apply to campus emergency responses held by
63 a custodial agency before, on, or after the effective date of
64 this section.

65 (4) Information made exempt by this section may be
66 disclosed:

67 (a) To another governmental entity if disclosure is
68 necessary for the receiving entity to perform its duties and
69 responsibilities; or

70 (b) Upon a showing of good cause before a court of
71 competent jurisdiction.

72 (5) That portion of a public meeting which would reveal
73 information related to a campus emergency response is exempt
74 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

75 ~~(6) This section is subject to the Open Government Sunset~~
76 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
77 ~~on October 2, 2022, unless reviewed and saved from repeal~~
78 ~~through reenactment by the Legislature.~~

79 Section 2. This act shall take effect October 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7008

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Substance Abuse Impaired Persons

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>RC</u>	CF Submitted as Comm. Bill/Fav
	<u>Delia</u>	<u>Phelps</u>		Favorable

I. Summary:

SB 7008 saves from repeal the public records exemption for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of the Marchman Act, relating to involuntary admissions procedures.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the petitions, court orders, and related records.

This bill is effective October 1, 2022.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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 which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

The Marchman Act

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.²⁶ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.²⁷ Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.²⁸ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida’s substance abuse problem.²⁹ In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).³⁰

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.³¹ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.³² As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.³³

-
- What is the identifiable public purpose or goal of the exemption?
 - Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ The Department of Children and Families, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

³¹ See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

³² Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited November 20, 2021) (hereinafter cited as “Fundamentals of the Marchman Act”).

³³ *Id.*

Involuntary Admissions

The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis. There are five involuntary admission procedures that can be broken down into two categories depending upon whether the court is involved.³⁴ Three of the procedures do not involve the court, while two require direct petitions to the circuit court. The same criteria for involuntary admission apply regardless of the admission process used.³⁵

An individual meets the criteria for an involuntary admission under the Marchman Act when there is good faith reason to believe the individual is substance abuse impaired and, because of such impairment, has lost the power of self-control with respect to substance use, and either:

- Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard;³⁶ or
- Without care or treatment:
 - The person is likely to suffer from neglect or refuse to care for himself or herself;
 - Such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and
 - It is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
 - There is substantial likelihood that the person:
 - Has inflicted, or threatened to or attempted to inflict physical harm on himself, herself, or another; or
 - Is likely to inflict, physical harm on himself, herself, or another unless he or she is admitted.³⁷

Non-Court Involved Involuntary Admissions

The three types of non-court procedures for involuntary admission for substance abuse treatment under the Marchman Act include protective custody, emergency admission, and the alternative involuntary assessment for minors.

Law enforcement officers use the protective custody procedure when an individual is substance-impaired or intoxicated in public and such impairment is brought to the attention of the officer.³⁸ The purpose of this procedure is to allow the person to be taken to a safe environment for observation and assessment to determine the need for treatment. A law enforcement officer may take the individual to their residence, to a hospital, a detoxification center, or an addiction receiving facility, whichever the officer determines is most appropriate.³⁹

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 394.675(2)(a), F.S. However, mere refusal to receive services does not constitute evidence of lack of judgment with respect to the person's need for such services.

³⁷ Section 397.675(2)(b), F.S.

³⁸ Section 397.677, F.S. The individual can be a minor or adult under this process.

³⁹ Section 397.6771, F.S. A person may be held in protective custody for no more than 72 hours, unless a petition for involuntary assessment or treatment has been timely filed with the court within that timeframe to extend protective custody.

If the individual in these circumstances does not consent to protective custody, the officer may do so against the person's will, without using unreasonable force. Additionally, the officer has the option of taking an individual to a jail or detention facility for his or her own protection. Such detention cannot be considered an arrest for any purpose and no record can be made to indicate that the person has been detained or charged with any crime.⁴⁰ However, if the individual is a minor, the law enforcement officer must notify the nearest relative of a minor in protective custody without consent.⁴¹

The second process, emergency admission, authorizes an individual who appears to meet the criteria for involuntary admission to be admitted to a hospital, an addiction receiving facility, or a detoxification facility for emergency assessment and stabilization, or to a less intensive component of a licensed service provider for assessment only.⁴² Individuals admitted for involuntary assessment and stabilization under this provision must have a certificate from a specified health professional⁴³ demonstrating the need for this type of placement and recommending the least restrictive type of service that is appropriate to the needs of the individual.⁴⁴

Lastly, the alternative involuntary assessment for minors provides a way for a parent, legal guardian, or legal custodian to have a minor admitted to an addiction receiving facility to assess the minor's need for treatment by a qualified professional.⁴⁵

Court Involved Involuntary Admissions

The two court involved Marchman Act procedures are involuntary assessment and stabilization, which provides for short-term court-ordered substance abuse services,⁴⁶ and involuntary services, which provides for long-term court-ordered substance abuse services.⁴⁷ Both are initiated through the filing of a petition.⁴⁸

Involuntary Assessment and Stabilization

An individual's spouse, legal guardian, any relative, a private practitioner, the director of a licensed service provider or the director's designee, or any adult who has direct personal knowledge of the individual's substance abuse impairment may file a petition for involuntary

⁴⁰ Section 397.6772(1), F.S.

⁴¹ Section 397.6772(2), F.S.

⁴² Section 397.679, F.S.

⁴³ Section 397.6793(1), F.S., provides a list of professionals that include a physician, a clinical psychologist, a physician assistant working under the scope of practice of the supervising physician, a psychiatric nurse, an advanced practice registered nurse, a mental health counselor, a marriage and family therapist, a master's-level-certified addictions professional for substance abuse services, or a clinical social worker

⁴⁴ Section 397.6793, F.S. The certificate can be from a physician, advanced practice registered nurse, a psychiatric nurse, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, or a physician assistant working under the scope of a practice of the supervising physician, or a master's-level-certified addictions professional for substance abuse services.

⁴⁵ Section 397.6798, F.S.

⁴⁶ See ss. 397.6811 through 397.6822, F.S.

⁴⁷ See ss. 397.693 through 397.6978, F.S.

⁴⁸ Section 397.681, F.S. The court may not charge a filing fee for these petitions.

assessment and stabilization on behalf of the individual.⁴⁹ If the individual is a minor, only a parent, legal guardian, legal custodian, or licensed service provider may file such a petition.⁵⁰

The petition for involuntary assessment and stabilization must contain:

- The name of the applicant or applicants (the individual(s) filing the petition with the court);
- The name of the respondent (the individual whom the applicant is seeking to have involuntarily assessed and stabilized);
- The relationship between the respondent and the applicant;
- The name of the respondent's attorney, if known; and
- Facts to support the need for involuntary assessment and stabilization, including the reason for the applicant's belief that:
 - The respondent is substance abuse impaired;
 - Because of such impairment, the respondent has lost the power of self-control with respect to substance abuse; and
 - The respondent:
 - Has inflicted or is likely to inflict physical harm on himself or herself or others unless admitted; or
 - Will refuse, or has refused voluntary care and based on his or her judgement being so impaired from the substance abuse, he or she is incapable of appreciating his or her need for care and of making a rational decision regarding the need for care.⁵¹

Once the petition is filed with the court, the court issues a summons to a respondent and must schedule a hearing to take place within ten days. Alternatively, the court can issue an ex parte order immediately.⁵² Under the ex parte order, the court may order a law enforcement officer or other designated agent of the court to take the respondent into custody and deliver him or her to the nearest appropriate licensed service provider.⁵³

A court must conduct the hearing in accordance with s. 397.6811(1), F.S., and hear all relevant testimony. If the court determines that a respondent meets the criteria for involuntary assessment and stabilization, it must immediately enter an order that authorizes the involuntary assessment and stabilization of the respondent or, in the alternative, enter an order dismissing the petition if a respondent does not meet the criteria.⁵⁴

If the court determines a respondent meets the criteria for involuntary assessment and stabilization, it may order him or her to be admitted for a period of five days⁵⁵ to a hospital, licensed detoxification facility, or addictions receiving facility for involuntary assessment and

⁴⁹ Section 397.6811(1), F.S.

⁵⁰ Section 397.6811(2), F.S.

⁵¹ Section 397.6814, F.S. Further, if the person has refused to submit to an assessment, that fact must be included in the petition.

⁵² Section 397.6815, F.S.

⁵³ Section 397.6815(2), F.S.

⁵⁴ Section 397.6818(1), F.S. This section also provides for the written findings that must be included in the order.

⁵⁵ Section 397.6819, F.S.

stabilization.⁵⁶ During that time, an assessment is completed on the individual.⁵⁷ Under certain circumstances, this order may be extended to complete the assessment.⁵⁸

Based on the involuntary assessment at a hospital, detoxification facility, addictions receiving facility, or less restrictive component, the qualified professional must either:

- Release the individual and, if appropriate, refer the individual to another treatment facility or service provider, or to community services;
- Allow the individual to remain voluntarily at the licensed provider; or
- Hold the individual if a petition for involuntary treatment has been initiated.⁵⁹

Involuntary Services

A person may be court-ordered for involuntary treatment if he or she meets the eligibility criteria for involuntary admission and has been involved in one of the following Marchman Act processes within certain timeframes:

- Protective custody or emergency admission within the previous ten days.
- Assessment by a qualified professional within five days.
- Involuntary assessment and stabilization or alternative involuntary admission pursuant to s. 397.6822, F.S.,⁶⁰ within the previous 12 days.⁶¹

An individual's spouse, legal guardian, any relative, or service provider, or any adult who has direct personal knowledge of the individual's substance abuse impairment or prior course of assessment and treatment may file a petition for involuntary services on behalf of the individual.⁶² If the individual is a minor, only a parent, legal guardian, or service provider may file such a petition.⁶³

Similar to a petition for involuntary assessment and stabilization, a petition for involuntary services must contain the same identifying information for all parties and attorneys and facts to support the same eligibility criteria as described above.⁶⁴ Upon filing of a petition, the court must schedule a hearing to be held within five days, and must provide a copy of the petition and notice of hearing to all parties and anyone else the court determines. The court also issues a summons to the person whose admission is sought.⁶⁵

⁵⁶ Section 397.6811, F.S. The individual may also be ordered to a less restrictive component of a licensed service provider for assessment only upon entry of a court order or upon receipt by the licensed service provider of a petition.

⁵⁷ Section 397.6819, F.S. The licensed service provider must assess the individual without unnecessary delay using a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before the end of the assessment period.

⁵⁸ See s. 397.6819, F.S., for exceptions.

⁵⁹ Section 397.6822, F.S. The timely filing of a petition for involuntary services authorizes the service provider to retain physical custody of the individual pending further order of the court.

⁶⁰ Section 397.6822, F.S., refers to disposition of an individual after involuntary assessment, including release or referral to another treatment facility or service provider, or to community services; voluntary retention of the individual; or retention of an individual pending a petition for involuntary services.

⁶¹ Section 397.693, F.S.

⁶² Section 397.695(1), F.S.

⁶³ Section 397.695(2), F.S.

⁶⁴ Section 397.6951, F.S.

⁶⁵ Section 397.6955(1) through (3), F.S.

In a hearing for involuntary services, the petitioner must prove by clear and convincing evidence that:

- The individual is substance abuse impaired and has a history of lack of compliance with treatment for substance abuse;
- Because of such impairment the person is unlikely to voluntarily participate in the recommended services or is unable to determine for himself or herself whether services are necessary; and
- The respondent meets either of the following:
 - Without services the individual:
 - Is likely to suffer from neglect or refuse to care for himself or herself and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and
 - That there is a substantial likelihood that without services the individual will cause serious bodily harm to himself, herself, or another in the near future, as evidenced by recent behavior; or
 - The individual's refusal to voluntarily receive care is based on judgment so impaired by reason of substance abuse that the respondent is incapable of appreciating his or her need for care and of making a rational decision regarding that need for care.⁶⁶

At the hearing, the court must hear and review all relevant evidence, including the results of the involuntary assessment by a qualified professional, and either dismiss the petition or order the individual to receive involuntary services from his or her chosen licensed service provider, if possible and appropriate. The respondent must be present unless the court finds that his or her presence is likely to be injurious to himself or herself or others. If such finding is made, a guardian advocate must be appointed to act on behalf of the respondent.⁶⁷

If the court finds that the conditions for involuntary services have been proven, it may order the respondent to receive involuntary services with a publicly funded licensed service provider for up to 90 days.⁶⁸ Alternatively, if the individual or a person on the individual's behalf is able and willing to pay for services, the court may also order the individual to receive services at a privately funded licensed service provider.⁶⁹ If an individual continues to need involuntary services, the licensed service provider can petition the court for continuances for up to 90 days.⁷⁰ Unless an extension is requested, the individual is released after 90 days.⁷¹

Confidentiality of Marchman Act Records

In 2017, the Legislature created a public records exemption in s. 397.6760, F.S., for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of the Marchman Act., related to involuntary admissions procedures⁷² Petitions for

⁶⁶ Section 397.6957(2), F.S.

⁶⁷ Sections 397.6957(1), F.S.

⁶⁸ Section 397.697(1), F.S.

⁶⁹ *Id.*

⁷⁰ The licensed service provider must file its petition at least 10 days before the 90-day period expires. A hearing must be held within 15 days. Section 397.6975, F.S.

⁷¹ Section 397.6977, F.S.

⁷² Chapter 2017-25, s. 1, L.O.F., which codified current s. 397.6760, F.S.

involuntary assessment and stabilization, court orders, and related records that are filed with the court under the Marchman Act are confidential and exempt from disclosure.⁷³ However, the clerk of the court may disclose such records to the following entities:

- The petitioner.
- The petitioner's attorney.
- The respondent.
- The respondent's attorney.
- The respondent's guardian or guardian advocate, if applicable.
- In the case of a minor respondent, the respondent's parent, guardian, legal custodian, or guardian advocate.
- The respondent's treating health care practitioner.
- The respondent's health care surrogate or proxy.
- The Department of Children and Families (the DCF), without charge.
- The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the DCF.
- A person or entity authorized to view records upon a court order for good cause.
- The Florida Department of Law Enforcement.⁷⁴

The clerk of the court is prohibited from publishing personal identifying information on court dockets or publicly accessible files.⁷⁵ Any individual or entity who receives information protected by the exemption is required to maintain the confidentiality of such information,⁷⁶ and the exemption applies to all documents filed with a court before, on, or after July 1, 2017.⁷⁷ The exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature.⁷⁸

Open Government Sunset Review Findings

According to the public necessity statement included in the original public records exemption, making petitions and court records filed under the Marchman Act confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the Florida Constitution protects a person's personal health information and sensitive personal information which, if released, could cause unwarranted damage to the person's reputation.⁷⁹ Additionally, the knowledge that such information could be disclosed could have a chilling effect on the willingness of individuals to seek treatment.⁸⁰

In August 2021, the Senate Children, Families, and Elder Affairs Committee staff and the House Government Operations Subcommittee staff jointly sent an Open Government Sunset Review Questionnaire to each of the 67 clerks of court throughout Florida regarding the need to maintain

⁷³ Section 397.6760(1), F.S.

⁷⁴ Section 397.6760(1)-(2), F.S.

⁷⁵ Section 397.6760(3), F.S.

⁷⁶ Section 397.6760(4), F.S.

⁷⁷ Section 397.6760(5), F.S.

⁷⁸ Section 397.6760(6), F.S.

⁷⁹ Chapter 2017-25, s. 2, L.O.F.

⁸⁰ *Id.*

the public records exemption with 32 of the 67 clerks of court responding to the questionnaire with the following results:

- 29 of those 32 requested that the exemption be reenacted as is; and
- Three did not specify a preference as to their preferred action by the Legislature with regard to the exemption.

Additionally, the DCF recommends retaining the exemption in its current form.⁸¹

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 397.6760, F.S., for petitions for involuntary assessment and stabilization, court orders, and related records filed with or by a court under Part V of ch. 397, F.S., also known as the Marchman Act.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

⁸¹ Meeting with staff of the DCF (October 1, 2021).

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect sensitive health information of those who are involuntarily examined and to protect their reputations and reputations of their families. This bill exempts only court records related to involuntary assessments under the Marchman Act. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 397.6760 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 the Committee on Children, Families, and Elder Affairs

586-01357-22

20227008__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 397.6760, F.S., relating to an exemption from public records requirements for involuntary assessment and stabilization, court orders, related records, and personal identifying information regarding substance abuse impaired persons; removing the scheduled repeal date of the exemption; providing an effective date.

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

Section 1. Section 397.6760, Florida Statutes, is amended to read:

397.6760 Court records; confidentiality.—

(1) All petitions for involuntary assessment and stabilization, court orders, and related records that are filed with or by a court under this part are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Pleadings and other documents made confidential and exempt by this section may be disclosed by the clerk of the court, upon request, to any of the following:

- (a) The petitioner.
- (b) The petitioner's attorney.
- (c) The respondent.
- (d) The respondent's attorney.
- (e) The respondent's guardian or guardian advocate, if applicable.
- (f) In the case of a minor respondent, the respondent's

Page 1 of 3

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

586-01357-22

20227008__

parent, guardian, legal custodian, or guardian advocate.

(g) The respondent's treating health care practitioner.

(h) The respondent's health care surrogate or proxy.

(i) The Department of Children and Families, without charge.

(j) The Department of Corrections, without charge, if the respondent is committed or is to be returned to the custody of the Department of Corrections from the Department of Children and Families.

(k) A person or entity authorized to view records upon a court order for good cause. In determining if there is good cause for the disclosure of records, the court must weigh the person or entity's need for the information against potential harm to the respondent from the disclosure.

(2) This section does not preclude the clerk of the court from submitting the information required by s. 790.065 to the Department of Law Enforcement.

(3) The clerk of the court may not publish personal identifying information on a court docket or in a publicly accessible file.

(4) A person or entity receiving information pursuant to this section shall maintain that information as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(5) The exemption under this section applies to all documents filed with a court before, on, or after July 1, 2017.

~~(6) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal~~

Page 2 of 3

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

586-01357-22

20227008__

59 ~~through reenactment by the Legislature.~~

60 Section 2. This act shall take effect October 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7010

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Public and Professional Guardians

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>RC</u>	CF Submitted as Comm. Bill/Fav Favorable

I. Summary:

SB 7010 saves from repeal the public records exemption for certain information held by the Department of Elder Affairs (the DOEA) in connection with a complaint filed against, or an investigation of, a professional guardian. Specifically, the exemption covers the following investigative information:

- The names and identifying information of a ward and guardian;
- The ward's personal health and financial records; and
- All photographs and video recordings. All other investigative information become public once an investigation concludes.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information.

The bill is effective October 1, 2022.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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 which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.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 Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

¹² FLA. CONST., art. I, s. 24(c)

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Guardianship

A guardian is someone who is appointed by the court to act on behalf of a ward (an individual who has been adjudicated incapacitated) regarding his or her person or property or both.²⁶ The process to determine an individual's incapacity and the subsequent appointment of a guardian begins with a verified petition detailing the factual information supporting the reasons the petitioner believes the individual to be incapacitated, including the rights the alleged incapacitated person is incapable of exercising.²⁷ Once a person has been adjudicated incapacitated (termed a "ward"), the court appoints a guardian, and the letters of guardianship are issued.²⁸ The order appointing a guardian must be consistent with the ward's welfare and safety, must be the least restrictive appropriate alternative, and must reserve to the ward the right to make decisions in all matters commensurate with his or her ability to do so.²⁹

Appointment of Professional Guardians

A professional guardian is a guardian who has at any time rendered services to three or more wards as their guardian; however, a person serving as a guardian for two or more relatives is not considered a professional guardian. A public guardian is considered a professional guardian for purposes of regulation, education, and registration.³⁰

In each case when a court appoints a professional guardian and does not use a rotation system for such appointment, the court must make specific findings of fact stating why the person was

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 744.102(9), F.S.

²⁷ Section 744.3201(2), F.S.

²⁸ Sections 744.3371-744.345, F.S.

²⁹ Section 744.2005, F.S.

³⁰ Section 744.102(17), F.S.

selected as guardian in the particular matter involved.³¹ The findings must reference the following factors that must be considered by the court:

- Whether the guardian is related by blood or marriage to the ward;
- Whether the guardian has educational, professional, or business experience relevant to the nature of the services sought to be provided;
- Whether the guardian has the capacity to manage the financial resources involved;
- Whether the guardian has the ability to meet the requirements of the law and the unique needs of the individual case;
- The wishes expressed by an incapacitated person as to who shall be appointed guardian;
- The preference of a minor who is age 14 or over as to who should be appointed guardian;
- Any person designated as guardian in any will in which the ward is a beneficiary; and
- The wishes of the ward's next of kin, when the ward cannot express a preference.³²

Additionally, the court may not give preference to the appointment of a person based solely on the fact that such person was appointed by the court to serve as an emergency temporary guardian.³³ When a professional guardian is appointed as an emergency temporary guardian, that professional guardian may not be appointed as the permanent guardian of a ward unless one of the next of kin of the alleged incapacitated person or the ward requests that the professional guardian be appointed as permanent guardian. However, the court may waive this limitation if the special requirements of the guardianship demand that the court appoint a guardian because he or she has special talent or specific prior experience.³⁴

Regulation of Public and Professional Guardians

The Legislature created the Statewide Public Guardianship Office in 1999 to provide oversight for all public guardians.³⁵ In 2016, the Legislature renamed the Statewide Public Guardianship Office within the Department of Elder Affairs (the DOEA) as the Office of Public and Professional Guardians (the OPPG) and expanded the OPPG's responsibilities.³⁶ The OPPG now regulates professional guardians with certain disciplinary and enforcement powers.³⁷ Specifically, s. 744.2004, F.S., requires the OPPG to review and, if determined legally sufficient, investigate any complaint that a professional guardian has violated the standards of practice established by the OPPG.

According to the DOEA, the annual numbers of complaints filed against a guardian or involving a guardianship since 2016 are as follows:

- 183 in 2016;
- 132 in 2017;
- 56 in 2018;
- 113 in 2019;
- 169 in 2020; and

³¹ Section 744.312(4)(a), F.S.

³² Section 744.312(2)-(3), F.S.

³³ Section 744.312(5), F.S.

³⁴ Section 744.312(4)(b), F.S.

³⁵ Chapter 99-277, L.O.F.

³⁶ See CS/CS/CS/SB 232 (2016) and ch. 2016-40, L.O.F.

³⁷ Section 744.2004, F.S.

- 89 in the first 6-months of 2021.³⁸

The annual number of public records requests regarding OPPG complaints since 2017 are as follows:

- 17 in 2017;
- 11 in 2018;
- 63 in 2019;
- 31 in 2020; and
- 48 in the first 8-months of 2021.³⁹

Confidentiality of Information Held by the Office of Public and Professional Guardians

In 2017, the Legislature created s. 744.2111, F.S., containing a public records exemption for the following information in a complaint and subsequent investigation held by the OPPG:

- The names and identifying information of a ward and guardian;
- The ward's personal health and financial records; and
- All photographs and video recordings. All other investigative information become public once an investigation concludes.⁴⁰

Such information is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. 1 of the Florida Constitution until the investigation pertaining to the information is completed or inactive, unless a court requires disclosure.⁴¹ The information may still be provided to a law enforcement agency, any other regulatory agency in the performance of its official duties and responsibilities, or, pursuant to s. 744.368, F.S., the clerk of the court.⁴² The exemption applies to all documents received relating to a complaint before, on, or after July 1, 2017.⁴³

Open Government Sunset Review Findings

According to the public necessity statement included in the original public records exemption, it is a public necessity to protect the identity of a complainant because revealing such information may damage their good name and the complainant could be put at risk of retaliation.⁴⁴ Additionally, the public necessity statement provided that investigative information should be exempt from public disclosure because an investigation could lead to legal action and the loss of a license. Releasing investigative information may also frustrate the purpose of an investigation and impair the DOEA's ability to regulate guardians.⁴⁵

³⁸ Email from Derek Miller, Legislative Affairs Director, the DOEA, August 26, 2021. On file with the Senate Children, Families, and Elder Affairs Committee.

³⁹ *Id.*

⁴⁰ Chapter 2017-176, s. 1, L.O.F.

⁴¹ Section 744.2111(2), F.S.

⁴² Section 744.2111(3), F.S. Section 744.368, F.S., lists responsibilities of the clerk of the court in guardianship matters, which include reviewing annual guardianship reports, auditing inventories and accountings completed by a guardian of the property, and reviewing record and documents that reasonably impact guardianship assets.

⁴³ Section 744.2111(4), F.S.

⁴⁴ Chapter 2017-176, s. 2, L.O.F.

⁴⁵ *Id.*

On August 17, 2021, the Senate Children, Families, and Elder Affairs Committee staff and the House Government Operations Subcommittee staff jointly met with the executive director of the OPPG regarding the need to maintain the public records exemption.⁴⁶ The executive director stated that the exemption is effective and important, particularly given the high number of public records requests received by the OPPG.⁴⁷ The executive director recommended retaining the exemption in its current form.⁴⁸

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 744.2111, F.S., for certain information held by the DOEA in connection with a complaint filed against, or an investigation of, a professional guardian.

Specifically, the exemption covers the following investigative information:

- The names and identifying information of a ward and guardian;
- The ward's personal health and financial records; and
- All photographs and video recordings. All other investigative information become public once an investigation concludes.

The public records exemption stands repealed on October 2, 2022, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. If an exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. This bill continues a current public records exemption beyond

⁴⁶ Meeting with staff of the DOEA (August 17, 2021).

⁴⁷ *Id.*

⁴⁸ *Id.*

its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect confidential information in connection with a complaint filed against, or an investigation of, a professional guardian. This bill exempts only certain identifying information, health and financial information, and photographs and recordings of complainants and wards in connection with a complaint filed with the DOEA from the public records requirements. The bill provides that releasing such information could cause unwarranted damage to the reputation of the individual and jeopardize the safety of such individuals. In addition, releasing such information may jeopardize investigations of the agency. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 744.2111 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs

586-01360-22

20227010__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 744.2111, F.S., which
 4 provides an exemption from public records requirements
 5 for certain information held by the Department of
 6 Elderly Affairs in connection with a filed complaint
 7 or subsequently conducted investigation relating to
 8 public and professional guardians; removing the
 9 scheduled repeal of the exemption; providing an
 10 effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Section 744.2111, Florida Statutes, is amended
 15 to read:
 16 744.2111 Confidentiality.—
 17 (1) The following are confidential and exempt from the
 18 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 19 Constitution, when held by the Department of Elderly Affairs in
 20 connection with a complaint filed and any subsequent
 21 investigation conducted pursuant to this part, unless the
 22 disclosure is required by court order:
 23 (a) Personal identifying information of a complainant or
 24 ward.
 25 (b) All personal health and financial records of a ward.
 26 (c) All photographs and video recordings.
 27 (2) Except as otherwise provided in this section,
 28 information held by the department, is confidential and exempt
 29 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution

Page 1 of 2

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

586-01360-22

20227010__

30 until the investigation is completed or ceases to be active,
 31 unless the disclosure is required by court order.
 32 (3) This section does not prohibit the department from
 33 providing such information to any law enforcement agency, any
 34 other regulatory agency in the performance of its official
 35 duties and responsibilities, or the clerk of the circuit court
 36 pursuant to s. 744.368.
 37 (4) The exemption under this section applies to all
 38 documents received by the department in connection with a
 39 complaint before, on, or after July 1, 2017.
 40 ~~(5) This section is subject to the Open Government Sunset~~
 41 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 42 ~~on October 2, 2022, unless reviewed and saved from repeal~~
 43 ~~through reenactment by the Legislature.~~
 44 Section 2. This act shall take effect October 1, 2022.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By The Professional Staff of the Committee on Rules

BILL: SB 7014

INTRODUCER: Judiciary Committee

SUBJECT: COVID-19-related Claims Against Health Care Providers

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>RC</u>	JU Submitted as Comm. Bill/Fav
	<u>Davis</u>	<u>Phelps</u>		Favorable

I. Summary:

SB 7014 extends the length of time that health care providers receive certain liability protections from COVID-19-related claims. According to legislation passed during the 2021 Legislative Session, liability protections from COVID-19-related claims apply to claims accruing within 1 year after the effective date of the act, which was March 29, 2022.

The bill extends the application period of the liability protections, making them applicable to claims accruing before June 1, 2023. The net result of the bill is to extend the liability protections for about 14 months, from March 29, 2022, to June 1, 2023.

II. Present Situation:

The COVID-19 pandemic gripped the state and nation in 2020 and 2021 in ways that were previously unimaginable. The toll on individuals, businesses, and the economy were catastrophic. The Legislature determined that special civil liability protections against COVID-19-related claims were essential for the survival of individuals, businesses, health care providers, and other organizations. In an effort to protect those entities that contributed to the overall well-being of the state, the Legislature passed CS/SB 72¹ which established liability protections from COVID-19 related claims for healthcare providers in s. 768.381, F.S.

The liability protections in s. 768.381, F.S., require a plaintiff to:

- Satisfy heightened pleading requirements of alleging facts in sufficient detail to support each element of his or her claim;
- Prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct; and
- Overcome any affirmative defense recognized in the statute that is properly raised by the health care provider defendant.

¹ Chapter 2021-1, Laws of Fla.

Under the “application period”² established for the liability protections, the liability protections apply to a “COVID-19-related claims that have “accrued before the effective date of the act” which was March 29, 2021, and “within 1 year after the effective date of this act.”

III. Effect of Proposed Changes:

This bill extends the length of time, or application period, that a health care provider receives certain liability protections for COVID-19-related claims. Pursuant to legislation passed in 2021, the application period applies to claims accruing before March 29, 2022. This bill extends the application period of the liability protections from March 29, 2022 to June 1, 2023.

The act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector fiscal impacts of SPB 7014 are indeterminate. If the effect of the bill is to codify what the courts would have found to be the common law of the state, then the bill will have a significant positive impact on the private sector in general through the

² Section 768.381(6), F.S.

avoidance of litigation and its attendant costs. If the effect of the bill is to limit lawsuits that otherwise would have yielded recoveries for injured parties, the bill will have a positive fiscal impact on the health care industry and a corresponding negative fiscal impact on injured individuals.

C. **Government Sector Impact:**

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.381, Florida Statutes.

IX. Additional Information:

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

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

None.

B. **Amendments:**

None.

By the Committee on Judiciary

590-01332-22

20227014__

1 A bill to be entitled
2 An act relating to COVID-19-related claims against
3 health care providers; amending s. 768.381, F.S.;
4 extending the duration of liability protections from
5 COVID-19-related claims against health care providers;
6 providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (6) of section 768.381, Florida
11 Statutes, is amended to read:
12 768.381 COVID-19-related claims against health care
13 providers.-
14 (6) APPLICATION PERIOD.-This section applies to claims that
15 have accrued before the effective date of this act and before
16 June 1, 2023 ~~within 1 year after the effective date of this act.~~
17 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kathleen Passidomo, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: December 16, 2021

I respectfully request that **Senate Bill # 7014**, relating to COVID-19-related Claims Against Health Care Providers, be placed on the:

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

A handwritten signature in cursive script that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20

The Florida Senate

APPEARANCE RECORD

SB 7014

01.13.22

Meeting Date

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

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **William Large**

Phone **850-222-0170**

Address **210 South Monroe Street**

Email **William@fljustice.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 Justice Reform Institute

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

SB 7014

Bill Number or Topic

1/13/22 Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

DAVID MIZCA, Jr

Phone

352-222-8700

Address

306 E College Ave

Email

Street

Tallahassee

FL

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Hospital Assn.

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

SB 7014

January 13, 2022

Meeting Date

Bill Number or Topic

Rules

Committee

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

Amendment Barcode (if applicable)

Name **Jason Hand**

Phone **850-443-0024**

Address **2292 Wednesday Street, Suite 1**

Email **jhand@floridaseniorliving.org**

Street

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:

Florida Senior Living Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/13/22

Meeting Date

7014

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Chris Nuland

Phone 904-233-3051

Address 4427 Herschel St

Email nulandlaw@aol.com

Street

Jacksonville, FL

State

32210

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Chapter, American College of Physicians

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)

Janaury 13, 2021

Meeting Date

The Florida Senate
APPEARANCE RECORD

7014

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name **Susan Anderson**

Phone **850-224-3907**

Address **307 W. Park Avenue**

Email **sanderson@fhca.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 Health Care Association

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

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

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

S-001 (08/10/2021)

Jan. 13, 2022

Meeting Date

Senate Rules

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 7014

Bill Number or Topic

Amendment Barcode (if applicable)

Name Hayden Dempsey

Phone 850.222.6891

Address 101 E College Ave

Email dempsyh@gflaw.com

Tallahassee FL 32301

City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

LeadingAge Florida

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/13/22

Meeting Date

SB 7014

Bill Number or Topic

RULES

Committee

Amendment Barcode (if applicable)

Name

Jeff Scott

Phone

850 224-6496

Address

1430 Piedmont Dr. E.

Email

j.scott@flmedical.org

Street

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:

Florida Medical Association

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

1/13/21

Meeting Date

SB 7014

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 521-1200

Address 134 S Bronough St

Email

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Chamber of Commerce

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)

January 13, 2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

7014

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Chris Lyon**

Phone **850-222-5702**

Address **315 S. Calhoun Street, Suite 830**

Email **clyon@llw-law.com**

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

**Florida Osteopathic Medical
Association**

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 7014

January 13, 2022

Meeting Date

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

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **Jennifer Bourassa**

Phone **(786) 486-5652**

Address **9510 Martinique Drive**

Email **jbourassa50@gmail.com**

Street

Cutler Bay

FL

33189

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)

APPEARANCE RECORD

SB 7014

January 13, 2022

Meeting Date

Bill Number or Topic

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

Rules

Committee

Amendment Barcode (if applicable)

Name Stephen Cain Phone (30) 358-6644

Address One Southeast Third Avenue, Suite 3000 Email scain@stfblaw.com

Street

Miami FL 33131

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:

FSA

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.

The Florida Senate

APPEARANCE RECORD

7014

1/13/22

Meeting Date

Bill Number or Topic

Rules

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

Committee

Amendment Barcode (if applicable)

Name **Adam Basford**

Phone **850-224-7173**

Address **516 N Adams**
Street

Email **bjogerst@aif.com**

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:

Associated Industries of Florida

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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

7014

Bill Number or Topic

1/13/22

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name Michael Cusick

Phone 850-222-5620

Address 200 W. College Av
Street

Email Mike@michaelcusick.com

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:

Fl. Association of Children's Hospitals

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

1/13/22 Meeting Date

2014 Bill Number or Topic

Rules Committee

Amendment Barcode (if applicable)

Name Spencer Pylant

Phone 305-577-5421

Address Street

Email spylant@miami-chamber.com

City State Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] 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:

Greater Miami Chamber of Commerce

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)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7016

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Information Submitted by Insurers/Department of Financial Services

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Arnold</u>	<u>Knudson</u>		BI Submitted as Comm. Bill/Fav
1. <u>Arnold</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7016 continues the public records exemption for certain information submitted to the Department of Financial Services (DFS) related to an insurer's anti-fraud plan or annual fraud report pursuant to s. 626.9891, F.S., by removing the October 2, 2022, repeal date.

Currently, s. 626.9891, F.S., provides that certain information submitted to DFS related to an insurer's anti-fraud plan or annual fraud report is exempt from s. 119.07(1), F.S., and article I, section 24 of the Florida Constitution.

Pursuant to the Open Government Sunset Review (OGSR), the public records exemption is scheduled to repeal October 2, 2022, unless reenacted by the Legislature. Since the bill continues the exemption and does not expand the scope of the public records exemption, the bill requires a majority vote of each chamber for passage.

This bill takes effect October 1, 2022.

II. Present Situation:

Public Records Law

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

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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 which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.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 Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

¹² FLA. CONST., art. I, s. 24(c)

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Insurer Anti-Fraud Investigative Units

Under Florida law, an admitted insurer is required to maintain a designated anti-fraud unit or division within its company, or contract with a third party, to investigate and report possible fraudulent insurance acts.²⁶ The insurer must also adopt an anti-fraud plan, file a description of the anti-fraud plan or copy of executed contract with the Department of Financial Services (DFS) Division of Investigative and Forensic Services (DIFS), and annually report data related to fraud for each line of business to DFS. The Financial Services Commission, DFS, and Office of Insurance Regulation may impose an administrative fine on a noncompliant insurer.

Each anti-fraud plan must include:

- An acknowledgment that the insurer has established procedures for detecting and investigating possible fraudulent insurance acts relating to the different types of insurance by that insurer;
- An acknowledgment that the insurer has established procedures for the mandatory reporting of possible fraudulent insurance acts to DIFS;
- An acknowledgment that the insurer provides the anti-fraud education and training required by this section to the anti-fraud investigative unit;
- A description of the required anti-fraud education and training;
- A description or chart of the insurer's anti-fraud investigative unit, including the position titles and descriptions of staffing; and
- The rationale for the level of staffing and resources being provided for the anti-fraud investigative unit which may include objective criteria, such as the number of policies written, the number of claims received on an annual basis, the volume of suspected

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 626.9891, F.S.

fraudulent claims detected on an annual basis, an assessment of the optimal caseload that one investigator can handle on an annual basis, and other factors.

Each insurer is required to report the following data related to fraud for each line of business:

- The number of policies in effect;
- The amount of premiums written for policies;
- The number of claims received;
- The number of claims referred to the anti-fraud investigative unit;
- The number of other insurance fraud matters referred to the anti-fraud investigative unit that were not claim related;
- The number of claims investigated or accepted by the anti-fraud investigative unit;
- The number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related;
- The number of cases referred to DIFS;
- The number of cases referred to other law enforcement agencies;
- The number of cases referred to other entities; and
- The estimated dollar amount or range of damages on cases referred to DIFS or other agencies.

Section 626.9891(11), F.S., provides that certain information contained in an insurer's anti-fraud plan or annual fraud report submitted to DFS is exempt from s. 119.07(1) and article I, section 24 of the Florida Constitution. The following information covered by the public records exemption :

- A description of the required anti-fraud education and training;
- A description or chart of the insurer's anti-fraud investigative unit, including the position titles and descriptions of staffing;
- The rationale for the level of staffing and resources being provided for the anti-fraud investigative unit which may include objective criteria, such as the number of policies written, the number of claims received on an annual basis, the volume of suspected fraudulent claims detected on an annual basis, an assessment of the optimal caseload that one investigator can handle on an annual basis, and other factors.
- The number of claims referred to the anti-fraud investigative unit;
- The number of other insurance fraud matters referred to the anti-fraud investigative unit that were not claim related;
- The number of claims investigated or accepted by the anti-fraud investigative unit;
- The number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related; and
- The estimated dollar amount or range of damages on cases referred to DIFS or other agencies.

Further, s. 626.9891(11), F.S., is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2022, if not reenacted.

OGSR Survey and Results

In 2021, Senate professional staff sent out a survey to DFS to ascertain whether the public records exemption under s. 626.9891, F.S., remains necessary, pursuant to the OGSR Act.²⁷ DFS indicated information subject to the public records exemption under s. 626.9891, F.S. is not protected by another exemption or subject to multiple exemptions. DFS indicated there has been no litigation related to s. 626.9891, F.S.

DFS recommends reenacting the public records exemption without changes. Further, DFS indicates this public records exemption is vital to prevent criminals from accessing such information to identify fraud prevention and detection strategies used by insurers, or to be alerted to potential or ongoing investigations. Such disclosure may assist criminals in impeding investigations or evading detection.

III. Effect of Proposed Changes:

Section 1 amends s. 626.9891, F.S., to continue the public records exemption related to insurer anti-fraud plans and annual fraud reports submitted to DFS.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law.

²⁷ See DFS survey correspondence, dated November 23, 2021, on file with the Senate Committee on Banking and Insurance.

The purpose of the law is to protect the disclosure of information that would assist perpetrators of insurance fraud in impeding investigations and evading detection. This bill exempts only information submitted by insurers to DFS related to anti-fraud plans and fraud reports from the public records requirements. 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.9891 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 the Committee on Banking and Insurance

597-01488-22

20227016__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 626.9891, F.S., which
 4 provides an exemption from public records requirements
 5 for certain information submitted by insurers to the
 6 Department of Financial Services; removing the
 7 scheduled repeal of the exemption; providing an
 8 effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 626.9891, Florida Statutes, is amended
 13 to read:
 14 626.9891 Insurer anti-fraud investigative units; reporting
 15 requirements; penalties for noncompliance.—
 16 (1) As used in this section, the term:
 17 (a) "Anti-fraud investigative unit" means the designated
 18 anti-fraud unit or division, or contractor authorized under
 19 subparagraph (2) (a)2.
 20 (b) "Designated anti-fraud unit or division" includes a
 21 distinct unit or division or a unit or division made up of
 22 employees whose principal responsibilities are the investigation
 23 and disposition of claims who are also assigned investigation of
 24 fraud.
 25 (2) By December 31, 2017, every insurer admitted to do
 26 business in this state shall:
 27 (a)1. Establish and maintain a designated anti-fraud unit
 28 or division within the company to investigate and report
 29 possible fraudulent insurance acts by insureds or by persons

Page 1 of 7

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

597-01488-22

20227016__

30 making claims for services or repairs against policies held by
 31 insureds; or
 32 2. Contract with others to investigate and report possible
 33 fraudulent insurance acts by insureds or by persons making
 34 claims for services or repairs against policies held by
 35 insureds.
 36 (b) Adopt an anti-fraud plan.
 37 (c) Designate at least one employee with primary
 38 responsibility for implementing the requirements of this
 39 section.
 40 (d) Electronically file with the Division of Investigative
 41 and Forensic Services of the department, and annually
 42 thereafter, a detailed description of the designated anti-fraud
 43 unit or division or a copy of the contract executed under
 44 subparagraph (a)2., as applicable, a copy of the anti-fraud
 45 plan, and the name of the employee designated under paragraph
 46 (c).
 47
 48 An insurer must include the additional cost incurred in creating
 49 a distinct unit or division, hiring additional employees, or
 50 contracting with another entity to fulfill the requirements of
 51 this section, as an administrative expense for ratemaking
 52 purposes.
 53 (3) Each anti-fraud plan must include:
 54 (a) An acknowledgment that the insurer has established
 55 procedures for detecting and investigating possible fraudulent
 56 insurance acts relating to the different types of insurance by
 57 that insurer;
 58 (b) An acknowledgment that the insurer has established

Page 2 of 7

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

597-01488-22

20227016__

59 procedures for the mandatory reporting of possible fraudulent
60 insurance acts to the Division of Investigative and Forensic
61 Services of the department;

62 (c) An acknowledgment that the insurer provides the anti-
63 fraud education and training required by this section to the
64 anti-fraud investigative unit;

65 (d) A description of the required anti-fraud education and
66 training;

67 (e) A description or chart of the insurer's anti-fraud
68 investigative unit, including the position titles and
69 descriptions of staffing; and

70 (f) The rationale for the level of staffing and resources
71 being provided for the anti-fraud investigative unit which may
72 include objective criteria, such as the number of policies
73 written, the number of claims received on an annual basis, the
74 volume of suspected fraudulent claims detected on an annual
75 basis, an assessment of the optimal caseload that one
76 investigator can handle on an annual basis, and other factors.

77 (4) By December 31, 2018, each insurer shall provide staff
78 of the anti-fraud investigative unit at least 2 hours of initial
79 anti-fraud training that is designed to assist in identifying
80 and evaluating instances of suspected fraudulent insurance acts
81 in underwriting or claims activities. Annually thereafter, an
82 insurer shall provide such employees a 1-hour course that
83 addresses detection, referral, investigation, and reporting of
84 possible fraudulent insurance acts for the types of insurance
85 lines written by the insurer.

86 (5) Each insurer is required to report data related to
87 fraud for each identified line of business written by the

597-01488-22

20227016__

88 insurer during the prior calendar year. The data shall be
89 reported to the department by March 1, 2019, and annually
90 thereafter, and must include, at a minimum:

91 (a) The number of policies in effect;

92 (b) The amount of premiums written for policies;

93 (c) The number of claims received;

94 (d) The number of claims referred to the anti-fraud
95 investigative unit;

96 (e) The number of other insurance fraud matters referred to
97 the anti-fraud investigative unit that were not claim related;

98 (f) The number of claims investigated or accepted by the
99 anti-fraud investigative unit;

100 (g) The number of other insurance fraud matters
101 investigated or accepted by the anti-fraud investigative unit
102 that were not claim related;

103 (h) The number of cases referred to the Division of
104 Investigative and Forensic Services;

105 (i) The number of cases referred to other law enforcement
106 agencies;

107 (j) The number of cases referred to other entities; and

108 (k) The estimated dollar amount or range of damages on
109 cases referred to the Division of Investigative and Forensic
110 Services or other agencies.

111 (6) In addition to providing information required under
112 subsections (2), (4), and (5), each insurer writing workers'
113 compensation insurance shall also report the following
114 information to the department, on or before March 1, 2019, and
115 annually thereafter:

116 (a) The estimated dollar amount of losses attributable to

597-01488-22

20227016__

117 workers' compensation fraud delineated by the type of fraud,
 118 including claimant, employer, provider, agent, or other type.
 119 (b) The estimated dollar amount of recoveries attributable
 120 to workers' compensation fraud delineated by the type of fraud,
 121 including claimant, employer, provider, agent, or other type.
 122 (c) The number of cases referred to the Division of
 123 Investigative and Forensic Services, delineated by the type of
 124 fraud, including claimant, employer, provider, agent, or other
 125 type.
 126 (7) An insurer who obtains a certificate of authority has 6
 127 months in which to comply with subsection (2), and one calendar
 128 year thereafter, to comply with subsections (4), (5), and (6).
 129 (8) If an insurer fails or otherwise refuses to comply with
 130 the provisions of this section, the department, office, or
 131 commission may:
 132 (a) Impose an administrative fine of not more than \$2,000
 133 per day for such failure until the department, office, or
 134 commission deems the insurer to be in compliance;
 135 (b) Impose an administrative fine for failure by an insurer
 136 to implement or follow the provisions of an anti-fraud plan or
 137 anti-fraud investigative unit description; or
 138 (c) Impose the provisions of both paragraphs (a) and (b).
 139 (9) On or before December 31, 2018, the Division of
 140 Investigative and Forensic Services shall create a report
 141 detailing best practices for the detection, investigation,
 142 prevention, and reporting of insurance fraud and other
 143 fraudulent insurance acts. The report must be updated as
 144 necessary but at least every 2 years. The report must provide:
 145 (a) Information on the best practices for the establishment

597-01488-22

20227016__

146 of anti-fraud investigative units within insurers;
 147 (b) Information on the best practices and methods for
 148 detecting and investigating insurance fraud and other fraudulent
 149 insurance acts;
 150 (c) Information on appropriate anti-fraud education and
 151 training of insurer personnel;
 152 (d) Information on the best practices for reporting
 153 insurance fraud and other fraudulent insurance acts to the
 154 Division of Investigative and Forensic Services and to other law
 155 enforcement agencies;
 156 (e) Information regarding the appropriate level of staffing
 157 and resources for anti-fraud investigative units within
 158 insurers;
 159 (f) Information detailing statistics and data relating to
 160 insurance fraud which insurers should maintain; and
 161 (g) Other information as determined by the Division of
 162 Investigative and Forensic Services.
 163 (10) The department may adopt rules to administer this
 164 section, except that it shall adopt rules to administer
 165 subsection (5).
 166 (11) (a) The information submitted to the department
 167 pursuant to paragraphs (3) (d), (e), and (f) and paragraphs
 168 (5) (d), (e), (f), (g), and (k) is exempt from s. 119.07(1) and
 169 s. 24(a), Art. I of the State Constitution.
 170 (b) ~~This subsection is subject to the Open Government~~
 171 ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~
 172 ~~repealed on October 2, 2022, unless reviewed and saved from~~
 173 ~~repeal through reenactment by the Legislature.~~
 174 ~~(e)~~ This exemption applies to records held before, on, or

597-01488-22

20227016__

175 after the effective date of this act.

176 Section 2. This act shall take effect October 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7018

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Injured or Deceased Employee/Department of Financial Services

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Schrader</u>	<u>Knudson</u>		BI Submitted as Comm. Bill/Fav
1. <u>Schrader</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7018 amends s. 440.1851, Florida Statutes (F.S.), to save from repeal a public records exemption relating to the personal identifying information of an injured or deceased worker contained in reports, notices, records, or supporting documentation held by the Department of Financial Services (DFS) pursuant to Florida’s Workers’ Compensation Law (ch. 440, F.S.). “Personal identifying information,” means the injured or deceased employee’s name, date of birth, home or mailing address, e-mail address, or telephone number. Section 440.1851, F.S., makes this information confidential and exempt and authorizes the DFS to disclose it only under certain specified conditions. The section also provides for criminal penalties for the willful and knowing unlawful disclosure of such information.

The bill takes effect October 1, 2022.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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 which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c)

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

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁹ An exemption serves an identifiable purpose if 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

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

¹⁴ *Id.*

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

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Department of Financial Services

The Chief Financial Officer is the head of the DFS.²⁶ Within the DFS's many divisions are the Division of Investigative and Forensic Services, the Division of Risk Management, and the Division of Workers' Compensation.

The Bureau of Insurance Fraud of the Division of Investigative and Forensic Services investigates alleged acts of insurance fraud not categorized under workers' compensation fraud, including: licensee, healthcare, application, vehicle, homeowners, commercial, disability, arson, and life insurance fraud. Within these categories are: organized schemes to defraud the public and insurers, insolvency of insurance companies due to internal fraud, criminal activity by unauthorized entities illegally doing business in Florida, and viatical related fraud.²⁷

The Bureau of State Employee Workers' Compensation Claims, within the Division of Risk Management, is responsible for the administration of all workers' compensations claims filed by state employees and volunteers who are injured on the job. It typically receives approximately 12,000 new claims each year and is primarily responsible for ensuring that covered individuals receive timely benefits, while safeguarding the State from instances of fraud, waste, and abuse.²⁸

The Division of Workers' Compensation is responsible for administering many of the provisions of ch. 440, F.S. In addition, the Agency for Health Care Administration and the Office of Judges of Compensation Claims within the Division of Administrative Hearings are also responsible for administering provisions of ch. 440, F.S., the Workers' Compensation Law.²⁹

Section 440.185, F.S., establishes reporting requirements for employees, employers, and carriers relating to said employee suffering an injury arising out of and in the course of their employment. In particular, s. 440.185(2), F.S., requires that employers report such injury to its

-
- What is the identifiable public purpose or goal of the exemption?
 - Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Section 20.121(1), F.S.

²⁷ Bureau of Insurance Fraud within the Division Investigative and Forensic Services, available at <https://www.myfloridacfo.com/division/difs/insurance-fraud> (last viewed Nov. 24, 2021).

²⁸ Bureau of State Employee Workers' Compensation Claims within the Division of Risk Management, available at <https://www.myfloridacfo.com/division/risk/workers-compensation> (last viewed Nov. 24, 2021).

²⁹ Sections 440.015, 440.135, 440.44, and 440.45, F.S.

workers' compensation insurance carrier, in a format prescribed by the department, and shall provide a copy of such report to the employee or the employee's estate.

- The name and address of the employer;
- The name, social security number, mailing address, telephone number, and occupation of the injured worker;
- The cause and nature of the injury or death;
- The year, month, day, and hour when, and the particular locality where the injury or death occurred; and
- Such other information the DFS may require.

Further, additional reports about the condition of the employee, including copies of medical reports and bills,³⁰ funeral expenses, and wage statements, must also be filed with the DFS.³¹

In addition to the First Report of Injury (form DFS-F2-DWC-1 as established by DFS), employers and carriers are also required to file subsequent reports with the DFS relating to an injured worker that contain information that would identify said worker.³² These reports or forms include, but are not limited to, the following reports: Wage Statement, Request for Wage Loss/Temporary Partial Benefits, Notice of Action/Change, Notice of Denial, Claim Cost Report, Request for Social Security Disability Benefit Information, and Employee Earnings Report.³³

Public Records Exemptions Relating to Florida's Workers' Compensation Law

Section 624.23, F.S., of the Florida Insurance Code provides a public record exemption for personal financial and health information³⁴ submitted by a consumer seeking assistance from the DFS. The term "consumer," as used in the section, means 1) a prospective purchaser, purchaser, or beneficiary of, or applicant for, any product or service regulated under the Florida Insurance Code, and a family member or dependent of said consumer, or 2) an employee seeking assistance from the Employee Assistance and Ombudsman Office under s. 440.191, F.S. This personal financial and health information held by the DFS or Office of Insurance Regulation, is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

³⁰ Information in the medical reports may include the name and address of the injured worker, date of accident, and procedure and diagnosis code describing the treatment and nature of the injury. Section 440.13(4)(b), F.S., and Rules 69L-7.710-7.750, F.A.C.

³¹ Section 440.185(4), F.S.

³² See Division of Worker's Compensation Forms, available at <https://www.myfloridacfo.com/division/wc/publicationsformsmanualsreports/forms/default.htm> (last viewed Nov. 24, 2021).

³³ *Id.*

³⁴ Section 624.23, F.S., provides that a consumer's personal financial and health information means: Personal health condition, disease, or injury; a history of a consumer's personal medical diagnosis or treatment; the existence, nature, source, or amount of a consumer's personal income or expenses; records of or relating to a consumer's personal financial transactions of any kind; the existence, identification, nature, or value of a consumer's assets, liabilities, or net worth; the existence or content of, or any individual coverage or status under a consumer's beneficial interest in, any insurance policy or annuity contract; or the existence, identification, nature, or value of a consumer's interest in any insurance policy, annuity contract, or trust.

Further, s. 624.23(3), F.S., provides that this personal financial and health information may be disclosed to specified parties.³⁵

Currently, ch. 440, F.S., provides three public records exemptions directly related to injured or deceased injured workers. The first exemption, s. 440.102(8), F.S., protects all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced because of a drug-testing program. The second exemption, s. 440.125, F.S., provides that medical records and medical reports identifying an injured worker, which are filed with the DFS pursuant to s. 440.13, F.S., are confidential and exempt.

The third exemption, s. 440.1851, F.S., is the subject of this open government sunset review. The exemption provides that personal identifying information of an injured or deceased worker contained in reports, notices, records, or supporting documentation held by the DFS pursuant to ch. 440, F.S. are confidential and exempt from public records requirements. As used in, s. 440.1851, F.S., “personal identifying information,” means the injured or deceased employee’s name, date of birth, home mailing, or e-mail address, or telephone number. Section 440.1851, F.S., provides that the DFS may only disclose such information:

- To the injured employee, to the spouse or a dependent of the deceased employee, to the spouse or a dependent of the injured employee if authorized by the injured employee, or to the legal representative of the deceased employee’s estate;
- To a party litigant, or his or her authorized representative, in matters pending before the Office of the Judges of Compensation Claims;
- To a carrier or an employer for the purpose of investigating the compensability of a claim or for the purpose of administering its anti-fraud investigative unit established pursuant to s. 626.9891;
- In an aggregate reporting format that does not reveal the personal identifying information of any employee;
- Pursuant to a court order or subpoena;
- To an agency for administering its anti-fraud investigative function or in the furtherance of the agency’s official duties and responsibilities; or
- To a federal governmental entity in the furtherance of the entity’s official duties and responsibilities.

Section 440.1851, F.S., also provides for criminal penalties for the unlawful disclosure of the personal identifying information protected under the statute. Specifically, s. 440.1851(2), F.S., provides that a person willingly and knowingly disclosing such information commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 440.1851, F.S., was originally passed and signed into law in 2017. Pursuant to the Act, the section is set to stand repealed on October 2, 2022, unless saved from repeal through reenactment.

³⁵ The parties to whom disclosure may be made are: Another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities; the National Association of Insurance Commissioners; or the consumer or the legally authorized representative of the consumer.

Senate Banking and Insurance Committee staff surveyed the DFS to ascertain whether the public records exemption in s. 440.1851, F.S., remains necessary. Staff reviewed the DFS's responses to the questions to be considered by the Legislature in accordance with s. 119.115(6)(a), F.S. The DFS recommends that the Legislature reenact this public records exemption without revision. The DFS stated that, prior to the enactment of this exemption, the Division of Workers' Compensation received approximately 90 public records requests per month for the names and contact information of injured workers that were reported to the Division in the previous month. On average, about 4,750 injured workers' names were released each time one of these requests were fulfilled by the Division. According to the DFS, the majority of the requesting parties were law firms seeking to market their services to injured workers. The Division would regularly receive communications from injured workers complaining about the solicitations they were receiving and to ascertain how these firms acquired said workers' personal information. In addition, according to the DFS, background check companies would utilize this information provide their clients with knowledge on whether prospective new hires had sustained a workers' compensation injury and those clients subsequently potentially using such information to make determinations on employment.³⁶

In addition, the DFS stated that it believes that s. 440.1851, F.S., mitigates unnecessary litigation between injured workers and carriers on claim disputes. The DFS admits that "it is impossible to definitively quantify the results," but cites as evidence of the mitigating effect that the number of Petitions for Benefits (PFB) filed with the Office of the Judges of Compensations (OJCC) have only slightly increased since 2017, while, the actual number of "new cases" with PFBs have stayed the same, despite Florida experience significant job growth during this time.³⁷ Though the evidence cited by the DFS may be indicative of said mitigating effect, it is also possible that this outcome was driven, at least in part, by other factors.

III. Effect of Proposed Changes:

Section 1 amends s. 440.1851, F.S., to delete the scheduled repeal of the current public records exemption of personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the DFS pursuant to the Workers' Compensation Law (ch. 440, F.S.). "Personal identifying information," means the injured or deceased employee's name, date of birth, home mailing, or e-mail address, or telephone number. This information will continue to be confidential and exempt from public disclosure, subject to the disclosures permitted pursuant to s. 440.1851(1)(b), F.S.

Because the bill does not expand the public records exemption or the open meetings exemption, the bill does not require a two-thirds vote of each house in order to pass.

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

³⁶ Correspondence from the DFS (Sep. 24, 2021), on file with Senate Banking and Insurance Committee.

³⁷ *Id.*

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

None.

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

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information of injured or deceased employees held by the DFS. Specifically, the section seek to protect this information to protect such persons from unwanted solicitation relating to workers compensation claims and protect such workers from potential discrimination or social stigma relating to their injury or disability. This bill exempts only an injured or deceased person's name, date of birth, home address or mailing address, e-mail address, and telephone number from the public records requirements. Since these any of these pieces may potentially be used to "personally identify" an injured or deceased person, 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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 440.185 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By the Committee on Banking and Insurance

597-01491-22

20227018__

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 440.1851, F.S., which
 4 provides an exemption from public records requirements
 5 for the personal identifying information of an injured
 6 or deceased employee which is contained in reports,
 7 notices, records, or supporting documentation held by
 8 the Department of Financial Services pursuant to the
 9 Workers' Compensation Law; removing the scheduled
 10 repeal of the exemption; providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Section 440.1851, Florida Statutes, is amended
 15 to read:
 16 440.1851 Personal identifying information of an injured or
 17 deceased employee; public records exemption.-
 18 (1) The personal identifying information of an injured or
 19 deceased employee which is contained in reports, notices,
 20 records, or supporting documentation held by the department
 21 pursuant to this chapter is confidential and exempt from s.
 22 119.07(1) and s. 24(a), Art. I of the State Constitution.
 23 (a) As used in this section, the term "personal identifying
 24 information" means the injured or deceased employee's name, date
 25 of birth, home address or mailing address, e-mail address, or
 26 telephone number.
 27 (b) The department may disclose information made
 28 confidential and exempt under this section only:
 29 1. To the injured employee, to the spouse or a dependent of

597-01491-22

20227018__

30 the deceased employee, to the spouse or a dependent of the
 31 injured employee if authorized by the injured employee, or to
 32 the legal representative of the deceased employee's estate;
 33 2. To a party litigant, or his or her authorized
 34 representative, in matters pending before the Office of the
 35 Judges of Compensation Claims;
 36 3. To a carrier or an employer for the purpose of
 37 investigating the compensability of a claim or for the purpose
 38 of administering its anti-fraud investigative unit established
 39 pursuant to s. 626.9891;
 40 4. In an aggregate reporting format that does not reveal
 41 the personal identifying information of any employee;
 42 5. Pursuant to a court order or subpoena;
 43 6. To an agency for administering its anti-fraud
 44 investigative function or in the furtherance of the agency's
 45 official duties and responsibilities; or
 46 7. To a federal governmental entity in the furtherance of
 47 the entity's official duties and responsibilities.
 48
 49 A carrier, employer, agency, or governmental entity receiving
 50 personal identifying information from the department shall
 51 maintain the confidential and exempt status of the information.
 52 (c) This public records exemption applies to personal
 53 identifying information held by the department before, on, or
 54 after the effective date of this exemption.
 55 (2) A person who willfully and knowingly discloses personal
 56 identifying information made confidential and exempt under this
 57 section to an unauthorized person or entity commits a
 58 misdemeanor of the first degree, punishable as provided in s.

597-01491-22

20227018__

59 775.082 or s. 775.083.

60 ~~(3) This section is subject to the Open Government Sunset~~
61 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
62 ~~on October 2, 2022, unless reviewed and saved from repeal~~
63 ~~through reenactment by the Legislature.~~

64 Section 2. This act shall take effect October 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 7020

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Office of Financial Regulation

DATE: January 11, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Johnson</u>	<u>Knudson</u>		BI Submitted as Comm. Bill/Fav
1. <u>Johnson</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 7020 saves from repeal two public record exemptions. The first relates to international trust entities and qualified limited service affiliates, which are types of financial institutions, and the second public record exemption relates to financial institutions generally. The Office of Financial Regulation (OFR) regulates these entities.

The public records exemption for international trust entities and qualified limited service affiliates applies to:

- Any personal identifying information of the customers or prospective customers of an affiliated international trust entity that appears in the records of an international trust company representative office or a qualified limited service affiliate.
- Any personal identifying information of the customers or prospective customers of an affiliated international trust entity that appears in records relating to reports of examinations, operations, or condition, including working papers, of an international trust company representative office or a qualified limited service affiliate.
- Any portion of a list of names of the shareholders or members of an affiliated international trust entity or a qualified limited service affiliate.
- Information received by OFR from a person from another state or country or the federal government, which is otherwise confidential or exempt pursuant to the laws of that state or country or pursuant to federal law.

The public records exemption for financial institutions, generally, applies to:

- Certain information held by OFR relating to investigations, reports of examinations, operations, or condition, including working papers, prepared by, or for the use of, OFR, or any state or federal agency responsible for the regulation or supervision of financial institutions in this state.
- Any confidential information supplied to OFR or to employees of any financial institution by other state or federal governmental agencies.

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. The exemptions contained in ss. 655.057, 66.401, and 663.540, F.S., are scheduled to repeal on October 2, 2022. This bill removes the scheduled repeal to continue the confidential and exempt status of the information.

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

The bill takes effect October 1, 2022.

II. Present Situation:

Public Records Law

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

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws. The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records. Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

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

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, which are used to “perpetuate, communicate, or formalize knowledge of some type.”

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

under supervision by the custodian of the public record. A violation of the Public Records Act may result in civil or criminal liability.

Only the Legislature may create an exemption to public records requirements. An exemption must be created by general law and must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.

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. 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. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹ with specified exceptions.² The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.³ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.⁴ 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 subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;⁵
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;⁶ or

¹ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

² 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.

³ Section 119.15(3), F.S.

⁴ Section 119.15(6)(b), F.S.

⁵ Section 119.15(6)(b)1., F.S.

⁶ Section 119.15(6)(b)2., F.S.

- It protects trade or business secrets.⁷

The Act also requires specified questions to be considered during the review process.⁸ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.⁹ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.¹⁰

Office of Financial Regulation

The Office of Financial Regulation (OFR) regulates financial institutions,¹¹ finance companies, money services businesses, and the securities industry.¹² The OFR is responsible for the regulation of various entities that engage in financial institution business in Florida, in accordance with the financial institutions codes.¹³ In 2017, the Legislature created two new types of financial institutions, an international trust entity and a qualified limited service affiliate within the regulatory framework of international banking.¹⁴ In 2017, the Legislature also created two related public records exemptions in the international banking chapter,¹⁵ and substantially revised the current exemption relating to financial institutions in s. 655.057, F.S.¹⁶

Public Records Exemption for Financial Institutions Generally

⁷ Section 119.15(6)(b)3., F.S.

⁸ 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?

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ Section 119.15(7), F.S.

¹¹ Section 655.005(1)(i), F.S., provides that a financial institution means a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

¹² Section 20.121(3)(a)2., F.S.

¹³ Chs. 655, 657, 658, 660, 662, 663, 665, and 667, F.S.

¹⁴ Ch. 2017-83, Laws of Fla.

¹⁵ Parts III and IV of ch. 663, F.S.

¹⁶ Ch. 2017-84, Laws of Fla.

In the course of conducting an examination or an investigation of a financial institution, OFR generates many documents of a sensitive nature, such as records related to an investigation and “reports of examinations,¹⁷ conditions, or operations, which includes working papers.”¹⁸ In 2017, the Legislature amended s. 655.057, F.S., to specify that the exemptions are not only confidential and exempt from s. 119.071(1), F.S., but also exempt from Article I, section 24(a), of the Florida Constitution.¹⁹

Section 655.057(1), F.S., provides that “all records and information relating to an investigation by OFR are confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution until the investigation is completed or ceases to be active.”²⁰ Even after the completion of an investigation or the investigation ceases to be active, portions of the covered documents remain confidential and exempt from public disclosure under s. 119.071(1), F.S., and Article I, section 24(a), of the Florida Constitution to the extent that the documents:

- Would jeopardize the integrity of another active investigation;
- Impair the safety and soundness of the financial institution;
- Reveal personal financial information or the identity of a confidential source;
- Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or
- Reveal investigative techniques or procedures.²¹

Pursuant to s. 655.057(2), F.S., reports of examinations, operations, or condition, including working papers are confidential and exempt from the public records disclosure requirements of s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution.²² Such documents may only be released to specified parties under certain circumstances, but any such information or records obtained from OFR that is confidential must be maintained as confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution.²³ Although reports of examination are generally confidential and exempt from public disclosure, the statute provides that OFR must release reports of examination within 1 year after the appointment of a liquidator, receiver, or conservator to the financial institution.²⁴ However, any portion of such reports that discloses the identities of depositors, bondholders, members, borrowers, or stockholders, other than directors, officers, or controlling stockholders of the institution must be redacted by OFR because this information remains confidential and exempt from the public

¹⁷ An “examination report” is any record “submitted to or prepared by OFR as part of its supervisory duties performed pursuant to s. 655.012, F.S., or its examination authority pursuant to s. 655.045(1), F.S. See Section 655.057(12)(a), F.S.

¹⁸ Section 655.057(12), F.S., working papers include the records of the procedures followed, the tests performed, the information obtained, and the conclusions reached in an examination or investigation performed pursuant to s. 655.032 or s. 655.045, F.S.

¹⁹ Subsections (1), (2), (5), and (9) of s. 655.057, F.S.

²⁰ Section 655.057(1), F.S.

²¹ If an investigation relates to an informal enforcement action, once an investigation is completed or ceases to be active, the informal enforcement action is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, of the State Constitution to the extent that disclosure would jeopardize the integrity of another active investigation, impair the safety and soundness of the financial institution, reveal personal financial information or the identity of a confidential source, defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual, or reveal investigative techniques or procedures. See s. 655.057(12), F.S.

²² Section 655.057(2), F.S.

²³ *Id.*

²⁴ Section 655.057(2)(g), F.S.

records disclosure requirements of s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution.²⁵

Section 655.057(9), F.S., provides that any confidential documents supplied to OFR or to employees of any financial institution by other state or federal governmental agencies is confidential and exempt from s. 119.071(1), F.S., and Article I, section 24(a), of the Florida Constitution.²⁶

Notwithstanding the above exemptions, s. 655.057(5), F.S., specifies information that may be provided to particular parties under certain circumstances. However, any such confidential information or records obtained from OFR must be maintained as confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution.²⁷

Public Record Exemptions for an International Trust Entity and a Qualified Limited Service Affiliate

For purposes of parts III²⁸ and IV²⁹ of ch. 663, F.S., an international trust entity is an international trust company or organization, or any similar business entity, or an affiliated³⁰ or subsidiary entity that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws where such entity is organized and supervised.³¹ Part IV defines a qualified limited service affiliate as a person or entity that is qualified under this part to perform the permissible activities outlined in s. 663.531, F.S., related to or for the benefit of an affiliated international trust entity.³²

Section 663.416(2), F.S., provides that the following information held by OFR is confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution:

- Any personal identifying information of the customers or prospective customers of an affiliated international trust entity which appears in the books and records of an international trust company representative office (ITCRO)³³ or in records relating to reports of examinations, operations, or condition of an ITCRO, including working papers.
- Any portion of a list of names of the shareholders or members of an affiliated international trust entity.
- Information received by OFR from a person from another state or country or the Federal Government, which is otherwise confidential or exempt pursuant to the laws of that state or country or pursuant to federal law.³⁴

²⁵ *Id.*

²⁶ Section 655.057(9), F.S.

²⁷ Section 655.057(5), F.S.

²⁸ Section 663.401(3), F.S.

²⁹ Section 663.401(2), F.S.

³⁰ Section 663.401, F.S., defines affiliate.

³¹ Section 663.530(1)(c), F.S.

³² Section 663.530(1)(f), F.S.

³³ An international trust company representative office is an office of an international trust entity which is established or maintained in this state for the purpose of engaging in nonfiduciary activities described in s. 663.409, F.S. or any affiliate, subsidiary, or other person that engages in such activities on behalf of such international trust entity from an office located in this state. *See* s. 663.401(2), F.S.

³⁴ Section 663.416(3), F.S., authorizes OFR to release certain confidential and exempt information to specified persons.

Section 663.540(2), F.S., provides that the following information is confidential and exempt from s. 119.07(1), F.S., and Article I, section 24(a), of the Florida Constitution:

- Any personal identifying information of the customers or prospective customers of an affiliated international trust entity which appears in the books and records of a qualified limited service affiliate or which appears in records relating to reports of examinations, operations, or condition, including working papers, of a qualified limited service affiliate papers.
- Any portion of a list of names of the shareholders or members of a qualified limited service affiliate.
- Information received by OFR from a person from another state or country or the Federal Government, which is otherwise confidential or exempt pursuant to the laws of that state or country or pursuant to federal law.³⁵

Open Government Sunset Review Findings and Recommendations

In 2021, the Senate Banking and Insurance Committee staff sent an Open Government Sunset Review Survey to the Office of Financial Regulation regarding the public records exemptions that are subject to OGSR. In their response, OFR recommends that the exemption remain in effect to protect sensitive information related to examinations and investigations by OFR, personal financial information, and sensitive information that is shared with OFR by other governmental agencies which remains the property of those agencies.³⁶

In regards to public records' request for OFR records exempted in sections 663.416 and 663.540, F.S., the OFR has not received any requests during the period of January 5, 2017 to July 23, 2021.³⁷ In regards to requests for public records regarding other financial institution records as described s. 655.057, F.S., OFR has received almost 200 requests for public records during the same period.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 663.416, F.S., to save from repeal and reenact the current public records exemption relating to personal identifying information of the customers or prospective customers of an affiliated international trust entity, which appear in the books or records of an ITCRO or in records relating to reports of examinations, operations, or conditions, including working papers, of an ITCRO.

Section 2 amends s. 663.540, F.S., to save from repeal and reenact the current public records exemption relating to a personal identifying information of the customers or prospective customers of an affiliated international trust entity, which appear in the books or records of a qualified limited service affiliate or in records relating to reports of examinations, operations, or conditions, including working papers, of a qualified limited service affiliate.

³⁵ Section 663.540(3), F.S., authorizes OFR to release of such confidential and exempt information to specified entities.

³⁶ Office of Financial Regulation, Response to OGSR Survey of OFR Public Records Exemptions (Sept. 30, 2021) (on file with Senate Banking and Insurance Committee).

³⁷ *Id.*

³⁸ *Id.* Only three of the requested records were completely confidential and exempt and were not provided.

Section 3 amends s. 655.057, F.S. to save from repeal and reenact the current public records exemptions in subsections (1), (2), (5), and (9) that apply to financial institutions, generally, relating to investigations, reports of examination, operations, condition, including working papers.

Section 4 provides an effective date of October 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:

Vote Requirement

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill continues current public records exemptions beyond their current date of repeal. The bill does not create or expand an exemption. Thus, the bill does not require an extraordinary vote for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill continues a current public records exemption without expansion. Thus, a statement of public necessity is not required.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions do 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.

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

None.

B. Private Sector Impact:

The private sector will continue to be subject to the cost associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

The governmental agency, Office of Financial Regulation, will continue to incur costs related to the redaction of records in responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 663.416, 663.540, and 657.057.

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

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

None.

B. Amendments:

None.

By the Committee on Banking and Insurance

597-01494-22

20227020__

A bill to be entitled

An act relating to review under the Open Government Sunset Review Act; amending s. 663.416, F.S., which provides an exemption from public records requirements for certain information held by the Office of Financial Regulation relating to affiliated international trust entities; removing the scheduled repeal of the exemption; amending s. 663.540, F.S., which provides an exemption from public records requirements for certain information held by the office relating to qualified limited service affiliates; removing the scheduled repeal of the exemption; amending s. 655.057, F.S., which provides exemptions from public records requirements for certain information held by the office relating to active investigations of and the regulation of financial institutions; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 663.416, Florida Statutes, is amended to read:

663.416 Public records exemption.—

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

(a) "Reports of examinations, operations, or condition" means records submitted to or prepared by the office as part of the office's duties performed pursuant to s. 655.012 or s. 655.045.

Page 1 of 16

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

597-01494-22

20227020__

(b) "Working papers" means the records of the procedure followed, the tests performed, the information obtained, and the conclusions reached in an investigation or examination performed under s. 655.032 or s. 655.045. The term includes planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of the books and records of a financial institution, as defined in s. 655.005, and schedules or commentaries prepared or obtained in the course of such investigation or examination.

(2) PUBLIC RECORDS EXEMPTION.—The following information held by the office is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Any personal identifying information of the customers or prospective customers of an affiliated international trust entity which appears in the books and records of an international trust company representative office or in records relating to reports of examinations, operations, or condition of an international trust company representative office, including working papers.

(b) Any portion of a list of names of the shareholders or members of an affiliated international trust entity.

(c) Information received by the office from a person from another state or country or the Federal Government which is otherwise confidential or exempt pursuant to the laws of that state or country or pursuant to federal law.

(3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT INFORMATION.—Information made confidential and exempt under subsection (2) may be disclosed by the office:

(a) To the authorized representative or representatives of

Page 2 of 16

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

597-01494-22 20227020__

59 the international trust company representative office under
 60 examination. The authorized representative or representatives
 61 must be identified in a resolution or by written consent of the
 62 board of directors, or the equivalent, of the international
 63 trust entity.

64 (b) To a fidelity insurance company, upon written consent
 65 of the board of directors, or the equivalent, of the
 66 international trust entity.

67 (c) To an independent auditor, upon written consent of the
 68 board of directors, or the equivalent, of the international
 69 trust entity.

70 (d) To the liquidator, receiver, or conservator for the
 71 international trust entity, if a liquidator, receiver, or
 72 conservator is appointed. However, any portion of the
 73 information which discloses the identity of a customer or
 74 prospective customer of the international trust entity, or a
 75 shareholder or member of the international trust entity, must be
 76 redacted by the office before releasing such portion to the
 77 liquidator, receiver, or conservator.

78 (e) To a law enforcement agency in furtherance of the
 79 agency's official duties and responsibilities.

80 (f) To the appropriate law enforcement or prosecutorial
 81 agency for the purpose of reporting any suspected criminal
 82 activity.

83 (g) Pursuant to a legislative subpoena. A legislative body
 84 or committee that receives records or information pursuant to
 85 such a subpoena must maintain the confidential status of the
 86 records or information, except in a case involving the
 87 investigation of charges against a public official subject to

597-01494-22 20227020__

88 impeachment or removal, in which case the records or information
 89 may be disclosed only to the extent necessary as determined by
 90 such legislative body or committee.

91 (4) PUBLICATION OF INFORMATION.—This section does not
 92 prevent or restrict the publication of a report required by
 93 federal law.

94 (5) PENALTY.—A person who willfully, in violation of this
 95 section, discloses information made confidential and exempt by
 96 this section commits a felony of the third degree, punishable as
 97 provided in s. 775.082, s. 775.083, or s. 775.084.

98 ~~(6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject~~
 99 ~~to the Open Government Sunset Review Act in accordance with s.~~
 100 ~~119.15 and is repealed on October 2, 2022, unless reviewed and~~
 101 ~~saved from repeal through reenactment by the Legislature.~~

102 Section 2. Section 663.540, Florida Statutes, is amended to
 103 read:

104 663.540 Public records exemption.—

105 (1) DEFINITIONS.—As used in this section, the term:

106 (a) "Reports of examinations, operations, or condition"
 107 means records submitted to or prepared by the office as part of
 108 the office's duties performed pursuant to s. 655.012 or s.
 109 663.537.

110 (b) "Working papers" means the records of the procedure
 111 followed, the tests performed, the information obtained, and the
 112 conclusions reached in an investigation or examination performed
 113 under s. 655.032 or s. 663.537. The term includes planning
 114 documentation, work programs, analyses, memoranda, letters of
 115 confirmation and representation, abstracts of the books and
 116 records of a financial institution, as defined in s. 655.005,

597-01494-22 20227020__

117 and schedules or commentaries prepared or obtained in the course
 118 of such investigation or examination.

119 (2) PUBLIC RECORDS EXEMPTION.—The following information
 120 held by the office is confidential and exempt from s. 119.07(1)
 121 and s. 24(a), Art. I of the State Constitution:

122 (a) Any personal identifying information of the customers
 123 or prospective customers of an affiliated international trust
 124 entity which appears in the books and records of a qualified
 125 limited service affiliate or in records relating to reports of
 126 examinations, operations, or condition of a qualified limited
 127 service affiliate, including working papers.

128 (b) Any portion of a list of names of the shareholders or
 129 members of a qualified limited service affiliate.

130 (c) Information received by the office from a person from
 131 another state or country or the Federal Government which is
 132 otherwise confidential or exempt pursuant to the laws of that
 133 state or country or pursuant to federal law.

134 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
 135 INFORMATION.—Information made confidential and exempt under
 136 subsection (2) may be disclosed by the office:

137 (a) To the authorized representative or representatives of
 138 the qualified limited service affiliate under examination. The
 139 authorized representative or representatives must be identified
 140 in a resolution or by written consent of the board of directors,
 141 if the qualified limited service affiliate is a corporation, or
 142 of the managers, if the qualified limited service affiliate is a
 143 limited liability company.

144 (b) To a fidelity insurance company, upon written consent
 145 of the qualified limited service affiliate's board of directors,

597-01494-22 20227020__

146 if the qualified limited service affiliate is a corporation, or
 147 of the managers, if the qualified limited service affiliate is a
 148 limited liability company.

149 (c) To an independent auditor, upon written consent of the
 150 qualified limited service affiliate's board of directors, if the
 151 qualified limited service affiliate is a corporation, or of the
 152 managers, if the qualified limited service affiliate is a
 153 limited liability company.

154 (d) To the liquidator, receiver, or conservator for a
 155 qualified limited service affiliate, if a liquidator, receiver,
 156 or conservator is appointed. However, any portion of the
 157 information which discloses the identity of a customer of the
 158 affiliated international trust entity, or a shareholder or
 159 member of the qualified limited service affiliate, must be
 160 redacted by the office before releasing such portion to the
 161 liquidator, receiver, or conservator.

162 (e) To a law enforcement agency in furtherance of the
 163 agency's official duties and responsibilities.

164 (f) To the appropriate law enforcement or prosecutorial
 165 agency for the purpose of reporting any suspected criminal
 166 activity.

167 (g) Pursuant to a legislative subpoena. A legislative body
 168 or committee that receives records or information pursuant to
 169 such a subpoena must maintain the confidential status of the
 170 records or information, except in a case involving the
 171 investigation of charges against a public official subject to
 172 impeachment or removal, in which case the records or information
 173 may be disclosed only to the extent necessary as determined by
 174 such legislative body or committee.

597-01494-22

20227020__

175 (4) PUBLICATION OF INFORMATION.—This section does not
 176 prevent or restrict the publication of a report required by
 177 federal law.

178 (5) PENALTY.—A person who willfully, in violation of this
 179 section, discloses information made confidential and exempt by
 180 this section commits a felony of the third degree, punishable as
 181 provided in s. 775.082, s. 775.083, or s. 775.084.

182 ~~(6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject~~
 183 ~~to the Open Government Sunset Review Act in accordance with s.~~
 184 ~~119.15 and is repealed on October 2, 2022, unless reviewed and~~
 185 ~~saved from repeal through reenactment by the Legislature.~~

186 Section 3. Section 655.057, Florida Statutes, is amended to
 187 read:

188 655.057 Records; limited restrictions upon public access.—
 189 (1) Except as otherwise provided in this section and except
 190 for such portions thereof which are otherwise public record, all
 191 records and information relating to an investigation by the
 192 office are confidential and exempt from s. 119.07(1) and s.
 193 24(a), Art. I of the State Constitution until such investigation
 194 is completed or ceases to be active. For purposes of this
 195 subsection, an investigation is considered “active” while such
 196 investigation is being conducted by the office with a
 197 reasonable, good faith belief that it may lead to the filing of
 198 administrative, civil, or criminal proceedings. An investigation
 199 does not cease to be active if the office is proceeding with
 200 reasonable dispatch, and there is a good faith belief that
 201 action may be initiated by the office or other administrative or
 202 law enforcement agency. After an investigation is completed or
 203 ceases to be active, portions of the records relating to the

Page 7 of 16

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

597-01494-22

20227020__

204 investigation are confidential and exempt from s. 119.07(1) and
 205 s. 24(a), Art. I of the State Constitution to the extent that
 206 disclosure would:

207 (a) Jeopardize the integrity of another active
 208 investigation;

209 (b) Impair the safety and soundness of the financial
 210 institution;

211 (c) Reveal personal financial information;

212 (d) Reveal the identity of a confidential source;

213 (e) Defame or cause unwarranted damage to the good name or
 214 reputation of an individual or jeopardize the safety of an
 215 individual; or

216 (f) Reveal investigative techniques or procedures.

217 (2) Except as otherwise provided in this section and except
 218 for such portions thereof which are public record, reports of
 219 examinations, operations, or condition, including working
 220 papers, or portions thereof, prepared by, or for the use of, the
 221 office or any state or federal agency responsible for the
 222 regulation or supervision of financial institutions in this
 223 state are confidential and exempt from s. 119.07(1) and s.
 224 24(a), Art. I of the State Constitution. However, such reports
 225 or papers or portions thereof may be released to:

226 (a) The financial institution under examination;

227 (b) Any holding company of which the financial institution
 228 is a subsidiary;

229 (c) Proposed purchasers if necessary to protect the
 230 continued financial viability of the financial institution, upon
 231 prior approval by the board of directors of such institution;

232 (d) Persons proposing in good faith to acquire a

Page 8 of 16

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

597-01494-22

20227020__

233 controlling interest in or to merge with the financial
234 institution, upon prior approval by the board of directors of
235 such financial institution;

236 (e) Any officer, director, committee member, employee,
237 attorney, auditor, or independent auditor officially connected
238 with the financial institution, holding company, proposed
239 purchaser, or person seeking to acquire a controlling interest
240 in or merge with the financial institution; or

241 (f) A fidelity insurance company, upon approval of the
242 financial institution's board of directors. However, a fidelity
243 insurance company may receive only that portion of an
244 examination report relating to a claim or investigation being
245 conducted by such fidelity insurance company.

246 (g) Examination, operation, or condition reports of a
247 financial institution shall be released by the office within 1
248 year after the appointment of a liquidator, receiver, or
249 conservator to the financial institution. However, any portion
250 of such reports which discloses the identities of depositors,
251 bondholders, members, borrowers, or stockholders, other than
252 directors, officers, or controlling stockholders of the
253 institution, shall remain confidential and exempt from s.
254 119.07(1) and s. 24(a), Art. I of the State Constitution.

255
256 Any confidential information or records obtained from the office
257 pursuant to this paragraph shall be maintained as confidential
258 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
259 Constitution.

260 (3) Except as otherwise provided in this section and except
261 for those portions that are otherwise public record, after an

597-01494-22

20227020__

262 investigation relating to an informal enforcement action is
263 completed or ceases to be active, informal enforcement actions
264 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
265 I of the State Constitution to the extent that disclosure would:

266 (a) Jeopardize the integrity of another active
267 investigation.

268 (b) Impair the safety and soundness of the financial
269 institution.

270 (c) Reveal personal financial information.

271 (d) Reveal the identity of a confidential source.

272 (e) Defame or cause unwarranted damage to the good name or
273 reputation of an individual or jeopardize the safety of an
274 individual.

275 (f) Reveal investigative techniques or procedures.

276 (4) Except as otherwise provided in this section and except
277 for those portions that are otherwise public record, trade
278 secrets as defined in s. 688.002 which comply with s. 655.0591
279 and which are held by the office in accordance with its
280 statutory duties with respect to the financial institutions
281 codes are confidential and exempt from s. 119.07(1) and s.
282 24(a), Art. I of the State Constitution.

283 (5) This section does not prevent or restrict:

284 (a) Publishing reports that are required to be submitted to
285 the office pursuant to s. 655.045(2) or required by applicable
286 federal statutes or regulations to be published.

287 (b) Furnishing records or information to any other state,
288 federal, or foreign agency responsible for the regulation or
289 supervision of financial institutions.

290 (c) Disclosing or publishing summaries of the condition of

597-01494-22 20227020__

291 financial institutions and general economic and similar
 292 statistics and data, provided that the identity of a particular
 293 financial institution is not disclosed.

294 (d) Reporting any suspected criminal activity, with
 295 supporting documents and information, to appropriate law
 296 enforcement and prosecutorial agencies.

297 (e) Furnishing information upon request to the Chief
 298 Financial Officer or the Division of Treasury of the Department
 299 of Financial Services regarding the financial condition of any
 300 financial institution that is, or has applied to be, designated
 301 as a qualified public depository pursuant to chapter 280.

302 (f) Furnishing information to Federal Home Loan Banks
 303 regarding its member institutions pursuant to an information
 304 sharing agreement between the Federal Home Loan Banks and the
 305 office.

306
 307 Any confidential information or records obtained from the office
 308 pursuant to this subsection shall be maintained as confidential
 309 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 310 Constitution.

311 (6) (a) Orders of courts or of administrative law judges for
 312 the production of confidential records or information must
 313 provide for inspection in camera by the court or the
 314 administrative law judge. After the court or administrative law
 315 judge determines that the documents requested are relevant or
 316 would likely lead to the discovery of admissible evidence and
 317 that the information sought is not otherwise reasonably
 318 available from other sources, the documents shall be subject to
 319 further orders by the court or the administrative law judge to

597-01494-22 20227020__

320 protect the confidentiality thereof. An order directing the
 321 release of information is immediately reviewable, and a petition
 322 by the office for review of such order automatically stays
 323 further proceedings in the trial court or the administrative
 324 hearing until the disposition of such petition by the reviewing
 325 court. If any other party files such a petition for review, it
 326 operates as a stay of such proceedings only upon order of the
 327 reviewing court.

328 (b) Confidential records and information furnished pursuant
 329 to a legislative subpoena shall be kept confidential by the
 330 legislative body or committee that received the records or
 331 information. However, in a case involving investigation of
 332 charges against a public official subject to impeachment or
 333 removal, disclosure of such information shall be only to the
 334 extent necessary as determined by the legislative body or
 335 committee.

336 (c) Documents, statements, books, records, and any other
 337 information provided to the office by any person pursuant to an
 338 investigation, examination, or other supervisory activity by the
 339 office are not considered a waiver of any privilege or other
 340 legal right in an administrative or legal proceeding in which
 341 the office is not a party.

342 (7) Every credit union and mutual association shall
 343 maintain full and correct records of the names and residences of
 344 all the members of the credit union or mutual association in the
 345 principal office where its business is transacted. Such records
 346 are subject to inspection by all members of the credit union or
 347 mutual association, and the officers authorized to assess taxes
 348 under state authority, during normal business hours. No member

597-01494-22 20227020__
 349 or any other person has the right to copy the membership records
 350 for any purpose other than in the course of business of the
 351 credit union or mutual association, as authorized by the office
 352 or the board of directors of the credit union or mutual
 353 association. A current list of members shall be made available
 354 to the office's examiners for their inspection and, upon the
 355 request of the office, shall be submitted to the office. Except
 356 as otherwise provided in this subsection, the list of the
 357 members of the credit union or mutual association is
 358 confidential and exempt from s. 119.07(1).

359 (8) Every bank, trust company, and stock association shall
 360 maintain, in the principal office where its business is
 361 transacted, full and complete records of the names and
 362 residences of all the shareholders of the bank, trust company,
 363 or stock association and the number of shares held by each. Such
 364 records are subject to the inspection of all the shareholders of
 365 the bank, trust company, or stock association, and the officers
 366 authorized to assess taxes under state authority, during normal
 367 business hours. No shareholder or any other person has the right
 368 to copy the shareholder records for any purpose other than in
 369 the course of business of the bank, the trust company, or the
 370 stock association, as authorized by the office or the board of
 371 directors of the bank, the trust company, or the stock
 372 association. A current list of shareholders shall be made
 373 available to the office's examiners for their inspection and,
 374 upon the request of the office, shall be submitted to the
 375 office. Except as otherwise provided in this subsection, any
 376 portion of this list which reveals the identities of the
 377 shareholders is confidential and exempt from s. 119.07(1).

597-01494-22 20227020__
 378 (9) Materials supplied to the office or to employees of any
 379 financial institution by other state or federal governmental
 380 agencies remain the property of the submitting agency or the
 381 corporation, and any document request must be made to the
 382 appropriate agency. Any confidential documents supplied to the
 383 office or to employees of any financial institution by other
 384 state or federal governmental agencies are confidential and
 385 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 386 Constitution. Such information shall be made public only with
 387 the consent of such agency or the corporation.

388 (10) Examination reports, investigatory records,
 389 applications, and related information compiled by the office, or
 390 photographic copies thereof, shall be retained by the office for
 391 at least 10 years.

392 (11) A copy of any document on file with the office which
 393 is certified by the office as being a true copy may be
 394 introduced in evidence as if it were the original. The
 395 commission shall establish a schedule of fees for preparing true
 396 copies of documents.

397 (12) For purposes of this section, the term:

398 (a) "Examination report" means records submitted to or
 399 prepared by the office as part of the office's duties performed
 400 pursuant to s. 655.012 or s. 655.045(1).

401 (b) "Informal enforcement action" means a board resolution,
 402 a document of resolution, or an agreement in writing between the
 403 office and a financial institution which:

404 1. The office imposes on an institution when the office
 405 considers the administrative enforcement guidelines in s.
 406 655.031 and determines that a formal enforcement action is not

597-01494-22 20227020__

407 an appropriate administrative remedy;

408 2. Sets forth a program of corrective action to address one

409 or more safety and soundness deficiencies and violations of law

410 or rule at the institution; and

411 3. Is not subject to enforcement by imposition of an

412 administrative fine pursuant to s. 655.041.

413 (c) "Personal financial information" means:

414 1. Information relating to the existence, nature, source,

415 or amount of a person's personal income, expenses, or debt.

416 2. Information relating to a person's financial

417 transactions of any kind.

418 3. Information relating to the existence, identification,

419 nature, or value of a person's assets, liabilities, or net

420 worth.

421 (d) "Working papers" means the records of the procedures

422 followed, the tests performed, the information obtained, and the

423 conclusions reached in an examination or investigation performed

424 under s. 655.032 or s. 655.045. Working papers include planning

425 documentation, work programs, analyses, memoranda, letters of

426 confirmation and representation, abstracts of the books and

427 records of a financial institution as defined in s. 655.005(1),

428 and schedules or commentaries prepared or obtained in the course

429 of such examination or investigation.

430 (13) A person who willfully discloses information made

431 confidential by this section commits a felony of the third

432 degree, punishable as provided in s. 775.082, s. 775.083, or s.

433 775.084.

434 ~~(14) Subsections (1), (2), (5), and (9) are subject to the~~

435 ~~Open Government Sunset Review Act in accordance with s. 119.15~~

597-01494-22 20227020__

436 ~~and are repealed on October 2, 2022, unless reviewed and saved~~

437 ~~from repeal through reenactment by the Legislature.~~

438 Section 4. This act shall take effect October 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BEN ALBRITTON

26th District

January 13, 2022

Senator Passidomo,

Please consider this letter a request for Sen. Albritton to receive an excused absence from today's Rules Committee meeting.

Best regards,

A handwritten signature in cursive script, appearing to read "Ben Albritton".

Sen. Ben Albritton
District 26

COMMITTEES:

Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Environment and Natural Resources
Health Policy
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee,
Alternating Chair

REPLY TO:

- 150 North Central Avenue, Bartow, Florida 33830 (863) 534-0073
- 410 Taylor Street, Suite 106, Punta Gorda, Florida 33950 (941) 575-5717
- 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Rules Committee

Judge:

Started: 1/13/2022 9:02:13 AM

Ends: 1/13/2022 9:54:27 AM

Length: 00:52:15

9:02:12 AM Meeting called to order by Chair Passidomo
9:02:22 AM Roll Call by CAA
9:02:28 AM Quorum announced
9:02:56 AM Chair Passidomo with opening comments- Senator Albritton is excused
9:03:22 AM Tab 1 SB 156 by Senator Broxson
9:04:14 AM Senator Powell with question
9:04:25 AM Senator Broxson responds
9:04:48 AM Senator Powell with follow-up
9:04:58 AM Senator Broxson responds
9:05:26 AM Appearance form
9:05:30 AM Paul Runk, Florida Association of Health Plans, waives in support
9:05:43 AM Senator Broxson waives close
9:05:48 AM Roll call on SB 156
9:05:53 AM SB 156 is reported favorably
9:06:22 AM Tab 3 SB 254 by Senator Brodeur
9:06:34 AM Senator Brodeur explains the bill
9:07:01 AM Late -file amendment Barcode 294268
9:07:15 AM Senator Brodeur explains the amendment
9:07:29 AM Appearance Forms
9:07:31 AM Aaron DiPietro, Florida Family Policy Council/ Florida Family Action, speaks for the amendment
9:08:10 AM Bill Bunkley, Florida Ethics and Religious Liberty Commission, waives in support
9:08:28 AM Senator Brodeur waives close
9:08:32 AM Amendment adopted
9:08:38 AM Senator Gibson with question
9:08:55 AM Senator Brodeur responds
9:09:40 AM Senator Gibson with follow-up
9:09:48 AM Senator Brodeur responds
9:10:24 AM Appearance Forms
9:10:28 AM Bill Bunkley waives in support
9:10:37 AM Christie Arnold, Florida Conference of Catholic Bishops, waives in support
9:10:51 AM Senator Powell in debate
9:12:00 AM Senator Brodeur closes on bill
9:12:12 AM Roll call on CS/SB 254
9:12:33 AM CS/SB 254 is reported favorably
9:13:07 AM Tab 4 SM 302
9:13:18 AM Senator Burgess explains the bill
9:13:42 AM Appearance Forms
9:13:44 AM Natalie Kelly, Florida Association of Managing Entities, waives in support
9:13:57 AM Major General James Hartsell, FDVA, waives in support
9:14:27 AM Senator Burgess closes on bill
9:14:33 AM Roll call SM 302
9:15:05 AM SM 302 is reported favorably
9:15:13 AM Tab 17 SB 7014
9:15:23 AM Senator Burgess explains the bill
9:15:43 AM Appearance Forms
9:15:48 AM William Large, Florida Justice Reform Institute, speaks for the bill
9:16:19 AM David Mica, Florida Hospital Assn, speaks in support
9:16:52 AM Jason Hand, Florida Senior Living Association, waives in support
9:16:58 AM Chris Nuland, Florida Chapter, American College of Physicians waives in support
9:17:05 AM Susan Anderson, Florida Health Care Association waives in support
9:17:09 AM Hayden Dempsey, Leading Age Florida, waives in support
9:17:13 AM Jeff Scott, Florida Medical Association waives in support

9:17:18 AM Carolyn Johnson, FL Chamber of Commerce waives in support
9:17:22 AM Chris Lyon, Florida Osteopathic Medical Association, waives in support
9:17:27 AM Jennifer Bourassa speaks against
9:19:59 AM Stephen Cain speaks against
9:21:22 AM Adam Basford, Associated Industries waives in support
9:21:28 AM Michael Cusicle, Florida Association of Children's Hospitals waives in support
9:21:35 AM Senator Farmer in debate
9:25:01 AM Appearance Form Spencer Pylant, Greater Miami Chamber of Commerce, waives in support
9:25:18 AM Senator Burgess closes on the bill
9:26:21 AM Roll call on SB 7014
9:27:22 AM SB 7014 is reported favorably
9:28:01 AM Tab 5 SB 312
9:28:17 AM Senator Diaz explains the bill
9:29:11 AM Appearance Forms
9:29:16 AM Leslie Dughi, Florida Academy of Family Physicians waives in support
9:29:18 AM Tiffany Henderson, American Heart Assn waives in support
9:29:19 AM David Mica waives in support
9:29:23 AM Jeff Scott waives in support
9:29:28 AM Phillip Suderman, Americans for Prosperity waives in support
9:29:32 AM Stephen Winn, Florida Society of Hearing Health Professionals waives in support
9:29:41 AM Natalie Kelly waives in support
9:29:46 AM Chris Lyon waives in support
9:29:54 AM E. Ivonne Hernandez, AARP, waives in support
9:30:01 AM Senator Diaz waives close
9:30:08 AM Roll call on SB 312
9:30:15 AM SB 312 is reported favorably
9:30:45 AM Tab 11 SB 7000
9:31:01 AM Senator Diaz explains the bill
9:32:01 AM Senator Diaz waives close
9:32:06 AM Roll call on SB 7000
9:32:08 AM SB 7000 is reported favorably
9:32:33 AM Tab 12 SB 7002
9:32:50 AM Senator Diaz explains the bill
9:33:04 AM Senator Diaz waives close
9:33:13 AM Roll call on SB 7002
9:33:22 AM SB 7002 is reported favorably
9:33:52 AM Tab 2 CS/SM 174
9:34:04 AM Senator Book explains the bill
9:34:31 AM Senator Book waives close
9:34:41 AM Roll call on CS/SM 174
9:34:53 AM CS/SM 174 is reported favorably
9:35:20 AM Tab 13 SB 7004
9:35:32 AM Senator Gruters explains the bill
9:36:28 AM Senator Gruters waives close
9:36:36 AM Roll call on SB 7004
9:36:45 AM SB 7004 is reported favorably
9:37:10 AM Tab 14 SB 7006
9:37:18 AM Senator Gruters explains the bill
9:37:42 AM Senator Gruters waives close
9:37:51 AM Roll call on SB 7006
9:38:01 AM SB 7006 is reported favorably
9:38:24 AM Tab 15 SB 7008
9:38:38 AM Vice-Chair Garcia explains the bill
9:40:29 AM Vice-Chair Garcia waives close
9:40:37 AM Roll call SB 7008
9:40:44 AM SB 7008 is reported favorably
9:41:08 AM Tab 16 SB 7010
9:41:17 AM Vice-Chair Garcia explains the bill
9:42:23 AM Vice-Chair Garcia waives close
9:42:34 AM Roll call on SB 7010
9:42:41 AM SB 7010 is reported favorably
9:43:08 AM Tab 18 SB 7016

9:43:28 AM Senator Boyd explains the bill
9:43:44 AM Senator Boyd waives close
9:43:52 AM SB 7016 is reported favorably
9:44:18 AM Tab 19 SB 7018
9:44:31 AM Senator Boyd explains the bill
9:44:42 AM Senator Boyd waives close
9:44:51 AM Roll call on SB 7018
9:45:03 AM SB 7018 is reported favorably
9:45:26 AM Tab 20 SB 7020
9:45:36 AM Senator Boyd explains the bill
9:45:45 AM Senator Farmer in debate
9:46:05 AM Senator Boyd waives close
9:46:38 AM Roll call on SB 7020
9:46:50 AM SB 7020 is reported favorably
9:47:10 AM Gavel to Vice-Chair Garcia
9:47:23 AM Tab 6 SB 846
9:47:39 AM Chair Passidomo explains the bill
9:47:58 AM Chair Passidomo waives close
9:48:08 AM Roll call on SB 846
9:48:15 AM SB 846 is reported favorably
9:48:48 AM Tab 7 SB 848
9:48:54 AM Chair Passidomo explains the bill
9:49:05 AM Chair Passidomo waives close
9:49:18 AM Roll call on SB 848
9:49:25 AM SB 848 is reported favorably
9:49:52 AM Tab 8 SB 850
9:49:58 AM Chair Passidomo explains the bill
9:50:04 AM Chair Passidomo waives close
9:50:20 AM Roll call on SB 850
9:50:29 AM SB 850 is reported favorably
9:50:59 AM Tab 9 SB 852
9:51:08 AM Chair Passidomo explains the bill
9:51:15 AM Chair Passidomo waives close
9:51:23 AM Roll call on SB 852
9:51:31 AM SB 852 is reported favorably
9:51:55 AM Tab 10 SB 854
9:52:02 AM Chair Passidomo explains the bill
9:52:10 AM Chair Passidomo waives close
9:52:37 AM Roll call on SB 854
9:52:43 AM SB 854 is reported favorably
9:53:10 AM Gavel returned to Chair Passidomo
9:53:23 AM Senator Hutson vote motion Tab's 1,3,4
9:53:30 AM Senator Farmer vote motion on Tab's 1,3,4
9:53:47 AM Senator Bean vote motion on Tab 16
9:53:56 AM Senator Diaz vote motion on Tab 1
9:54:08 AM Motions adopted
9:54:11 AM Senator Baxley moves to adjourn
9:54:18 AM Meeting adjourned